

Indecent Action; House Panel OKs Upping B'Cast Fines

By William Triplett

Daily Variety

February 10, 2005

WASHINGTON -- Despite several concerns expressed about the legislation, the House Energy and Commerce Committee voted overwhelmingly Wednesday to approve a bill that dramatically increases broadcast indecency penalties.

The Broadcast Indecency Enforcement Act of 2005 -- introduced just two weeks ago by Rep. Fred Upton (R-Mich.) and co-sponsored by committee chairman Joe Barton (R-Texas) along with John Dingell (D-Mich.) and Ed Markey (D-Mass.) -- hikes maximum fines from \$32,500 to \$500,000 per infraction, allows fining individual performers for a first offense and calls for revoking licenses of repeat offenders.

Bill also encourages broadcasters to reinstate a family hour and draft a voluntary code of conduct.

Upton introduced essentially the same bill in the previous Congress, where it gained enough bipartisan support to be passed 49-1 in committee. But attempts to attach legislation curbing media consolidation helped scuttle it.

No attempts to attach such legislation occurred during Wednesday's 46-2 vote, though several

members said the committee ought to have considered doing so.

Only two amendments were offered, both by Janice **Schakowsky** (D-Ill.), who decried a "chilling effect" the first-offense fines against performers would have on artistic expression.

Currently, the Federal Communications Commission can fine artists only after it issues a warning for a first offense. Bill raises fines from \$11,000 to \$500,000. **Schakowsky's** amendments sought to strike the hike as well as restore the first-offense warning.

Describing her amendments, **Schakowsky** referred to singer Janet Jackson's 2004 Super Bowl halftime show-exposed "nipple," wryly interrupting herself to ask the chairman, "Am I allowed to say that?"

The committee rejected both amendments.

The lone dissenter on the previous version of the bill, **Schakowsky** was joined this time by Henry Waxman (D-Calif.) in voting no.

Waxman, too, cited concerns about a possible negative impact on artistic expression. "I don't like censorship," he said. "Or the impact of self-censorship."

Other members who voted to approve the bill nevertheless cited concerns such as:

The legislation should also apply to cable and satellite television as well as satellite radio.

The issue of violence on broadcast TV should be considered. Ted Strickland (D-Ohio) said children's exposure to violence "may be more dangerous than a glimpse of the female anatomy."

The government's definition of indecency is vague and confusing and should be clarified.

Rather than offer an amendment, Barbara Cubin (R-Wyo.) asked Barton and Upton if they are amenable to consider updating the FCC's indecency definitions. Both said they are.

The Center for Creative Voices in Media released a statement expressing "deep regret" that the committee had passed the legislation.

"Rather than increasing fines for broadcasters, and imposing fines on creative artists, our nation's policymakers should deal with the problem of objectionable programming by addressing one of its root causes -- media concentration," the statement said. "They should also address one of the principal reasons consumers and parents are unable to avoid objectionable programming -- again, media concentration."

2005, Variety, Reed Business Information, a division of Reed Elsevier, Inc.