



## **OBSCENITY AND INDECENCY DEFINITIONS FOR THE CABLE MEDIUM AS DETERMINED BY THE UNITED STATES SUPREME COURT**

Provided by the Alliance for Community Media

**OBSCENITY:** A cable program is obscene if a) the average person, applying contemporary community standards for the cable medium, would find the material, taken as a whole, appeals to prurient [sexual] interest; b) the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by applicable state law; and c) the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

**INDECENCY:** A cable program is indecent if the program "describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards for the cable medium".

**Warning: Cable operators may not censor (or require managers to censor) indecent programming pending the Supreme Court's decision in alliance for community media v. FCC. Managers' self-censorship and local P.E.G. indecency ordinances in some cases may also be unconstitutional. Please consult an attorney before undertaking any activity, which may be construed as censorship.**

### **INDECENCY DOES NOT INCLUDE:**

- a) Offensive or objectionable political opinions, of whatever ideology;
- b) Objectionable non-sexual behavior and advocacy of such behavior, even behavior otherwise prohibited by law\*;
- c) Programming produced by or featuring groups disfavored by the community;
- d) Discussions of alternative sexuality (e.g., homosexuality, bisexuality);
- e) Depiction or description of artistic works containing nudity and/or depicting sexual organs or activities (e.g., Michelangelo's "David," Klimt's "The Kiss," dance or theatrical performances), unless done so in a patently offensive manner; or
- f) Programming stating opinions or facts that the program editor believes or knows to be false.

\*Note: Laws against speech unprotected by the First Amendment (e.g., libel, copyright infringement, incitement, false advertising, etc.) may apply. A center or manager cannot be held liable for description or depiction of a criminal act (e.g., possession of controlled substances) unless as an accessory or co-conspirator.

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