

House Bill Would Raise Penalties for Indecency

The measure, approved by committee, calls for a \$500,000 fine for each violation by a broadcast outlet. Senate legislation may be even tougher.

By Richard Simon - Los Angeles Times

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WASHINGTON - A House committee, seeking to crack down on nudity and obscenity on the airwaves, approved legislation Wednesday that would increase fines for each violation of the federal indecency rules to \$500,000 and require a license revocation hearing after the third offense.

The Energy and Commerce Committee's vote to send the Broadcast Decency Enforcement Act to the House floor as early as next week was the first congressional roll call on the issue since pop star Janet Jackson's breast-baring Super Bowl performance caused a bipartisan uproar on Capitol Hill. The tally was 49 to 1.

"Today, we are saying, 'Enough is enough,' " said Rep. Joseph R. Pitts (R-Pa.), adding that the bill sends a message to broadcasters: "If you can't police yourself, we'll do it for you."

A Senate committee is expected to weigh in next week with its own bill, as lawmakers mull even more stringent measures. Sen. Zell Miller (D-Ga.) proposed that fines be tied to the number of listeners or viewers of an offensive broadcast - a potential \$35-million penalty in the case of last month's Super Bowl halftime show.

House members also are beginning to examine "excessively violent" TV shows, circulating a letter Wednesday calling on Michael Powell, chairman of the Federal Communications Commission, to delve into the problem. The letter asks Powell how the FCC might define "excessively violent programming that is harmful to children" and whether there are constitutional barriers to imposing restrictions on programming when children are likely to be a substantial part of the viewing audience.

The outrage over the conduct of celebrities such as singer Bono and broadcaster Howard Stern has done something in Washington that few thought possible: brought together liberals and conservatives in an often-warring Congress.

Lawmakers have long complained about sex and violence on television. Legislation to crack down on indecent language was introduced last year after Bono uttered an obscenity at the Golden Globe Awards program televised in January 2003. But what had been a crusade by a handful of lawmakers erupted into a bipartisan stampede after Jackson's performance. By Wednesday, the indecency bill had 144 sponsors in the House.

The measure would raise fines from \$27,500 per violation to a maximum of \$500,000. Increased fines would apply to entertainers if their actions were found to be willful. But even supporters said efforts to fine performers probably would face constitutional challenges.

Rep. Janice D. Schakowsky (D-Ill.), who cast the lone vote against the measure, warned that fines against entertainers could lead to self-censorship. "We run a great risk when our legislation threatens to undermine both our Constitution and our creativity," she said.

But Rep. Fred Upton (R-Mich.), one of the bill's chief sponsors, said, "The laws for indecency are on the books, and they have been upheld in the courts." He said the FCC has, until now, warned entertainers after the first violation. "We take away the warning," he said.

The National Assn. of Broadcasters, which represents about 7,500 local radio and television stations, opposes the legislation but said in a statement, "We hear the call of legislators and are committed to taking voluntary action to address this issue."

The American Federation of Television and Radio Artists opposes fining entertainers and on-air personalities for violations that "ultimately are the employer's responsibility" because they make the broadcast decisions, said Tom Carpenter, the group's national director of news and broadcast.

The bill would exempt local stations not owned by a network from fines if they were unable to preview network programming.

With lawmakers complaining that the FCC has not aggressively enforced rules against indecency, the legislation includes a requirement for the agency to act within 180 days of complaints against broadcasters.

Rep. Henry A. Waxman (D-Los Angeles), one of the committee's senior Democrats, was skeptical about the bill's effect.

In 2003, he said, the commission received 240,000 complaints about indecency on 375 programs but proposed fines in only three cases. Waxman was absent for Wednesday's vote but would oppose the bill, an aide said.