

108TH CONGRESS
2D SESSION

H. RES. 500

Expressing the sense of the House of Representatives that the Federal Communications Commission should vigorously enforce indecency and profanity laws pursuant to the intent of Congress in order to protect children in the United States from indecent and profane programming on broadcast television and radio.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 2004

Mr. PICKERING (for himself, Mr. PITTS, Mrs. WILSON of New Mexico, Mr. TERRY, Mrs. JO ANN DAVIS of Virginia, Mrs. CUBIN, Mr. ISTOOK, Mr. BURGESS, Mr. WHITFIELD, Mr. SULLIVAN, Mr. AKIN, and Mrs. BONO) submitted the following resolution; which was referred to the Committee on Energy and Commerce

RESOLUTION

Expressing the sense of the House of Representatives that the Federal Communications Commission should vigorously enforce indecency and profanity laws pursuant to the intent of Congress in order to protect children in the United States from indecent and profane programming on broadcast television and radio.

Whereas millions of people in the United States are increasingly concerned with the patently offensive television and radio programming being sent into their homes;

Whereas millions of families in the United States are particularly concerned with the adverse impact of this programming on children;

Whereas obscene, indecent, and profane programming is contributing to a systematic and detrimental coarsening of civil society of the United States;

Whereas the Federal Communications Commission is statutorily charged with “encourag[ing] the larger and more effective use of radio in the public interest” (47 U.S.C. 303(g)) and correspondingly enforcing standards of decency in broadcast media pursuant to section 1464 of title 18, United States Code;

Whereas section 1464 of title 18, United States Code, prohibits the utterance of “any obscene, indecent or profane language by means of radio communication”;

Whereas the Federal Communications Commission established a standard defining what constitutes indecency in the declaratory order In the Matter of a Citizen’s Complaint Against Pacifica Foundation Station WBAI(FM), 56 F.C.C.2d 94 (1975) (referred to in this Resolution as the “Pacifica order”);

Whereas the standard established in the Pacifica order focuses on protecting children from exposure to indecent language;

Whereas the standard established in the Pacifica order was upheld as constitutional by the United States Supreme Court in *Federal Communications Commission v. Pacifica Foundation*, 438 U.S. 726 (1978);

Whereas the Federal Communications Commission has not used all of its available authority to impose penalties on broadcasters that air indecent material even when egre-

gious and repeated violations have been found in the cases of WKRK–FM, Detroit, MI, File No. EB–02–IH–0109 (April 3, 2003) and WNEW–FM, New York, New York, EB–02–IH–0685 (September 30, 2003);

Whereas the Enforcement Bureau of the Federal Communications Commission found on October 3, 2003, that no violation of the decency laws or regulations had occurred as a result of the airing of indecent language during the broadcast of the Golden Globe Awards on broadcast television, at a time when millions of children were in the potential audience; and

Whereas an application for review is pending before the Federal Communications Commission as of January 2004, requesting that the full Commission review that decision of the Enforcement Bureau: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that—

3 (1) the commissioners of the Federal Commu-
4 nications Commission should reverse the Enforce-
5 ment Bureau’s decision In the Matter of Complaints
6 Against Various Broadcast Licensees Regarding
7 Their Airing of the “Golden Globe Awards” Pro-
8 gram, File No. EB–03–IH–0110, 2003 FCC LEXIS
9 5382 (October 3, 2003), in light of the public policy
10 considerations of protecting children from indecent
11 and profane material;

12 (2) the Federal Communications Commission
13 should return to vigorously and expeditiously enforce-

1 ing the indecency and profanity statute pursuant to
2 its declaratory order In the Matter of a Citizen’s
3 Complaint Against Pacifica Foundation Station
4 WBAI(FM), 56 F.C.C.2d 94 (1975), which was af-
5 firmed by the United States Supreme Court;

6 (3) the Federal Communications Commission
7 should make every reasonable and lawful effort and
8 use all of its available authority to protect children
9 from the degrading influences of indecent and pro-
10 fane programming, including—

11 (A) the discretion to impose fines up to a
12 statutory maximum for each separate “utter-
13 ance” or “material” found to be indecent; and

14 (B) the initiation of license revocation pro-
15 ceedings for repeated violations of its indecency
16 rules;

17 (4) the Federal Communications Commission
18 should resolve all indecency and profanity complaints
19 expeditiously and should consider reviewing such
20 complaints at the full Commission level;

21 (5) the Federal Communications Commission
22 should aggressively investigate and enforce all inde-
23 cency and profanity allegations; and

24 (6) the Federal Communications Commission
25 should reassert its responsibility as defender of the

1 public interest by undertaking new and serious ef-
2 forts to sanction broadcast licensees that refuse to
3 adhere to the Federal statute prohibiting profane
4 and indecent utterances on broadcast media.

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