FCC combing air tapes for dirty words

By Brooks Boliek

WASHINGTON (Hollywood Reporter) - In its continuing crackdown on on-air profanity, the FCC has requested numerous tapes from broadcasters that might include vulgar remarks from unruly spectators, coaches and athletes at live sporting events, industry sources said.

Tapes requested by the commission include live broadcasts of football games and NASCAR races where the participants or the crowds let loose with an expletive. While commission officials refused to talk about its requests, one broadcast company executive said the commission had asked for 30 tapes of live sports and news programs.

"It looks like they want to end live broadcast TV," said one executive, who spoke only on the condition of anonymity. "We already know that they aren't afraid to go after news."

NO SLIPS ALLOWED

While live programming always has been problematic for broadcasters, it has become even more difficult under tougher commission rules approved in 2004. The new rules found that virtually any use of certain expletives will be considered profane and indecent, even if it is a slip of the tongue. In a March decision, the FCC found that the CBS news program "The Early Show" violated its indecency rules because of a profane slip-up but did not issue a fine because the incident occurred before the new rules were instituted.

Live sports -- amateur, college and professional -- have long been a broadcast programming staple. Broadcasters have spent enormous amounts of money and energy to come up with ways to give audiences a better feel for the action. As broadcasters vie for viewers, technical advances that include such things as on-field microphones and in-car cameras have become as important as the announcers.

"I don't know how they are going to rule, but they asked us for tapes with a specific emphasis on crowd noise," said another TV executive, who also requested anonymity. "If some bozo in the crowd calls the ref an asshole, the commission is asking for a copy of the tape."

A live, on-field event -- albeit when no athletes were on the field -- during the 2004 Super Bowl halftime show, when Janet Jackson's breast was accidentally bared, helped reignite Washington's interest in the indecency issue. Since then there has been a highly charged fight at the commission about just how far the commission can go in restricting broadcasts.

OPINION DIVIDED

Broadcasters last week split over whether the commission should be allowed to get one of the premier indecency cases back from the federal court in New York.

In a series of motions filed Friday in federal court in New York, Fox and its affiliate group, CBS and NBC opposed an attempt this week by the FCC to get a key indecency case back from the court.

The commission this month asked the same federal court for more time to consider affiliates' arguments that the agency erred in March when it decided variations of the words "fuck" and "shit" likely are to be indecent whenever
broadcast, even if the words are uttered accidentally.

A delay would let affiliates contest the decisions before the commission. The FCC contends that this is a necessary step before arguing in court. The agency said ABC, NBC and CBS affiliates backed its request.

Under federal court rulings and commission rules, material is indecent if it "in context, depicts or describes sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards for the broadcast medium." Indecent speech can be aired safely between 10 p.m. and 6 a.m.

Under a new law approved by Congress and signed by President Bush, broadcasters face fines of as much as $325,000 per violation, up from a previous maximum of $32,500.

Reuters/Hollywood Reporter