

November 5, 2004

**By Overnight Mail**

David Brown  
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Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W., Room 4-A462  
Washington, D.C. 20554

Re: WPVI-TV, Philadelphia, PA  
Fac. ID # 8616  
File No. EB-04-IH-0361

Dear Mr. Brown:

On behalf of ABC, Inc. ("Licensee"), I am writing to respond to your October 6, 2004 letter regarding a Complaint that live on-the-spot coverage of the Veterans Stadium implosion during a March 21, 2004 morning newscast on WPVI-TV Philadelphia (the "Station") may have contained material that was "indecent" within the meaning of 18 U.S.C. § 1464 and Section 73.3999 of the Commission's rules. I will address in order each inquiry posed in your letter.

**Inquiry 1**

On Sunday morning, March 21, 2004, WPVI extended its regular Sunday 7:00 - 8:00 a.m. newscast by half an hour and began it at 6:30 a.m. to respond to viewer interest in live breaking local news coverage of the 7:00 a.m. demolition of the landmark Veterans Stadium in Philadelphia, along with the preceding ceremonies and subsequent reactions. The Station showed the actual stadium implosion, which lasted less than a minute, live at about 7:00 a.m., utilizing video from its own helicopter overhead, and audio emanating from the official live press pool feed arranged by the City of Philadelphia and provided to all participating media outlets by the Phillies production crew, from a microphone positioned and controlled by the Phillies near the stadium site. The Station's video showed the perimeter of the circular stadium toppling down piece by piece while the accompanying Phillies audio provided ambient sound of the explosions and the cheering crowds. Unfortunately and unexpectedly, during that brief live news event, a spectator who was attempting to jump or who had already crossed the police barricades into a dignitary-only area approached the Phillies microphone, which had been

positioned near the fence to capture ambient sound, and off camera, for unknown reasons, shouted out “Fuck you,” perhaps at approaching police, or perhaps as a form of attention-grabbing oral graffiti. Station employees who heard the epithet ensured that the problem was immediately corrected and that the epithet was not replayed. See Declaration of Rebecca Campbell (“Campbell Decl.”) ¶¶ 11, 14, 16.

Veterans Stadium and Its Demolition Were of Significant Local Interest to the Philadelphia Community.

The multi-purpose 62,000-seat Veterans Stadium in south Philadelphia, colloquially known by fans as the Vet, was the home for the NFL’s Philadelphia Eagles from 1971 through 2002 and Major League Baseball’s Philadelphia Phillies from 1971 through 2003. It was the location of Game 6 of the 1980 World Series, when Tug McGraw of the Phillies struck out Willie Wilson of the Kansas City Royals, winning the Series for the Phillies. It was also the site of the NFL playoff game the following year that sent the Eagles to the Super Bowl. Other highlights included many Army/Navy football games, two All-Star baseball games, professional soccer games, concerts with top-name rock stars, and other public events such as Billy Graham revival meetings. Campbell Decl. ¶ 6.

Ultimately, a decision was made that the Vet had outlived its usefulness, and more modern facilities were needed. A new field, Lincoln Financial Field, was created in 2003 for Eagles football games, and Citizens Bank Ballpark opened in the spring of 2004 to house the Phillies. Veterans Stadium was scheduled for demolition that same spring to allow for the construction of thousands of additional parking spots for this renovated and improved sports complex. Campbell Decl. ¶ 7.

The implosion of the old Veterans Stadium was a major news event in Philadelphia and across the nation. Numerous Philadelphians and sports and music fans as well as building demolition aficionados were eager to watch this historic building come down. Police, however, urged the public not to come anywhere near the demolition site, which was being evacuated and cordoned off. According to an article that appeared in the Philadelphia Inquirer on Sunday, March 14, 2004, residents of one block – the 1300 block of Geary Street – were asked to evacuate their homes by 6 a.m. on the day of the demolition. The article also reported that the Federal Aviation Administration was expected to divert air traffic, that local transit would be prevented from stopping in the area of the demolition, that local officials would be stopping cars and trucks on parts of Interstate 95 of the Schuylkill Expressway, and that the entire area around Veterans Stadium, from Packer Avenue to I-95 and from Lawrence Street to 18<sup>th</sup> Street, would be cordoned off. Campbell Decl. ¶ 8.

An AP article posted on Tuesday, March 16, 2004, five days before the scheduled implosion, reported:

Don’t expect to find a good seat to watch the implosion of Veterans Stadium on Sunday – unless it’s in front of a television.

A large area around the sports complex in South Philadelphia will be closed off to the public during the demolition, police said.

Police have asked the public to stay away from the area and planned to have officers riding through nearby Franklin Delano Roosevelt Park on bicycles to make sure no spectators try to gather in the vicinity.

“Please watch it on TV,” said Capt. Thomas Helker, who runs the traffic division. “There’s no place to watch it and absolutely no place for their vehicles.” [Campbell Decl. ¶ 9.]

Local Police and the Phillies Barred Local Media  
From Stationing Cameras or Microphones  
Close to the Scene of the Implosion and Asked Them  
To Use the Phillies Press Pool Feed Instead.

Because of the dangerous nature of the implosion, Philadelphia police and the Phillies prohibited local stations from bringing their own cameras and microphones into the area of approximately 16 square blocks that had been designated the blast zone. Instead, local media were asked to share pooled pictures and sound from cameras and microphones placed by the Phillies in the potentially dangerous areas. Thus, while the Station was permitted to have a camera, microphone and reporter on a set of bleachers several blocks away, and other cameras in the VIP area, in a helicopter overhead, and far away across the Delaware River in New Jersey, the best source of audio of the implosion and the pre-implosion ceremonies was a Phillies microphone inside the VIP area close to the stadium. Campbell Decl. ¶ 10.

The Station Served the Local Public Interest  
By Providing Live Coverage of the Implosion.

The Station’s March 21, 2004 Sunday morning newscast, beginning that particular Sunday at 6:30 a.m., allowed interested members of the station’s local community – already informed that the stadium site would be off limits to them – to experience the ceremonies marking the stadium’s demise, to witness the implosion, and to hear the reactions that followed, from the safety and comfort of their living rooms.<sup>1</sup> Through the Station’s live local news coverage, the viewers at home were able to see and hear what a small, select group of invited and credentialed dignitaries and special guests, who had received dust masks for their protection, were seeing and hearing at the stadium site at the same time, and what the specially positioned Phillies cameras and microphone were picking up. This included, in the minutes preceding the implosion, audio/video (from the Phillies press feed) of a speech by Dan Baker, the Phillies

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<sup>1</sup> Knowing of the intense local interest in watching the implosion and of the public’s inability to watch the event from location, the Station announced beginning early in the week beforehand that it would be covering the event live during its next Sunday morning newscast. On-air promotional announcements featuring clips from great moments in Eagles football and Phillies baseball history declared: “The Stadium May Fall, The Memories Will Stand. Action News: The Vet Implosion, Live Coverage, beginning Sunday at 6:30 AM, 6ABC.” Campbell Decl. ¶ 11.

announcer; Baker's introduction of Greg Luzinski, left-fielder on the Phillies championship team; the appearance of the Philly Phanatic (the Phillies mascot), who with Luzinski manned the ceremonial plunger or blaster; the introduction of the Hon. John Street, the Mayor of Philadelphia; and the countdown shouted out by Mayor Street during the last seconds before the implosion: "6 . . . 5 . . . 4 . . . 3 . . . 2 . . . FIRE! . . . FIRE!" Campbell Decl. ¶ 12.

As the scheduled moment of the implosion drew near, the Station's newscast graphically marked the passing time, much as television stations do before the dropping of the ball at Times Square on New Years' Eve. An "IMPLOSION COUNTDOWN" clock in the top right corner of the screen counted down the minutes and seconds remaining until the implosion. Meanwhile, other graphics superimposed on screen announced that the report was coming "LIVE" from "Veterans Stadium" and displayed the Station logo and the time. Campbell Decl. ¶ 13.

At zero hour, and for the next approximately 58 seconds, the Station continued taking audio from the live official Philadelphia Phillies press pool feed, supplied from a microphone positioned by the Phillies inside the VIP area, to capture and bring home to viewers the ambient sound of the stadium coming down and the crowds in the VIP area cheering. Instead of using the video of the implosion from the live official Phillies feed, however, the Station substituted its own live video, as its helicopter overhead was able to take good pictures of the stadium's demolition. During the next approximately 58 seconds, the Station showed video of the spherical perimeter wall of the stadium as it came crumbling down, one piece at a time, like dominoes, clockwise, beginning at the one or two o'clock position. Meanwhile, the Station ran the live official Phillies audio of the accompanying explosions and cheers, which were best picked up by the Phillies microphone at the scene. Campbell Decl. ¶ 14.

Suddenly and totally unexpectedly, the live feed included the expletive shouted by the off-camera bystander. The Station never learned why as-yet unidentified shouter uttered the language in question. However, the Phillies later informed the Station that the man who shouted out the phrase had neared or actually crossed police barricades into a restricted VIP area and approached the open microphone that the Phillies had set up near the fence to capture the natural sound. The Station is unsure whether he was shouting at police who may have been approaching him, or simply seeking to have a curse word heard on the local news. Campbell Decl. ¶ 14.

After the demolition was complete, the Station returned to the news studio, where the anchors – who had not heard the unexpected utterance – summed up what had just been witnessed, saying:

Ladies and gentlemen, at 7:01 on this Sunday morning, we can officially say, the Veterans Stadium is no more.

You can hear the crowd cheering there. Really, two aspects to this story. Quite a marvel to see that gigantic architectural building, that structure, fall to the ground. But also the sentimental story, the emotional level, seeing that building fall to the ground, really an incredible sight.

The Station then showed replays of the demolition from other angles supplied by other Phillies and Station cameras, including cameras that the Phillies had stationed both inside and outside the Vet, and interviewed a Station reporter a few blocks away, along with other witnesses, commentators, and members of the public. Campbell Decl. ¶ 15.

The news anchors and morning news show's executive producer back at the station did not hear this utterance, as they were communicating with each other in the studio and via ear pieces as they were watching the event unfold. Consequently, the anchors did not mention the utterance when the camera returned to them a few moments after the implosion. Other News Department employees, however, did hear the language – to their consternation – and took immediate steps to be sure the sound was lowered or obscured so that the epithet would not be clearly audible as the tape was replayed over the next fifteen minutes.<sup>2</sup> The Station's President and General Manager and its News Director also heard the word while watching from their homes, and the News Director quickly called the news desk to be sure the situation was being addressed. Meanwhile, the executive producer of the morning news show was notified of the incident and worked with the crew to ensure that the language would not be heard again. During the first commercial break after the implosion, the air check tape of the implosion portion of the show as well as the feed tape from the Phillies were immediately sequestered and preserved at the News Director's instructions to avoid any inadvertent replay of the language at issue and to have on hand as potential evidence in the event of a complaint or investigation. The news anchors were also informed of the problem at that time. A decision was made that they would not draw attention to the language, and thereby give it further exposure to audience members who may not have heard it, by mentioning it on air when they returned from that first commercial break. Campbell Decl. ¶ 16.

The Station Serves Its Local Community  
By Providing Its Viewers with Live, Breaking News.

The Station deeply regrets that the bystander's unexpected shouted expletive was transmitted to viewers over its airwaves. Had this been a taped piece, edited and prepared for broadcast, the Station certainly would have excised the utterance. Campbell Decl. ¶ 17.

At the same time, however, the Station feels strongly that its live broadcast of this highly newsworthy event was an appropriate and responsible public service. Id.

The Station has always provided its local community with newscasts, news specials, and coverage of breaking news events live and in real time. Bringing developing news home to the viewing public as it is happening continues to be a regular and important part of the Station's service to its community. Thus, the Station has reported and continues to report breaking news live from the scene of potentially heated government hearings, legal proceedings,

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<sup>2</sup> Although a very observant listener, knowing what had transpired earlier, knowing what to listen for, and listening at a very high volume, might possibly be able to make out a very muffled version of the expletive at about 7:09, the word was muted and spoken over by the news anchors, and we believe would not be recognized by anyone who was not specifically listening for it. Subsequent replays of the implosion did not include any audible repetition of the word in question. Campbell Decl. ¶ 18.

demonstrations, pickets, strikes, press conferences, political conventions, crimes, accidents, riots, weather and civic emergencies, and other developing news events, despite the risk – so far to the Station’s knowledge unrealized<sup>3</sup> -- that this will expose audience members to language or behavior they might find objectionable. Campbell Decl. ¶ 18.

In the case of its live coverage of the Veterans Stadium demolition, there was absolutely no reason to suspect that any sort of objectionable language or behavior would take place and be caught on the pool audio feed. This was an early morning event, cordoned off from the general public and accessible only to invited dignitaries. Most importantly, this was a news event of substantial and legitimate public interest, one that the Station felt should be shared with its viewers on a live, real-time basis so that they could share in the second-by-second countdown to the implosion. Accordingly, the Station decided – reasonably and responsibly – to broadcast the event live without any time delay. Campbell Decl. ¶ 19.

## **Inquiry 2**

A compact disk containing the material that aired on March 21, 2004 from approximately 6:30 a.m. until approximately 7:16 a.m. (“WPVI Recording”), including the matter that the subject of this inquiry, is enclosed herewith. Ms. Campbell, the President and General Manager of the Station, believes the WPVI Recording to be a true and accurate copy of what was broadcast on the Station on March 21, 2004. Campbell Decl. ¶ 3.

The Station typically retains air check tapes of its newscasts for only three months. As such, in the ordinary course of business, the Station would not have a tape of its March 21 broadcast. Because of this incident, the Station did specially set aside and preserve as potential evidence a tape that included the offending epithet. Campbell Decl. ¶ 4.

A compact disk containing the live official Phillies audio/video feed of the implosion (“Phillies Recording”), which was also specially set aside by the Station and preserved, is also enclosed herewith. Ms. Campbell believes that the Phillies Recording is a true and accurate copy of the audio/video feed supplied by the Phillies and used by the Station and other stations in their broadcast coverage of the Veterans Stadium implosion. As noted above, the Station used only the audio portion of this feed, and substituted its own video, during its live coverage of the implosion at 7:00 a.m. Later, however, it used video from this and other Phillies feeds showing the same event from different vantage points. Campbell Decl. ¶ 5.

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<sup>3</sup> In the seven and a half years that they have worked for the Station, the Station’s President and General Manager and its News Director do not recollect the F word, or similar language, ever before being broadcast during the Station’s live news coverage. Campbell Decl. ¶ 18.

**Inquiry 3**

According to the Station's President and General Manager, the material described in Inquiry 1 above did not air over any station licensed to Licensee other than WPVI-TV, Campbell Decl. ¶ 19.

**Inquiry 4**

Not applicable.

**Inquiry 5**

The documents that provide the basis for or otherwise support the responses to Inquiries 1 through 4 above are referenced in the Responses set forth above.

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The Station regrets the broadcast of the language in question. In our view, however, an isolated, fleeting coarse word uttered unexpectedly, for unknown reasons, by a trespassing bystander off-camera at a news event and broadcast unintentionally as part of a Station's live on-the-spot breaking news coverage, utilizing a common press feed that was not under the Station's control and that was arranged by the Station's community of license, should not be considered legally indecent under the guidelines and decisions of the Commission. See generally Industry Guidance on the Commission's Case Law Interpreting 18 U.S.C. § 1464 and Enforcement Policies Regarding Broadcast Indecency ("Indecency Policy Statement"), 16 FCC Rcd 7999 (2001).

First, under Commission guidelines, one of the major determinants of whether material will be found indecent is the purpose for which it is presented, and specifically whether it is presented by the broadcaster to pander, titillate or shock. Indecency Policy Statement at ¶ 20; In the Matter of Complaints Against Various Broadcast Licensees Regarding their Airing of the "Golden Globe Awards" Program, 19 FCC Rcd 4975 at ¶ 7 (2004). In this case, the Station had absolutely no intent to pander, titillate or shock. The language at issue was not uttered, intended, encouraged, condoned, or remotely anticipated by the Station or any of its employees. Rather, it was uttered – for what purpose we do not know – by an unruly spectator who unexpectedly crashed a VIP event and approached a microphone, not controlled by the Station, that was supplying the local media with live audio press pool coverage of that event for contemporaneous broadcast on the local news.

In considering whether material is pandering or titillating, the Commission has repeatedly recognized that "the context of the broadcast is particularly critical." See, e.g., Indecency Policy

Statement at ¶ 21. In other words, material that might be highly offensive in some contexts is recognized by the Commission as justifiable in other contexts, particularly when part of a bona fide news presentation. Recent Commission decisions finding material to be indecent have continued to recognize the importance of context in making its evaluation. See In the Matter of Complaints Against Various Broadcast Licensees Regarding Their Airing of the “Golden Globe Awards” Program, 19 FCC Rcd 4975 at ¶ 7 (2004); In the Matter of Young Broadcasting of San Francisco, Inc., 19 FCC Rcd 1751 at ¶ 10 (2004).

Applying this principle, the Commission has deemed not indecent the broadcast, during National Public Radio’s “All Things Considered” news program, of FBI wiretap tapes that captured organized crime figure John Gotti using coarse and threatening language, including ten utterances of the word “fuck” or “fucking” in seven sentences. Peter Branton, 6 FCC Rcd 610 (1991), aff’d sub nom. Branton v. FCC, 993 F.2d 906 (1993), cert. denied, 114 S. Ct. 1610 (1994). Although the expletive appeared in the report multiple times, and the report was not live but edited and on tape, the Commission held that, in context, the language was not legally indecent, writing the complainant:

We recognize that the repetitious use of coarse words is objectionable to many persons, and understand that you personally may have been offended by the use of expletives during the Gotti segment. Nonetheless, we do not find the use of such words in a legitimate news report to have been gratuitous, pandering, titillating or otherwise “patently offensive,” as that term is used in our indecency definition. In reaching this determination, we note that the program segment, when considered in context, was an integral part of a bona fide news story. . . . [W]e note that we traditionally have been reluctant to intervene in the editorial judgments of broadcast licensees on how best to present serious public affairs programming to their listeners. Id.<sup>4</sup>

The Gotti case involved the deliberate inclusion of the expletive “fuck” in an edited news report. Even in those circumstances, the Commission ruled that the broadcast was entitled to deference because of its bona fide news context. Here, the word in question was uttered unexpectedly by a trespasser during live coverage of a local news event. The Station had made a reasonable and responsible editorial judgment that it would be serving the local public interest by providing live, real-time, on-the-spot coverage of the Veterans Stadium implosion, a legitimate and historic local news event, during its morning newscast, using the press pool tape

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<sup>4</sup> Other Commission indecency decisions have found otherwise objectionable material to be not indecent when considered in context. Thus, even an explicit and extended discussion of sexual organs, functions, and techniques, while potentially offensive to some, was deemed permissible when part of a serious clinical or instructional discussion. King Broadcasting Co., 5 FCC Rcd 2971 (1990) (broadcast of portions of high school sex education class, including graphic depictions of sex organs and discussions of birth control and other sexual topics). Accord Letter from Chief, Complaints and Investigations Branch, Enforcement Division, Mass Media Bureau to Chris Giglio (July 20, 1994) (Oprah show on improving sexual relations with one’s partner); Letter from Chief, Complaints and Investigations Branch, Enforcement Division, Mass Media Bureau, to Gerald P. McAtee (October 26, 1989) (Geraldo Rivera Show, “Unlocking the Great Mysteries of Sex”). Similarly, full frontal nudity was deemed not to be indecent in the context of a serious film depicting the atrocities undergone by concentration camp inmates during the Holocaust. WPBN/WTOM License Subsidiary, Inc., 15 FCC Rcd 1838 (2000) (“Schindler’s List”).



supplied by the Phillies and arranged by the City of Philadelphia. That editorial judgment should be accorded great deference by the Commission, just as the Commission's decision in the Gotti case reflected its appropriate "reluctan[ce] to intervene in the editorial judgments of broadcast licensees on how best to present serious public affairs programming to their listeners." 6 FCC Rcd at 610. Indeed, to hold otherwise would raise substantial First Amendment concerns by casting a deep chill on broadcast journalists' coverage of breaking news events. To hold this broadcast indecent would effectively establish that stations can never engage in live, real-time news broadcasts because of the risk – here, a totally unexpected risk – that a foul word might be uttered by a member of the public. That would be, we submit, an unacceptably severe intrusion into the editorial discretion of broadcast journalists and an unacceptably steep curtailment of the public's ability to observe live coverage of breaking news events.

In the recent Golden Globes decision, the Commission found the broadcast of an entertainment awards ceremony indecent because an awards presenter used the words "fucking brilliant." Golden Globe Awards Program, 19 FCC Rcd 4975 (2004). The Commission expressly distinguished the Branton case, emphasizing that in Branton "use of the word was not gratuitous" because it was "part of a bona fide news story." *Id.* at ¶ 9 n.25. By contrast, the Commission said, NBC had not even suggested any such mitigating value or factors. *Id.* at ¶ 9.

Moreover, the Commission in Golden Globes found that the use of an offensive word by a celebrity presenter during an entertainment awards show was foreseeable because of past practice. The Commission held that "NBC and other licensees were on notice that an award presenter or recipient might use offensive language during the live broadcast." *Id.* at ¶ 10. Indeed, the Commission noted, Bono himself had reportedly used the same language on an earlier Grammy awards ceremony, as had Cher in accepting a 2002 Billboard award. See also CBS Radio License, Inc. (WLLD(FM)), 15 FCC Rcd 23881, 23883 (2000) (given licensee's awareness of the actual language used in performers' recordings, it should have taken precautions to avoid airing material meeting the indecency definition during a live, unscripted broadcast).

Similarly, in its decision finding indecent the appearance of nudity during the Super Bowl halftime show, the Commission emphasized that CBS and MTV were or should have been aware of the risk of such an incident based on past behavior by pop singers Janet Jackson and Justin Timberlake. Broadcast of Super Bowl XXXVIII, 19 FCC Rcd 19230 at ¶ 17 n.54 (2004). Moreover, the Commission said:

CBS and MTV did have prior knowledge of, indeed were intricately involved in the planning process for, and tacitly approved, the sexually provocative nature of the Jackson/Timberlake segment. Moreover, they extensively promoted this aspect of the broadcast in a manner designed to pander, titillate and shock. Viacom made a calculated and deliberate decision to air the Jackson/Timberlake segment containing material that would shock Super Bowl viewers, and to accurately promote it as such. [*Id.* at ¶ 23.]

In contrast, in the present matter the Station had absolutely no reason to expect that an unruly bystander might break into a cordoned off area and shout an offensive word. Nor had the Station in any manner presented or promoted its coverage of the news event in a pandering or titillating manner.

The Golden Globes decision also reflected the Commission's finding that a delay and bleeping mechanism for an entertainment awards show could easily prevent the broadcast of offending language "without blocking or disproportionately disrupting the message of the speaker or performer." Id. at ¶ 11. It considered the potential chilling impact of its ruling, but said that it did not envision that its ruling would "lead to licensees abandoning program material solely over uncertainty surrounding whether the isolated use of a particular word is indecent." Id. at ¶ 11 n.30. In the context of live news reporting, as discussed above, that chilling effect would be a much more serious and constitutionally significant concern.

The Commission's Puppetry of the Penis decision, In the Matter of Young Broadcasting of San Francisco, Inc., 19 FCC Rcd 1751 (2004), is similarly distinguishable from our case. In the Puppetry of the Penis case, actors from the stage show of that name – a show in which male performers, wearing capes with nothing underneath, quickly discard their capes and appear nude in order to manipulate and stretch their genitalia to simulate a wide variety of objects, buildings and people – were interviewed about their craft in person, wearing their signature capes, during a live morning television newscast. During the course of the interview, off-set female personnel and one of the hosts urged the performers to demonstrate, with a host saying, "let's see it" and "they're tired of the talking." Id. at ¶ 13. As the performers stood and got ready to turn away from the camera toward the show hosts to demonstrate their penile manipulation prowess, one of the performers briefly exposed his naked penis to the studio camera and consequently to viewers at home.

The Commission found, as in the Golden Globes decision, that this problem was foreseeable. It said that the broadcaster – knowing "that the interview involved performers who appear nude in order to manipulate and stretch their genitalia" and knowing that the performers on set were nude beneath their capes – "failed to take adequate precautions to ensure that no actionable indecent material was broadcast." Id. at ¶ 13. Indeed, it found that the broadcaster actively encouraged the nudity when the station aired, and one of the hosts repeated, comments by off-air personnel that they were "tired of the talking" and when one of the hosts told the performers, "let's see it." Id. The Commission held that "although the actual exposure of the performer's penis was fleeting in that it occurred for less than a second, the manner in which the station presented this material establishes . . . that, in its overall context, the material was apparently intended to pander to, titillate and shock viewers." Id. at ¶ 12.

In our case, again, there was no such intent, and the Station was not on notice of a likely problem. Rather, the intent of the broadcast at issue here was to serve the needs of the Station's local community by bringing it, in cooperation with local government and sports officials, live coverage of a news event of great local interest and importance. We respectfully maintain that these good-faith efforts to bring high-quality local community news and public affairs coverage,

including live news, to the viewing public should be encouraged, not condemned, and the Station's broadcast should therefore be held NOT INDECENT.

Respectfully submitted,

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