

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 PEG. 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.