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4-1-1997

Broadcast Indecency

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Recommended Citation

Creech, Kenneth C., "Broadcast Indecency" / (Spring 1997): -. Available at http://digitalcommons.butler.edu/ccom_papers/32

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■ Lipschultz, Jeremy H. (1996). *Broadcast Indecency: FCC Regulation and the First Amendment*. Boston: Focal Press. 261 pp. Paperback, \$29.95.

In the last decade the issue of broadcast indecency has occupied a significant amount of the energy of the Federal Communications Commission. After numerous court cases, complaint letters from the public, safe harbors, and proposed 24-hour bans, there is still no coherent policy in place. Indeed, we still can't agree with any reliability exactly what indecency is. Broadcast Indecency doesn't provide us with that definition, but it is effective in helping us understand how we arrived at this juncture.

This book cuts a wide path as the author

explores the legal, social, and economic underpinnings of America's concern over indecent speech on radio and television. Lipschultz scrutinizes attempts at the regulation of broadcast indecency in light of First Amendment concerns and the protection of children from offensive speech. The preface states that the book was written primarily for broadcasters, and several chapters conclude with a "manager's summary."

Chapters 1-3 provide historical and definitional background on obscenity and indecency. Lipschultz reminds the reader that groups with a "moral" agenda will often conflict with broadcasters who are business oriented and see indecent material as a means of building an audience. The author notes that although concern over broadcast indecency escalated in the 1980s and 1990s, lawmakers have failed to develop a clear definition of indecency that did not fall under First Amendment protection. He also challenges the underlying assumption that broadcast indecency harms children, pointing out that little is known about the effects of indecency on children.

Chapter 5 reports the results of a content analysis of non actionable broadcasts. This very useful chapter illustrates the subjective nature of the legal definition of indecency. Lipschultz notes that the FCC has shown no interest in employing systematic methods which might result in a clear definition of actionable indecency. Instead the Commission continues to use a complaints-based approach, under which no action is taken unless someone complains, regardless of how "indecent" a broadcast may be. Chapter 6 provides case studies of indecency actions involving WLUP and KSJO. These are useful in bringing the issue to a more concrete level. These issues and accompanying complaint and support letters illuminate the issues and add substance to the sometimes abstract discussion of indecency.

Using the NPR/John Gotti incident as background in Chapter 7, Lipschultz illustrates how non-indecent speech resulted in MPR's "tightening up" its standards for language used in its news reports. The author asks whether this self regulation in light of the First Amendment is less harmful than government regulation having the same result.

Chapter 8 is devoted to "shock jocks," and primarily to Howard Stern. Lipschultz uses Stern as an example of how broadcast indecency draws significant attention to the speaker and, ultimately, the station ownership. He cites Stern's run for governor of New York, and popularity in the ratings, as an example of the former. Infinity Broadcasting's financial success and the FCC's inability to silence Stern and Infinity are examples of the latter.

Although written primarily for broadcast professionals, it is a strong basic work for academics as well. The book would make a very useful supplementary text in basic broadcast of communication law courses. It may also be a valuable text in a multi-text seminar course on First Amendment or regulatory issues.

Although this is a very well-written and researched work, a few chapters could be consolidated, making smoother reading. The manager's summaries are a good idea, but they do not appear in all chapters. In this reviewer's opinion, this weakens the impact and value of the concept.

Overall, Broadcast Indecency makes a necessary contribution to the discipline in an area requiring clarification.

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