Regulating like it's 1969

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THE MORE THINGS CHANGE in television, the more federal regulators pretend they're the same. Three of the four major broadcast networks are now putting programs on the Internet, either for free or for a small fee. The most recent announcement was ABC's plan to make prime-time hits available online for free just a few hours after they air on local stations.

These developments are more signs of the continuing liberation of TV programming from the rigid schedule that marked the first 60 years of commercial broadcasting. Networks and their distribution partners in cable and satellite, prodded by the Internet and devices such as TiVo and Slingbox, are slowly ceding control to viewers and making it possible for them to watch shows when and where they want.

Nevertheless, the Federal Communications Commission acts as if over-the-air broadcasting reigns supreme. Last week, the FCC handed out $4 million in fines to local broadcasters for airing allegedly profane or indecent programming between 6 a.m. and 10 p.m., when children are presumed to be glued to the TV with nary an adult in sight.

Granted, television has become increasingly coarse, graphic and titillating. As FCC Chairman Kevin J. Martin notes, complaints about unsuitable programs have risen dramatically — thanks in no small measure to organized e-mail campaigns by groups such as the Parents Television Council. But the FCC is ill-suited to the parental task of protecting impressionable minds from corrupting images.

For starters, the commission's ever-shifting membership leads to a lack of clarity about what is and isn't permissible. It also levies fines capriciously: For instance, stations were fined for airing shows found to be objectionable only if a complaint had been filed specifically against them. Stations airing the same shows sans complaint got a pass.

More significantly, the FCC's standards just don't apply to most of the television universe anymore. Thankfully, the commission has no legal authority over programming on cable, satellite or the Internet, all of which offer safe harbors for programs far more objectionable than the ones just cited.

New FCC Commissioner Deborah Taylor Tate encapsulated the agency's surreal worldview when she said she was motivated to crack down on shows because she had received hundreds of e-mails recently from people complaining about what they had been "subjected" to on TV. Although local broadcasts are free, no one is "subjected" to them, and the vast majority of viewers have increasingly sophisticated ways to screen out shows they don't want their kids to watch. Virtually every household has a TV set with a V-chip — a crude but workable technology for limiting what children watch. And the more than 80% of U.S. homes with cable or satellite have the option of using the screening tools offered in set-top boxes.

As programs move to new venues and time slots, much of it at viewers' control, it's irrational to think that the feds can shield children by cracking down on what local broadcasters show. The commission should stop trying to censor broadcast programming and focus instead on helping parents understand and use the tools available to police their television sets.