

FEBRUARY 9, 2005

SCHAKOWSKY VOTES TO PROTECT FIRST AMENDMENT AGAINST CONGRESSIONAL INTRUSION

"WE ARE HEADING DOWN A SLIPPERY SLOPE WHEN BIG BROTHER DECIDES WHAT CONSTITUTES FREE SPEECH AND ARTISTIC EXPRESSION"

WASHINGTON, D.C. - U.S. Representative Jan Schakowsky (D-IL), ranking member on the Commerce, Trade and Consumer Protection Subcommittee, today voted to protect the First Amendment and against legislation that would limit free speech.

Schakowsky, who opposed H.R. 310, the Broadcast Decency Enforcement Act, said, "I have some concerns about what we see on television, particularly the violence. However, I am a strong proponent of the First Amendment and oppose inappropriate censorship. We are heading down a slippery slope when Big Brother decides what constitutes free speech and artistic expression. I worry that increasing fines, especially those directed at individuals, may lead to excessive self, if not actual, censorship. As I have said before, we run a great risk when our legislation threatens to undermine both our Constitution and our creativity."

The legislation would increase fines on broadcast licensees, networks and individuals found to have violated indecency regulations by the Federal Communications Commission (FCC). However, the bill fails to address the major concern of citizens across the country who believe that there is a direct correlation between media consolidation and the increasing number of objectionable materials on the air.

Schakowsky offered an amendment to strike the provision in the bill that would increase fines on individual artists and performers from \$11,000 to \$500,000 per incident and would strip away their right to receive a warning before any fine can be levied. The FCC has never imposed a fine against an individual performer. Schakowsky's amendment was defeated, and the H.R. 310 was passed by the Commerce Committee with only two dissenting votes, one of which was Schakowsky's.

□ The text of Schakowsky's written remarks are below:

OPENING STATEMENT

REPRESENTATIVE JAN SCHAKOWSKY

EC FULL COMMITTEE MARKUP: H.R. 310, THE BROADCAST DECENCY ENFORCEMENT ACT

Thank you, Chairman Barton and Ranking Member Dingell. While I appreciate that there was a bipartisan effort behind H.R. 310, I believe that the resulting bill would be more successful at undermining our First Amendment rights and creative expression than it is we will be successful in cleaning up the airwaves. This effort to address concerns about the quality of what is making it onto the airwaves has serious Constitutional consequences. Because of my concerns, I have two amendments, which I will offer en bloc, to strike the changes to current law concerning fines against individuals.

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I also have some of the concerns about what we see on television, particularly the violence. However, I also am a strong proponent of the First Amendment and oppose inappropriate censorship. We are heading down a slippery slope when Big Brother decides what constitutes free speech and artistic expression. I worry that increasing fines, especially those directed at individuals, may lead to excessive self, if not actual, censorship. As I have said before, we run a great risk when our legislation threatens to undermine both our Constitution and our creativity.

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I also am afraid that the focus on indecency distracts us from the larger issue we should be addressing: the over-concentration of media ownership. Mr. Chairman, broadcast content is getting worse - in so many ways - not because fines aren't high enough, but because of the consolidation of media ownership into fewer and fewer hands and further and further away from local control. By fixating today on indecency on the airwaves, a mere symptom of the problem, we are missing the fact that community standards and local voices are being lost as ownership of stations are moving from the hands of the people to the hands of the conglomerates. The concentration of media ownership into fewer and fewer hands takes effects both infringes on local control and greatly limits the rights of local communities' right to decide what they want to see and hear. With H.R. 310, we are talking about standards of decency - but we should be talking about standards of democracy.

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My amendments would address the most dangerous provisions of this bill which undermine our First Amendment rights. Again, while I do not support the race to the bottom on the airwaves, I am more concerned about infringing on free speech than I am or my grandchildren seeing Janet Jackson's nipple. That, I believe, is more offensive than anything else. My amendments seek to limit the damaging effects this bill would have on artistic expression and freedom of speech in general by striking the fine increases against individuals. I urge my colleagues to vote to reject the attack to our Constitution and the silencing of creative voices. Thank you.

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STATEMENT ON AMENDMENTS TO H.R. 310

REPRESENTATIVE JAN SCHAKOWSKY

AMENDMENTS OFFERED EN BLOC TO H.R. 310: STRIKE FINE CHANGES AGAINST INDIVIDUALS

Mr. Chairman, I have two amendments at the desk, "Increases not applicable to individuals" and "Citations before penalties preserved for individuals." I ask unanimous consent that they be offered en bloc. My amendments would strike the provisions in H.R. 310 that would increase the maximum fine limit for individuals from \$11,000 to \$500,000, and that would strip away their right to receive a warning before any fine can be levied.

Mr. Chairman, Ranking Member Dingell, again, I appreciate your efforts to address the quality of broadcast content. However, I believe that the damage the increasing fines against individuals would do to the First Amendment is too high a price to pay for cleaning up our airwaves.

As a grandmother, I am concerned about what is making it onto the air today. But, I am also concerned about protecting my four grandchildren's right to freely express themselves. Because I am a strong proponent of the First Amendment, I am concerned that raising fines against individuals would only amount to another form of censorship.

My fear is that artists would also become so obsessed with not being "objectionable," so afraid of the financial devastation the indecency fines could cause for them, that they could self-censor away their creativity and truly sensational (in the good sense) performances.

Not every artist gets the salary of Janet Jackson. In fact, the average musician makes just \$36,290 per year. The average actor makes merely \$23,470 per year. Even a fine of \$11,000 - current law - could destroy an artist who was found to be "indecent." I cannot stress this enough: We run a great risk when our legislation threatens to undermine both our Constitution and our creativity. The stakes are high and the threat to free speech is all too real.

The Federal Communications Commission, (FCC), recognizes this as well and has never imposed a fine against an individual performer. Last year, when the furor over Justin Timberlake so violently exposing Janet Jackson's breast was at its peak, the now outgoing FCC Chair Michael Powell said, "I have some reservations about the FCC going after performers personally."

And we know this, too. In this bill there is a separability clause. This clause allows for any part of the bill which is found to be Unconstitutional to be taken out so that the rest of the bill can become law. This was put in because when this bill was being written, it was known that there was a potential for Constitutional problems, especially with fines against individuals and their free speech.

Why don't we spare ourselves the aggravation and the taxpayers the cost and deal with it now? My amendments would strike the provision that would call for increased penalties against individuals and allow for them to be warned before any fine is levied. I urge all members to vote to pass my amendment and remove perhaps the most dangerous

portion of this bill. Thank you.