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Experts Debate FCC Indecency Rules

Broadcast TV should be regulated by individual households, not the government, said opponents of the FCC's "fleeting expletives" rule during a debate Wednesday at the American University law school. Panelists included four filers in FCC vs. ABC and Fox, heard last month by the Supreme Court: David Petron from Sidley Austin (for Fox) and Trevor Burrus from **Cato Institute** opposing the rules; and rule supporters Chris Gacek from Family Research Council and National Religious Broadcasters Senior Vice President Craig Parshall.

Broadcasting is still a "uniquely invasive" form of media that should be held to a standard and regulated, Parshall said, and children still need to be protected from obscenities on broadcast TV. "Broadcasting is uniquely accessible to children, even those too young to read," he said. The government has always had a role in preventing minors' access to indecency and still should have that role, he said.

In this technological age, broadcast TV is not any more invasive than any other type of media, Petron said. Families invite media into their home and have control over what their children watch on TV. The federal government should not be able to decide what children can or can't watch, he said. It is parents' right to decide if they want their children exposed to obscene material, he said.

There's no rule that will satisfy all broadcasters, so the FCC must do the best it can with the rules now on the books, Parshall said. If the FCC can't capture the opinion of the broadcasters, it shouldn't be regulating broadcast TV, Burrus said. Petron said the agency should still regulate broadcasting but should have more restraint, like it's had for the most of the past 20 years. Current rules are too vague and the rulings too inconsistent, Petron said. Inconsistency means too much power for the government, he said, and "the only way indecency regulation can survive is if it's done in a predictable and consistent way." He said a term like "indecent" is subjective and must be defined.

The FCC has specific standards for instances of indecency, Gacek said. He said the standards are similar to standards that broadcasters hold for themselves. Burrus argued that the fact that broadcasters already have self-held standards shows they don't need commission regulation.

Broadcasters shouldn't be afraid to broadcast certain things because of the threat of huge fines from the FCC, Burrus said. That's a violation of free speech, he said: "The chilling effects are so profound." He cited an effort by the Parents TV Council to encourage parents to complain to the FCC about indecency on broadcast TV. The amount of complaints increased from hundreds to hundreds of thousands and that encouraged the agency to interfere more, Burrus said. Gacek argued: "That's kind of like free speech, I think."

The debate returned to who holds the role of regulating TV and ended with divided opinions. Viewers under the age of 18 can represent as much as one fourth of audiences during day-time programming, Parshall said. Gacek said TV has been linked to problems among minorities like violence, obesity and eating disorders. Burrus said parents have the ability to control what their children watch, and that's where the responsibility should lie. -- Katie Ardmore