

**Before the
Senate Committee on Commerce, Science, and Transportation
Decency Hearing
Thursday, January 19, 2006**

Statement of Alan Rosenberg, President of Screen Actors Guild

Mr. Chairman, Co-Chairman Inouye, and members of the Committee, thank you for inviting me to participate in this hearing. My name is Alan Rosenberg and I am the President of Screen Actors Guild.

I am honored to be here today representing 120,000 proud members of Screen Actors Guild, founded over 70 years ago and part of the AFL-CIO. Throughout the world, our members are hired to perform roles in television programs, motion pictures, commercials, and interactive media, bringing countless hours of entertainment and information to the global viewing public. We take great pride in these ongoing creative contributions to America's rich artistic, cultural, and entertainment landscape.

As professional performers, we want to ensure that the artistic freedoms guaranteed by the First Amendment of the United States Constitution are treated as sacrosanct and not sacrificed because of a couple of extremely isolated incidents. As parents, we want to ensure that children are not exposed to content not intended for them.

Finding the proper balance between protecting freedom of artistic expression and protecting children from indecency is a tremendous challenge and an enormous responsibility for Congress to undertake. However, we believe that Congress can reach an effective yet equitable balance by proceeding in a narrowly tailored manner, which deters broadcast indecency *without* discouraging protected speech or disproportionately punishing individual American citizens.

American film and television is an integral component of our popular culture, mirroring our history and our national identity. Our stories must be portrayed sincerely and without censorship. Sometimes, angry language that I would never use in my home is required in order to convey the reality of a situation. Can we risk sugarcoating the artistic re-creation of events, news, and our own history in the pursuit of a "decency" standard narrowly defined by what some people might find objectionable? How will generations to come learn about the hatred of racism, or see the great works of William Shakespeare come to life, without using words or phrases that a small minority of viewers might find indecent?

Societies often quell dissent through the media. Censorship is a way to limit what facts are heard and to propagandize what the public sees and hears. Is that the kind of media we want to provide in this country?

Some of the most imaginative, thoughtful, and proactive television shows of all time—from *All in the Family* to *NYPD Blue*—pushed age-old boundaries and offered the viewing public something different. The history of free-flowing creativity and dialogue over our

airwaves has been dependant upon the principle of free expression without fear of government retaliation.

However, the indecency fine increases passed by the House of Representatives could significantly undermine this principle by subjecting American citizens to financial ruin for expressing their constitutionally protected rights. The House legislation increases the fines that individual Americans would pay for broadcast decency violations by almost 5,000 percent (from \$11,000 to \$500,000) and would eliminate the existing warning requirement.

SAG members work primarily on scripted projects—we are hired to perform a role. To be threatened with half a million dollars in fines for doing our jobs is incomprehensible. Any actor on television could become the target of citizens who disagree with the actor's religious or political beliefs. Well-orchestrated campaigns urging FCC complaints could become the norm if the extreme and disproportionate fine increases for individuals become law.

Existing safeguards already protect the public's interest and obviate the need for such extreme sanctions against individual Americans. Live broadcasts are becoming increasingly rare, and our employers utilize a seven-second-delay in such instances. Additionally, nearly every actor's series contract includes a morals clause prohibiting unbecoming behavior on and off screen.

So if an actor appeared on the *Today Show* and unleashed a slew of expletives that somehow made it past the network delay switch, such conduct would likely result in getting fired from a hit TV series, losing lucrative endorsement contracts, and jeopardizing future employment. This is certainly not a risk that anyone I know is willing to take.

In addition, other safeguards exist to protect children from indecent content. These include the new TV ratings system that Jack Valenti discussed, the cable industry's new family tier, channel blocking technologies, the V-Chip, and public service announcement campaigns. This growing web of safeguards should be given an opportunity to work before the Senate enacts an excessive fine regime for individual Americans.

While the fines contained in the House bill are often referred to as “performer fines,” they are not limited to high profile stars. In actuality, they would apply to *any* American citizen who inadvertently runs afoul of the ever-changing FCC standards. Your constituents—whether they call in to a radio talk show, give a “man on the street” interview, or worse, are grief stricken family members at the scene of a crime or a funeral—could be subject to financial ruin for exercising their constitutionally protected right of free speech. Even if fines were tempered by an individual's ability to pay, the legal fees associated with defending a complex FCC forfeiture proceeding could bankrupt many of your constituents.

Unlike broadcast licensees, individual citizens, including the members I represent here today, are not aware of the FCC's vague and changing indecency standards. Should they really be subject to half million dollar fines without a warning?

My wife is an actress on the number one TV show, *CSI*. While there's nothing "indecent" about the show, it's certainly not something young children should watch, nor is it intended for them. Crime scenes and autopsies are not the best choice for kids. But the fact that provocative television shows like *CSI* are not appropriate for children doesn't mean that they shouldn't be available for adults to watch. If all of America's entertainment output were to be distilled to a level that is appropriate for children, every movie and program would be Rated G.

While some groups out there might cheer this outcome, it would drastically limit the entertainment industry's ability to explore the full depth and diversity of the human experience. If you allow the content considerations of a single demographic (be it children or some narrow segment of an adult special interest group) to dictate the standards for what is appropriate for the entire nation, you suppress one of this country's greatest assets—the diversity and creativity of the American people.

That's why the Senate should not only refrain from fining individual citizens; it should also avoid revoking station licenses for indecency violations. Increasing existing broadcaster fine levels, as is proposed in Senator Brownback's bill and the House legislation, will provide a sufficient deterrent to airing indecency. Threatening a broadcaster's license (which are in some cases worth hundreds of millions of dollars) will result in a total clampdown on all content, even that which is not indecent.

The best programming on the airwaves—from local TV productions to hit network shows enjoyed by tens of millions of viewers—could go by the wayside due to the threat of censorship through a station's license revocation. This would have a devastating effect on our nation's artistic, cultural, and economic fabric. Bland programming is safe, but it is not necessarily good. We believe the American public deserves remarkable, innovative programming. Not bland.

Mr. Chairman, this sort of national dialogue on the proper balance between freedom of expression and protecting children is both healthy and necessary in any democratic society, particularly one as rapidly evolving as our own, whose entertainment and cultural output are so widely exported around the world. Given the serious implications for First Amendment freedom of speech posed by this debate, the Senate should proceed in a narrowly tailored manner that neither discourages protected speech nor disproportionately punishes individual American citizens. The "baby" of free artistic expression on America's airwaves is simply too important to be thrown out with the "bath water" of indecency.

I applaud your leadership in this regard, and look forward to working with you and members of the Committee in striking the proper balance.

Thank you again for the opportunity to speak today.