

## **WQLN PUBLIC BROADCASTING OF NORTHWEST PENNSYLVANIA**

### **POLICY ON INDECENT BROADCASTS FOR WQLN-TV 54, WQLN-DTV 50, WQLN etc., WQLN-FM 91.3**

The U.S. Criminal Code regulates broadcasts of obscene, indecent or profane language. 18 U.S.C. § 1464 of the Federal Communications Commission's rules and policies prohibit obscene broadcasts at all times. Indecent broadcasts are barred between 6 am and 10 pm to safeguard children from patently offensive material and to enable parents to decide effectively what their children will see and hear.

It is the policy of WQLN Public Broadcasting of Northwest Pennsylvania that no obscene material will be broadcast between 6 am and 10 pm. Indecent material broadcast between 10 pm and 6 am will only air with the authorization of the General Manager.

The following considerations for compliance with WQLN's policy are intended to provide guidance to those responsible for station programming to ensure that no indecent material is improperly aired over WQLN. These considerations focus on indecency, because the prevention of indecent broadcasts will preclude obscene broadcasts.

Because WQLN is committed to full compliance with the law and FCC rules and policies, and it intends for its policy to be adhered to strictly, a decision will be made not to broadcast material where there is any significant risk that such material may be indecent (except for authorized broadcasts between 10 pm and 6 am.)

WQLN relies on its programming professionals to comply with this policy and to bring compliance questions and concerns to the attention of the General Manager. WQLN programmers need to take all steps necessary to become aware of potential indecency problems in programs acquired from other sources, and review such programs in advance of broadcast. In addition, WQLN will ensure that locally produced programs comply with this policy. To the extent possible, the station will utilize tape delay and sound delete mechanisms for live programs where history or other factors suggest that indecent utterances may be made.

#### **Definitions.**

The FCC defines *indecent* matter as

language or material that depicts or describes sexual or excretory activities or organs, in terms that are patently offensive and measured by contemporary community standards for the broadcast medium. (Contemporary community standards for indecency are national standards.)

*Obscenity* is judged according to the following test:

the average person, applying contemporary community standards (in the local community), would find that the work, taken as a whole, appeals to the prurient interest; the work depicts or describes in a patently offensive way sexual conduct specifically defined by applicable state law; and the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Except in certain cases involving language or activities which are likely to be indecent regardless of context and are therefore prohibited by this policy, determinations of indecency need to be made on an individual, case-by-case basis, and such determinations may depend on a number of variables. Evaluating potential broadcast material for indecency can be a subjective exercise, depending to a significant extent on the context in which material is presented. As a result, evaluation requires good judgment as well as consideration of public sensibilities. In making judgments, programmers should err on the side of caution and avoid or delete material with any significant risk of being found indecent.

Time of Broadcast. Obscene broadcasts are prohibited at all times. Indecent broadcasts are prohibited between the hours of 6 am and 10 pm – the time period the Commission believes there is a reasonable likelihood children are in the audience. Indecent material broadcast between 10 pm and 6 am will only air with the authorization of the General Manager.

Subject Matter. Indecent material deals with sexual or excretory organs or activities. Although there is no complete list of indecent subject matter, the following subjects should be avoided: masturbation, ejaculation, breast size, penis size, sexual intercourse, nudity, urination, oral-genital contact, erections, sodomy, bestiality, menstruation and testicles. Although it may in some instances be acceptable merely to mention sexual or excretory activities or organs, such descriptions or depictions are almost certainly unacceptable if the material dwells on them in a pandering or titillating fashion. The more detailed the discussion or description, and the more sensational, the greater the risk that it is indecent. If sexual or excretory organs are mentioned, anything involving the touching of those organs should be avoided.

Additionally, the following “seven dirty words” singled out by the FCC and courts are to be avoided at all times: f-ck, sh-t, p-ss, m-th-rf-ck-r, c-cks-ck-r, c-nt, and t-t. All similarly offensive dirty or profane words are also prohibited at all times.

Context. The context of potentially offensive language is critical in many cases to indecently determinations. The nature of certain types of programming can aggravate the

underlying offensiveness of what is said and transform merely offensive material into indecency. A clinical discussion of sexual activity may, in some cases, be acceptable while mention of the same activity as part of a pandering or humorous discussion will almost certainly not be.

Among the factors the FCC considers in evaluating the context of offensive material are whether the actual words or descriptions are vulgar or shocking; the manner in which the language or depictions are portrayed; whether the offensive material is isolated or fleeting; the accessibility of the material to children; and, to some extent, the merit of the material.

Context is not always determinative, however, and even isolated or fleeting utterances can be indecent. Expletives such as the “seven dirty words” are indecent regardless of the context.

Repetition. Deliberate and repetitive references to offensive material increase the likelihood that it is indecent. Repetition of offensive material for its own sake or to shock or titillate should be avoided.

Innuendo. Innuendo and double entendre may be indecent depending on the context in which they are presented, including if they can be understood by children. Words that in one context may have an innocent meaning may be rendered explicit in other contexts if they are interwoven with references which make their meaning clear and capable of only one interpretation. Offensive innuendo and double entendre relating to sexual or excretory organs or activities are indecent if surrounding explicit references make the meaning of the entire discussion clear.

Song Lyrics. Song lyrics are subject to the same indecency prohibition as other types of broadcasts.

Enforcement. The FCC aggressively enforces its rules and policies against indecency and obscenity. Congressional pressure for such enforcement is strong, and changes in the law may create substantial liability not only for stations airing indecent programming, but also for individuals or entities providing or uttering indecent material. Because of the importance of the indecency rules and this policy, any complaints about the programming on WQLN being indecent should be immediately brought to the attention of the General Manager.