

2. The genesis of this matter was a live, network television broadcast on January 19, 2003 of the *Golden Globes Awards* by NBC (as aired by NBC affiliates across the United States). This broadcast contained a performer stating “this is really, really, fucking brilliant.” Two hundred thirty-four PTC members and other concerned American citizens filed complaints with the FCC asserting that this broadcast violated the federal restrictions regarding the broadcast of indecent material. Your Opinion denied these complaints and you sent a copy of the Order to the PTC headquarters in Los Angeles by Certified Mail, Return Receipt Requested. After carefully considering the decision of the Enforcement Bureau, PTC asks that Commissioners of the FCC *en banc* review and reverse the Opinion of the Enforcement Bureau. Further, the PTC asks that the FCC levy an appropriate monetary forfeiture against every licensee named in the 234 complaints.

3. Because the Opinion has the legal effect of holding all manner of derivatives of the word *fuck* as not to be indecent on broadcast television when millions of children are in the viewing audience, this application for review presents two questions, pursuant to 47 CFR §1.115: (1) whether the Opinion incorrectly applied the legal standard to the particular facts of this case; and (2) whether the legal standard relied upon by the Enforcement Bureau is wrong.

4. The following factors warrant that the full Commission should consider the two questions presented above and reverse the Enforcement Bureau’s decision:

- The action taken was in conflict with well-established precedent, particularly *FCC v. Pacifica Foundation*, 438 U.S. 726 (1978). In fact, had the Opinion been the

controlling legal authority in 1978, the outcome in *Pacifica* would have been exactly the opposite of what the Supreme Court held in that case.

- The action taken involves a question of law or policy which has not previously been resolved by the Commission. The question here is whether the Commission's enforcement authority extends to regulating (and forbidding) the clearly stated word *fuck* (or its derivatives) on broadcast television when millions of children are watching. In every sense of the word, " *fucking*" means and conjures the images of what it implies. It is absurd for the FCC to say that " *fucking*" is only indecent if it is used as a verb. Through this precedent, the FCC is sending the message to every radio shock-jock and network executive that it is okay to say " *fuck*" as long as it is used as an adjective or expletive to emphasize an exclamation.

- The action taken involved the application of a precedent or policy which should be overturned. It is intellectually dishonest for the FCC not to rule on the basis of whether the performer's statement was, "patently offensive as measured by community standards for the broadcast medium." In fact, for the Enforcement Bureau to avoid dealing with this issue, their Opinion seems to turn on whether the word as it was used describes or depicts sexual or excretory activities and organs. The Applicant is unaware of any community that would condone messages in public settings or gatherings that contained the word " *fucking*." Parents and outraged citizens would not split hairs over whether " *fuck*" was used as a verb, an adjective or an expletive. It is "patently offensive" to use the word "fuck" in any shape, form or meaning on broadcast network television. As stated in *Williams v. District of Columbia*, 419 F2d 638 (DC Cir., 1969), "The law of

nuisance does not say...that no one shall maintain a pigsty; it simply says that no one shall maintain a pigsty in an inappropriate place, such as a residential neighborhood.”

This pigsty is a word that is patently offensive in every community in the United States.

Sadly, with the Opinion, this pigsty is not just in our neighborhood - it's inside our living rooms where our children are sitting.

- Finally, the Enforcement Bureau found the performer's comment to be fleeting and isolated. It was no accident, nor was the performer's remark fleeting. He had time to gather his thoughts and when he stated that, “this is brilliant, really, fucking brilliant,” he meant it! Otherwise he would have immediately apologized for his remarks. Award shows that air live are routinely delayed so that comments or words that are indecent will be “bleeped” before they hit the public airwaves. NBC is well aware that celebrities are known for their frequent and prolific use of profanity, particularly in the high-profile venue of a live awards show broadcast. By airing the program without a delay, NBC betrayed the public trust. The stations that aired the performer's statement in its entirety should be penalized for that betrayal¹. --

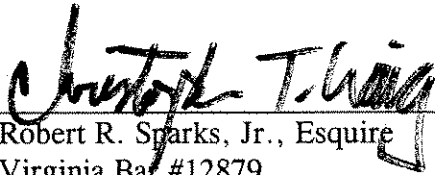
5. The FCC has long shirked its responsibilities regarding the enforcement of decency on the broadcast airwaves. PTC and its members have filed complaints regarding the use of “fuck” on the broadcast airwaves and will be filing another one shortly. The FCC cannot and should not continue to allow the public airwaves and community standards to be assaulted by those who are allowed to use the public spectrum

¹ In fact, it is our understanding that certain west coast NBC affiliates, who were airing the broadcast on a tape delay, actually edited out the offensive language before broadcast. Clearly, the licensee's themselves concluded, without prompting, that the performer's language was indecent and offensive. It should come as no surprise to either the Commission or licensees that parents and other television watchers across the nation agreed and complained to the FCC.

for free. It is time now for the FCC to stand for decency and find this use of the word "fucking" to be indecent.

6. PTC and its members ask that a Notice of Apparent Liability be issued against each and every broadcast licensee that aired this unedited material, and that the Commission order a monetary forfeiture against each and every licensee to the fullest extent allowed by law.

PARENTS TELEVISION COUNCIL,
By Counsel



Robert R. Sparks, Jr., Esquire
Virginia Bar #12879

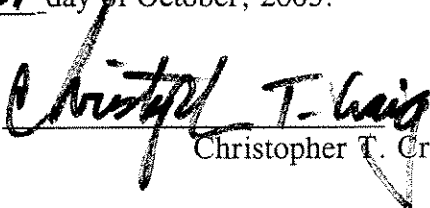
Christopher T. Craig, Esquire
Virginia Bar #36983

Herge, Sparks & Christopher
6862 Elm Street, Suite 360
McLean, Virginia 22101
(703) 848-4700 - telephone
(703) 893-7371 - facsimile

Counsel for Parents Television Council

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Application for Review was served by United States Mail, first class postage prepaid, upon the licensees listed on the attached Service List in connection with the above-styled complaint and Application for Review this 31 day of October, 2003.



Christopher T. Craig

KALB-TV
MEDIA GENERAL
COMMUNICATIONS, INC.
333 EAST FRANKLIN STREET
RICHMOND, VA 23219

KARE
MULTIMEDIA HOLDINGS
CORPORATION
7950 JONES BRANCH DRIVE
MCLEAN, VA 22107

KARK-TV
KARK-TV
909 LAKE CAROLYN PRKWY
#1450
IRVING, TX 75039

KATV
KATV, LLC
P.O. BOX 77
LITTLE ROCK, AR 72203

KBTV-TV
NEXSTAR BROADCASTING OF
BEAUMONT/PORT ARTHUR, LLC
909 LAKE CAROLYN PRKWY
#1450
IRVING, TX 75039

KCBD
LIBCO, INC.
639 ISBELL ROAD #390
RENO, NV 89509

KCEN-TV
CHANNEL 6, INC.
P.O. BOX 6103, 17 SOUTH THIRD
STREET
TEMPLE, TX 76503

KCNC-TV
CBS TELEVISION STATIONS INC.
2000 K STREET, N.W. #725
WASHINGTON, D.C. 20006

KCRA-TV
KCRA HEARST-ARGYLE
TELEVISION, INC.
888 SEVENTH AVENUE
NEW YORK, NY 10106

KETK-TV
KETK LICENSEE L.P., SHAW
PITTMAN (K. R. SCHMELTZER)
2300 N STREET, N.W.
WASHINGTON, D.C. 20037

KFDM-TV
FREEDOM BROADCASTING OF
TEXAS, INC.
P.O. BOX 7128
BEAUMONT, TX 77706

KFOR-TV
NEW YORK TIMES
MANAGEMENT SERVICES,
CORP. CNTR 1
2202 N.W. SHORE BLVD. #370
TAMPA, FL 33607

KGW
KING BROADCASTING
COMPANY
400 SOUTH RECORD STREET
DALLAS, TX 75202

KHAS-TV
GREATER NEBRASKA
TELEVISION, INC.
6475 OSBORNE DRIVE WEST
HASTINGS, NE 69801

KING-TV
KING BROADCASTING
COMPANY
400 SOUTH RECORD STREET
DALLAS, TX 75202

KKCO
EAGLE III BROADCASTING, LLC
2325 INTERSTATE AVE
GRAND JUNCTION, CO 81505

KNBC
NBC SUBSIDIARY (KNBC-TV),
INC., MS DIANE ZIPURSKY
1299 PENNSYLVANIA AVE
WASHINGTON, D.C. 20004

KNSD
STATION VENTURE
OPERATIONS, LP, C/O NBC, INC.
11TH FLR.
1299 PENNSYLVANIA AVE, N.W.
WASHINGTON, D.C. 20004

KOAA-TV
SANGRE DE CRISTO
COMMUNICATIONS, INC.
2200 SEVENTH AVENUE
PUEBLO, CO 81003

KOB-TV
KOB-TV, LLC
3415 UNIVERSITY AVENUE,
ATTN: L. WEFRING
ST. PAUL, MN 55114

KPNX
MULTIMEDIA HOLDINGS
CORPORATION
7950 JONES BRANCH DRIVE
MCLEAN, VA 22107

KPRC-TV
POST-NEWSWEEK STATIONS,
HOUSTON, LP
8181 SOUTHWEST FREEWAY
HOUSTON, TX 77074

KRBC-TV
MISSION BROADCASTING, INC.
544 RED ROCK DRIVE
WADSWORTH, OH 44281

KRIS-TV
KVOA COMMUNICATIONS, INC.
409 SOUTH STAPLES STREET
CORPUS CHRISTI, TX 78401

KTGF
MMM LICENSE LLC
900 LASKIN ROAD
VIRGINIA BEACH, VA 23451

KSDK
MULTIMEDIA KSDK, INC., C/O
GANNETT CO., INC.
7950 JONES BRANCH DRIVE
MCLEAN, VA 22107

KSHB-TV
SCRIPPS HOWARD
BROADCASTING COMPANY
312 WALNUT STREET
CINCINNATI OH 45202

KSNF
NEXSTAR BROADCASTING OF
JOPLIN, LLC
909 LAKE CAROLYN PRKWY
#1450
IRVING, TX 75039

KTEN
CHANNEL 49 ACQUISITION
CORPORATION
P.O. BOX 549
HAMPTON, VA 23669

KTIV
KTIV TELEVISION, INC.
3135 FLOYD BOULEVARD
SIOUX CITY, IA 51105

KUSA-TV
MULTIMEDIA HOLDINGS
CORPORATION, C/O GANNETT
CO.
7950 JONES BRANCH DRIVE
MCLEAN, VA 22107

KWES-TV
MIDESSA TELEVISION
COMPANY
P.O. BOX 60150
MIDLAND, TX 79711

KWWL
RAYCOM AMERICA, INC., RSA
TOWER, 20TH FLOOR
201 MONROE STREET
MONTGOMERY, AL 36104

KXAS-TV
STATION VENTURE
OPERATIONS, LP, C/O NBC,
INC., 11TH FL.
1299 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20004

KYTV
KY3, INC.
999 WEST SUNSHINE STREET
SPRINGFIELD, MO 65807

WANE-TV
INDIANA BROADCASTING, LLC
4 RICHMOND SQUARE
PROVIDENCE, RI 2906

WAVE
LIBCO, INC.
639 ISBELL ROAD # 390
RENO NV 89509

WBBH-TV
WATERMAN BROADCASTING
CORP. OF FLORIDA
3719 CENTRAL AVENUE
FORT MYERS FL 33901

WBOY-TV
WEST VIRGINIA MEDIA
HOLDINGS, LLC
P.O. BOX 11848
CHARLESTON, WV 25339

WBRE-TV
NEXSTAR BROADCASTING OF
NORTHEASTERN
PENNSYLVANIA, LLC
909 LAKE CAROLYN
PRKWY, #1450
IRVING, TX 75039

WCAU
NBC SUBSIDIARY (WCAU-TV),
L.P.
10 MONUMENT ROAD
BALA CYNWYD, PA 19004

WCNC-TV
WCNC-TV, INC.
400 SOUTH RECORD STREET
DALLAS, TX 75202

WCSH
PACIFIC AND SOUTHERN
CO., INC., C/O GANNETT CO.
7950 JONES BRANCH DRIVE
MCLEAN, VA 22107

WCYB-TV
APPALACHIAN
BROADCASTING CORP.
101 LEE STREET
BRISTOL, VA 24201

WDIV-TV
POST-NEWSWEEK
STATIONS, MICHIGAN, INC.
550 WEST LAFAYETTE BLVD.
DETROIT, MI 48226

WDSU
NEW ORLEANS HEARST-
ARGYLE TELEVISION, INC.
888 SEVENTH AVENUE
NEW YORK, NY 10106

WESH
ORLANDO HEARST-ARGYLE
TELEVISION, INC.
888 SEVENTH AVENUE
NEW YORK, NY 10106

WFIE
LIBCO, INC.
639 ISBELL ROAD, #390
RENO, NV 89509

WFLA-TV
MEDIA GENERAL
COMMUNICATIONS, INC.
333 EAST FRANKLIN STREET
RICHMOND, VA 23219

WFMJ-TV
WFMJ TELEVISION, INC., C/O
SHAW PITTMAN, LLP
2300 N. STREET, N.W.
WASHINGTON, D.C. 20037

WGAL
WGAL HEARST-ARGYLE
TELEVISION, INC.
888 SEVENTH AVENUE
NEW YORK, NY 10106

WHDH-TV
WHDH-TV, GOVERNMENT
CENTER
7 BULFINCH PLACE
BOSTON, MA 2114

WHEC-TV
WHEC-TV, LLC, C/O
HUBBARD BROADCASTING,
INC.
3415 UNIVERSITY AVENUE
ST. PAUL, MN 55114

WHO-TV
NEW YORK TIMES
MANAGEMENT SERVICES
CORPORATE CNTR 1, 2202
N.W. SHORE BLVD. #370
TAMPA, FL 33607

WILX-TV
GRAY MIDAMERICA TV
LICENSEE CORP.
500 AMERICAN ROAD
LANSING, MI 48911

WJAR
OUTLET BROADCASTING,
INC.
23 KENNEY DRIVE
CRANSTON, RI 2920

WJFW-TV
NORTHLAND TELEVISION,
INC.
P.O. BOX 858
RHINELANDER, WI 54501

WKYC-TV
WKYC-TV, INC.,
C/O GANNETT CO., 7950
JONES BRANCH DR.
MCLEAN, VA 22107

WLWT
OHIO/OKLAHOMA HEARST-
ARGYLE TV, INC.
P.O. BOX 1800
RALEIGH, NC 27602

WMAQ-TV
NBC SUBSIDIARY (WMAQ-
TV), INC.
1299 PENNSYLVANIA
AVENUE
WASHINGTON, D.C. 20004

MC-TV
RAYCOM AMERICA, INC., RSA
POWER, 20TH FLOOR
11 MONROE STREET
MONTGOMERY AL 36104

WMFE-TV
COMMUNITY
COMMUNICATIONS, INC.
11510 E. COLONIAL DRIVE
ORLANDO, FL 32817

WMGT
ENDURANCE BROADCASTING,
LLC, C/O DAN SMITH
104 NORTH MAIN STREET
STILLWATER, MN 55082

WMTV
GRAY MIDAMERICA TV
LICENSEE CORP.
15 FORWARD DRIVE
MADISON, WI 53711

WNBC
NATIONAL BROADCASTING
COMPANY, INC.
30 ROCKFELLER PLAZA
NEW YORK, NY 10112

WNDU-TV
MICHIANA TELECASTING CORP.
P.O. BOX 1616
SOUTH BEND, IN 46634

WVNY-TV
WVNY-TV, LLC, C/O HUBBARD
BROADCASTING, INC.
415 UNIVERSITY AVENUE
ST. PAUL, MN 55114

WOOD-TV
WOOD LICENSE COMPANY, LLC
120 COLLEGE AVENUE, S.E.
GRAND RAPIDS, MI 49503

WOWT-TV
GRAY MIDAMERICA TV
LICENSEE CORP.
3501 FARNAM STREET
OMAHA, NE 68131

WPMI
CLEAR CHANNEL
BROADCASTING LICENSES, INC.
2625 SOUTH MEMORIAL DRIVE,
#A
TULSA, OK 74129

WPXI
WPXI-TV HOLDINGS, INC.
3993 HOWARD HUGHES
PRKWAY., #250
LAS VEGAS, NV 89109

WRC-TV
NBC SUBSIDIARY (WRC-TV),
INC.
1299 PENNSYLVANIA AVE, N.W.,
11TH FL.
WASHINGTON, D.C. 20004

WRCB-TV
SARKES TARZIAN, INC.
205 NORTH COLLEGE AVENUE
BLOOMINGTON, IN 47402

WRIC-TV
YOUNG BROADCASTING OF
RICHMOND, INC.
301 ARBORETUM PLACE
RICHMOND, VA 23236

WSAV-TV
MEDIA GENERAL
COMMUNICATIONS, INC.
333 EAST FRANKLIN STREET
RICHMOND, VA 23219

WSAZ-TV
EMMIS TELEVISION LICENSE
CORPORATION
3500 WEST OLIVE AVENUE, #300
BURBANK, CA 91505

WSFA
LIBCO, INC.
639 ISBEL ROAD, #390
RENO, NV 89509

WSMV-TV
MEREDITH CORP., TELEVISION
STATIONS WSMV-TV
1716 LOCUST STREET
DES MOINES, IA 50309

WTHR
VIDEOINDIANA, INC.
1000 NORTH MERIDIAN STREET
INDIANAPOLIS, IN 46204

WTMJ-TV
JOURNAL BROADCAST
CORPORATION
3355 S. VALLEY VIEW
BOULEVARD
LAS VEGAS, NV 89102

WTVY
GRAY MIDAMERICA TV
LICENSEE CORP.
P.O. BOX 1089
DOTHAN, AL 36302

WVLA
KNIGHT BROADCASTING OF
BATON ROUGE LIC.CORP.
700 ST. JOHN ST., #301
LAFAYETTE, LA 70501

WVTM-TV
BIRMINGHAM BROADCASTING
(WVTM-TV), LLC, C/O GE
1299 PENNSYLVANIA AVE, NW
WASHINGTON, D.C. 20004

WWBT
JEFFERSON-PILOT
COMMUNICATIONS CO. OF VA
P.O. BOX 12
RICHMOND, VA 23218

WWLP
WWLP BROADCASTING, LLC
4 RICHMOND SQUARE
PROVIDENCE, RI 2906

WXIA-TV
GANNETT GEORGIA, LP, C/O
GANNETT CO., INC.
7950 JONES BRANCH DRIVE
MCLEAN, VA 22107

WYFF
WYFF HEARST-ARGYLE
TELEVISION, INC.
888 SEVENTH AVENUE
NEW YORK, NY 10106