

CONCURRING STATEMENT OF COMMISSIONER QUELLO

While I concur in the adoption of the document clarifying the Commission's position on the broadcasting of indecent language, I have serious reservations as to the extent of the standard enunciated. I concur in the action only because I recognize the need for an up-dated standard in light of the Supreme Court's ruling in Miller v. California, 413 U.S. 15 (1973).

I agree wholeheartedly with the conclusion that the words listed in Paragraph 14 "...are words which depict sexual and excretory activities and organs in a manner patently offensive by contemporary community standards for the broadcast medium and are accordingly 'indecent' when broadcast on radio or television." However, I depart from the majority in its view that such words are less offensive when children are at a minimum in the audience. Garbage is garbage. And under no stretch of the imagination can I conceive of such words being broadcast in the context of serious literary, artistic, political, or scientific value. Under contemporary community standards anywhere in this country, I believe such words are reprehensive no matter what the broadcast hour.

I would emphasize that I am not here espousing a prudish critique of the use of words of this nature. I do criticize the broadcast of such words so that they may intrude into the privacy of the home via the unsuspecting listener's radio set.

I am concerned that our new standard for indecent language is adulterated to the extent that it becomes an invitation to a few broadcasters to seize on the late evening hours as a showcase for similar types of garbage programming under the guise of literary, artistic, political, or scientific value. They will note that the audience is composed of a minimum of children, and their pre-program caveats will be considered to be sufficient warning for the unsuspecting listener. Then this Commission will sooner or later be faced with judging the content of such programming on the merits under the standard adopted today.

I must reiterate that I have concurred in the adoption of the new standard on broadcasting of indecent language only for the reason that there must be a line drawn somewhere as to what this Commission will permit to be broadcast. Recognizing the pitfalls inherent in the approach we have taken, I concur in the decision -- with trepidation.

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