

FCC narrows 'safe harbor';
Court says U.S. can restrict adult broadcast fare to 10 p.m.-6 a.m.

The Hollywood Reporter
July 5, 1995, Wednesday

Copyright 1995 BPI Communications, Inc.

Length: 424 words

Byline: Brooks Boliek

Dateline: WASHINGTON

Body

A federal appeals court here dealt a blow to broadcasters and free speech advocates as it decided to narrow the traditional "safe harbor" for airing adult fare.

In a 7-4 decision, the U.S. Court of Appeals for the District of Columbia ruled that the government has the right to restrict the time when indecent speech can be broadcast because it has a "compelling interest" in protecting children.

The decision lops a full two hourshours off the safe harbor the FCC has been enforcing for years. In the court's ruling, it said that indecent programming is safe to air from 10 p.m. until 6 a.m. The commission had been enforcing an 8 p.m. to 6 a.m. safe harbor.

Indecent programming, unlike obscenity, is protected by the First Amendment. The government has defined indecency as the depiction of "language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs."

The court's ruling was decried by broadcasters and some First Amendment experts as being contrary to the prevailing free-speech case law.

"We are deeply disappointed with the Appeals Court decision," the National Association of Broadcasters said in a statement. "We do not believe this decision properly reflects First Amendment case law."

Proponents of the ban claimed the decision was a victory for parents who are fed up with a range of items from Howard Stern's humor to Detective Sipowitz's naked rear.

"Parents and the public are winners in the U.S. Court of Appeals decision today upholding FCC regulations and federal law prohibiting broadcasting of indecent material during daytime and primetime hours," said FCC chairman Reed Hundt. "The court's action designating 10 p.m. to 6 a.m. as a safe harbor time during which broadcasters may air indecent material still serves the goal of confining this material to hours minors are less likely to be exposed to it."

FCC narrows 'safe harbor'; Court says U.S. can restrict adult broadcast fare to 10 p.m.-6 a.m.

In its Friday opinion, the appeals court agreed.

"Congress does not need the testimony of psychiatrists and social scientists in order to take note of the coarsening of impressionable minds that can result from a persistent exposure to sexually explicit material just this side of obscenity," Judge James L. Buckley wrote for the majority.

But Chief Judge Harry T. Edwards disagreed arguing that parents, not the government, should be the final arbiters of what their children see and hear. "In my view, my right as a parent has been pre-empted," he wrote.

Load-Date: July 5, 1995

End of Document