# Howard's Revenge

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There's a keen irony in the government's attempts to muzzle shock jock Howard Stern and his potty-mouthed ilk. The ratings service Arbitron Inc. recently released figures that show Stern's battle with the government over indecency and free speech boosted his ratings for the winter quarter. Locally, he jumped from 15th last fall to 9th on WCKG-FM, and dominated even more in his home market of New York.

Stern has commanded a loyal following for years. But who would have guessed that he would increase his reach and expand his audience in key markets with his political diatribes against Federal Communications Commission censors, in between his usual bits about sex, strippers and bathroom humor?

Actually, we would. The history of censorship is nothing if not consistent. When authorities tried to ban books like D.H. Lawrence's "Lady Chatterley's Lover," Henry Miller's "Tropic of Cancer," or James Joyce's "Ulysses," those efforts only boosted interest--and sales. (Other books that have been banned in some places, but haven't suffered a decline in sales: the Harry Potter stories and "To Kill a Mockingbird.") Who wouldn't want to see a movie or read a book that was "banned in Boston"?

There's a lesson here for the FCC and Congress, if they're willing to listen. That is: Censorship is ultimately self-defeating. Often it boomerangs, as in Stern's case, and simply draws more people to see what the fuss is about.

All of this means that Congress and the FCC should slow down in the mad dash to slap onerous new fines on networks for indecency. And they should drop any misguided notions of reining in cable television under the same regulatory umbrella as the broadcast networks.

The public display of righteous anger by the FCC and Congress over Janet Jackson's Super Bowl exposure has served its purpose, which was to send a strong message to network television and radio that there's a line they shouldn't cross. Message received. The networks are showing restraint, instituting time-delays and scrubbing some of the gratuitous sex and foul

language from their shows.

It's time for the politicians to declare mission accomplished and shelve the bill passed by the U.S. House a few weeks ago. That bill would raise the fine limit for each indecency offense from $27,500 to $500,000 and authorize automatic license revocation actions against any station guilty of three violations.

That is overkill. Only one House member--**Rep. Jan Schakowsky (D-Ill.)**--had the common sense to vote against the bill in committee; only 22 did so in the final House vote.

"We run a great risk when our legislation threatens to undermine both our Constitution and our creativity," she said. "The stakes are high and the threat to free speech is all too real."

She's right. That bill is now in the Senate. Senators need to take their cue from Schakowsky, not the other politicians who've found a tempting target to flog in an election year. This is a dangerous crusade. It should stop now.

The FCC speech police have already scored a limited victory over Stern's show. Last month the FCC slapped Clear Channel Communications Inc. with a $495,000 fine for comments made on the air by Stern. Clear Channel responded by bouncing Stern from six of its stations.There's little doubt the company's decision was based mainly on the political heat from Congress and the FCC.

"Mr. Stern's show has created a great liability for us and other broadcasters who air it," said John Hogan, president of Clear Channel Radio. "The Congress and the FCC are even beginning to look at revoking station licenses. That's a risk we're just not willing to take."

Clear Channel has a right to make that business decision, of course. But it should be just that: a business decision, based on the company's reading of the audience's desires. Instead, it's the government forcing the company's hand.

Stern's program is crude and offensive to some people. That's often the point when defending free expression. Though a solid majority of the public still supports the fundamental 1st Amendment right, people have different tolerances for different forms of speech.

Some would strip away the constitutional protection for explicit song lyrics, some would do so for offensive art--and some would do so for anti-war protests.

That's why it is so important to protect the broadest rights. Because you might want to protect what your neighbor would ban.

It would be far easier if every 1st Amendment free speech issue featured a sympathetic figure engaged in a noble cause. But that's not the way it usually happens. Often it's deplorable speech that must be protected, in the name of free speech for all Americans.