

Hittin' the note in 'Music City' for fall convention

Be a winner

Remember to submit your entries to the 3rd Annual National Student Production Awards Contest. Details available on-line at www.collegebroadcasters.org (and on page 2). The \$25 entry fee is waived for CBI members! Winners from last year's contest included: University of Pennsylvania, UTV13; Colorado State University, CSU; University of Texas, KVR-TV; Louisiana State University, Tiger TV; Tulane University, TSTV 3; Rowan University; Ithaca College, Ithaca College Television; Winona State University, Winona State NBS Chapter; Colorado State University, KCSU; Marshall University, WMUL; Columbia College, WCRX; Northwestern University, WNUR; SUNY Brockport, WBSU; Rowan University, WGLS; and Southwest Texas State University, KTSW.

Make plans now to attend the College Broadcasting event of the year! The Fall National College Media Convention, slated for November 4-7 at the Renaissance Hotel and Convention Center in Nashville, Tennessee, will draw almost 3,000 people. A conference like this can't happen in just one day – it's four full days of offerings of interest to anyone involved with student electronic media.

Last year, CBI hosted nearly 70 sessions with students, advisers, professionals and representatives from organizations like National Public Radio, SoundExchange, government, engineering firms, law firms, The Development Exchange and more!

Students from CBI member stations Webcast live from the trade show floor and hosted live performances by Peter Nevland & Paul Finley of Acoustic Spoken Groove, and Kim & Kelly Brown of the band Frankly Scarlet. Those attending also participated in tours of local radio and television facilities.

You're invited to participate in this event as a delegate, panelist or programmer. CBI is planning panels that will address issues like license renewal, starting a station, legal issues and more. We also plan on bringing back professionals to address underwriting, fundraising, record label relations, Webcasting and much more!

With over 70 sessions available, CBI intends to top the event held last year! For more information, contact VC@collegebroadcasters.org or 713-348-2935. Vendors should contact Ann Akers at (612) 625-7359 or ann@studentpress.org.

Watch for more information about this major event in future newsletters and on the CBI Web site (www.collegebroadcasters.org). And in case you haven't done so already, don't forget to include travel funds for the National Conference in your 2004-05 budgets.

Find out what all the buzz is about in Music City, USA for THE college broadcasting event.



New York '04 – Bigger & Better!

WOW! Following the success of the fall conference in Dallas, CBI'ers shouldn't have been surprised by the Spring event with College Media Advisers in New York. But we didn't expect what we found!

The broadcast sessions averaged more than 36 people per session. CBI brought in the leading people who work in the Number One broadcast market. From CBS to HBO, from radio to Internet and television, CBI brought the best. Again. The speakers and the presentations were excellent.

CBI owes a great deal of thanks to Eloise Greene of Ithaca College for all the time and effort she put forth making the New York conference the great success it was!

These photos (here and on page 4) show only a small piece of this year's conference. But don't worry. We've heard you. Come back to New York and bring back the top-notch people! If you haven't done so already, don't forget to include travel funds for the spring 2005 conference in your 2004-05 budgets.

It might have been snowy and blustery outside, but inside the Roosevelt Hotel there were plenty of activities to ward off the cold. Students (top) filled session after session. Some lingered afterward to ask questions of experts like Sam Meyer, an editor-producer for Cable News Network.





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Questions? Comments? Suggestions? Items for this newsletter? Please contact CBI.

Phone: (713)-348-2935

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Call for CBI Board Nominations

CBI is looking for a few good men and women. We are particularly interested in finding nominees for the Student Director position, and qualified Faculty/Staff Director nominees. Please consider nominating yourself or a colleague.

Nominations for the following four seats on the College Broadcasters, Inc., Board of Directors are open now through September 20. Those elected take office on December 1.

- Two (2) **Faculty/Staff** seats (two-year term)
- One (1) **Faculty/Staff** seat (one year remaining in a two-year term)
- One (1) **Student** seat (one-year term)

The two Faculty/Staff Directors whose terms are expiring 2004 are CBI Secretary-Treasurer Dan Knight (KVR-TV, The University of Texas at Austin), and CBI Development Chair Gary Hawke (General Manager KJHK, KUJH-TV and the Digital Jayhawk at the University of Kansas). Rob Bigalke (Louisiana State University) was elected in 2003 to a Faculty/Staff term expiring in 2005 but has resigned from the board, necessitating an election to fill his open seat. Clay Stimeling (Operations

Manager, WMUL-FM, Marshall University) is the current Student Director.

CBI Chair Will Robedee (Rice University) continues serving a term that expires November 30, 2005.

Qualifications required:

- Directors must be duly appointed proxies of a Station Member
 - A maximum of one (1) Director may be proxied from any one (1) Station Member.
 - An individual serving as a Student Director must maintain full-time undergraduate or graduate student status at the member institution for the duration of his or her term of office.
 - A Faculty/Staff Director shall include any individual holding a faculty, administrative, or supervisory position associated with a Station Member.
- ### Nomination guidelines:
- Nominations should specify which position is being sought (Student Director or Faculty/Staff Director)
 - Candidates should submit a statement to the CBI Elections Commissioner, not to exceed 250 words, explaining his/her qualifications, goals for the organization, or other supporting material. Candidate statements will be distributed with the ballots.
 - CBI Bylaws can be reviewed at

<http://www.collegebroadcasters.org/bylaws.shtml>

- Further questions can be directed to the Elections Commissioner at newtong@ohio.edu or 740-597-1882.

Timetable for elections:

- September 20, 2004 — nominations must be postmarked by this date to be eligible
- October 4, 2004 — ballots will be mailed to all member stations
- October 21, 2004 — ballots must be postmarked by this date in order to be counted in the election
- November 4-7, 2004 — results of the election will be announced at the College Media Conference in Nashville.

Candidates for Director positions may be self-nominated, or may be nominated by any other member. *Please note that any nomination other than a self-nomination must be accompanied by a letter from the candidate indicating a willingness to stand for election.* Only one nomination is permitted from each member station.

Nominations can be submitted to the Elections Commissioner via e-mail or U.S. Mail: Greg Newton, CBI Elections Chair, School of Telecommunications, Ohio University, 9 S. College St., Athens, OH 45701 or newtong@ohio.edu

New Auxiliary Facilities Frequency Coordination

By **Laura M. Mizrahi**

Communications Technologies, Inc.

In November 2002, the FCC ad-adopted new frequency coordination procedures for the filing and licensing of most fixed point to point aural and TV broadcast stations.

The affected facilities most commonly known to the radio broadcaster are Studio Transmitter Links (STL's) and Intercity Relays (ICR'S). Remote Pickup facilities (RPU's) appear to be exempt at this time from the coordination procedures.

The first phase of the new coordination process is a detailed interference analysis, which requires appropriate engineering studies be performed to avoid interference to other users. The second phase of the process is notification, wherein the proposed frequency usage determined from the interference analysis is forwarded those whose facilities could affect or be affected by the proposal.

This notification, called a "prior coordination notice" (PCN), contains all the technical operating parameters of the proposed system. After the recipients

of the PCN have analyzed the technical proposal, they are given an opportunity to respond with concurrence or conflicts.

Parties must make every reasonable effort to respond to PCN's as quickly as possible and if no response is received within 30 days, the proponent may assume that no interference exists and may then file the proposal with the Commission. Expedited procedures can push the process to less than 30 days.

While there is, at present, no Commission endorsed coordinator(s) in the broadcast microwave services, and any party may perform the coordination procedures described above, this process typically requires technical expertise. A broadcast engineering consultant or local SBE coordinator could serve as a starting place at such time as your need for one of the facilities affected by these new procedures should arise or should you receive a PCN of a proposal which may affect an existing facility.

It is important for you to fully examine or have an engineer examine any PCN that you receive in a timely manner to insure that your facilities will not be interfered with by the proposal.

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—Doug Lane, ISDN Technical Consultant to the NBA and Technical Director for WEEI

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Indecency and the FCC **Is it really Déjà Vu ... all over again?**

By Greg Newton
Ohio University

Opening caveats: First, I am not a lawyer. You should not take this article to be legal advice, or even necessarily applicable to your particular situation. It is my very general opinion about this issue based on 25 years of experience with the subject matter. Second, I am only going to deal with issues of language. I think the FCC's recent actions also raise questions about the standards for nudity and other visual sexual expression on television, but I will not address them here.

Given the preceding, please consult with your own attorney for specific advice relevant to your situation.

Title 18 of the United States Code, §1464 prohibits the broadcast of obscene, indecent or profane language. The statute was crafted in the disjunctive ("or" rather than "and") and so from a legal perspective the terms have separate meanings. Enforcement standards for determining indecency have generally lasted for 10 or 20 years before changes in the political winds and the nature of broadcasting have brought about change. The previous standard had its roots in 1987. Under that standard, indecency findings would involve at least two fundamental determinations.

First, the material alleged to be indecent must describe or depict sexual or excretory organs or activities.

Second, the broadcast must be patently offensive as measured by contemporary community standards for the broadcast medium. Note that the "community standards" for broadcasting are national, not local.

The Commission articulated three "principal factors" driving their analysis: "(1) the explicitness or graphic nature of the description or depiction of sexual or excretory organs or activities; (2) whether the material dwells on or repeats at length descriptions of sexual or excretory organs or activities; (3) whether the material appears to pander or is used to titillate, or whether the material appears to have been presented for its shock value."¹ In

addition to the Commission's guidelines mentioned in the first footnote, see the "indecency bibliography" on the CBI website (<http://www.collegebroadcasters.org>) for a more detailed discussion of the enforcement standards and history.

Upon winning the Golden Globes award for "Best Original Song," U2 lead singer Bono described the award as "fucking brilliant" in his acceptance speech during the live broadcast on NBC. The FCC received "numerous complaints," all apparently from individuals associated with the Parents Television Council, maintaining that such language was obscene and/or indecent. The Enforcement Bureau, however, concluded that the material was not indecent because the language used by Bono did not describe, in context, sexual or excretory organs or activities; and the utterance was fleeting and isolated.

Under pressure from Congress and elsewhere, the full Commission undertook a review of the Bureau's conclusion and reversed the decision. In doing so, the FCC announced a new standard of enforcement for §1464. What does this Commission action (as well as legislation pending in Congress) mean for you as a programmer, advisor, or licensee?

Fuck is never permissible, nor are its variants, even once...maybe.

The FCC now says that "given the core meaning of the 'F-Word,' any use of that word or a variation, in any context, inherently has a sexual connotation, and therefore falls within the first prong of our indecency definition."² In other words, even when the word is clearly used as an adjective or other modifier having nothing to do with sex (as NBC argued in its response to the Commission in the reconsideration, as an "intensifier"), the FCC will nevertheless treat it as a vulgar synonym for sexual intercourse.

In holding that fuck is always indecent, the Commission explicitly repudiated several recent holdings involving different entertainment and sports programs where the Enforcement Bureau found that

fleeting occurrences such as the NBC broadcast were not indecent under the previous standard. Thus, you may want to carefully consider how you handle crowd and playing surface audio during sports play-by-play. Likewise, it is probably time to carefully comb through the lyrics of every song you play on the air as even a single utterance, live or recorded, now is actionable.

The Commission did not specifically address news programming here, or whether the rejection of the emphasis on context in determining indecency applies to bona fide newscasts, except as a footnote. In that footnote, however, the Commission did say that "the fact that a broadcast had a social or political value would [not] necessarily render use of the 'F-Word' permissible."

Even if the Commission can't act under an indecency rationale, they are now willing to enforce §1464 under a profanity rationale.

Although the FCC's enforcement of the profane section of the statute has been very limited, the Commission now argues that nothing in the statute itself or the relevant case law places any such limit on their actions. The FCC has placed stations "on notice" that they will not limit [the] definition of profane speech to only those words and phrases that contain an element of blasphemy or divine imprecation, but, depending on the context, will also consider under the definition of "profanity" the "F-Word" and those words (or variants thereof) that are as highly offensive as the "F-Word," to the extent such language is broadcast between 6 a.m. and 10 p.m. We will analyze other potentially profane words or phrases on a case-by-case basis.³

Note two things: the FCC has left open the possibility of including words that are "as highly offensive as the 'F-Word'" within the meaning of "profane"; and the FCC has not further articulated any clear standard for determining what words meet that test, leaving it "case by case." Again, I'm not a lawyer, but a cautious approach in deciding whether to air particular

material might be warranted until the Commission sorts this out.

Each "indecent utterance" is now an actionable instance.

There's not much more that really needs to be said here. The statute and FCC rules provide penalties for each "instance." The FCC has now defined an instance as an individual word or phrase. Under that interpretation, the FCC can assess truly substantial forfeiture amounts by sanctioning each individual word or phrase that they deem indecent (as they have done in recent high six-figure notices of apparent liability issued to Infinity and Clear Channel).

The "Broadcast Decency Enforcement Act of 2004" passed the House of Representatives by a vote of 391-22 and is pending in the Senate. There are a number of changes that potentially impact stations. You should contact your senators and representatives to make your views known if you have not already done so. Among the provisions in the bill:

- Maximum penalties for each violation would be increased to \$500,000
- The Commission would be required to issue a finding within 180 days of receiving a complaint
- The FCC would be permitted to require stations found to have broadcast material violating §1464 to broadcast children's public service announcement reaching up to five times the audience estimated to have been reached by the offending broadcast.
- A "three strikes" rule: the FCC would be required to commence a revocation proceeding for any licensee guilty of three §1464 violations within a license period.
- A "sense of the Congress" resolution that television licensees should re-implement the NAB Code's family viewing hour that existed from 1975 to 1983.

Footnotes

¹ Industry Guidance on the Commission's Case Law Interpreting 18 U.S.C. §1464 and Enforcement Policies Regarding Broadcast Indecency ("Indecency Policy Statement"), 16 FCC Red 7999, 8002 (2001)

² In re Complaints Against Various Broadcast Licensees Regarding Their Airing of the "Golden Globes Awards" Program, Memorandum Opinion and Order, available at <http://www.fcc.gov> (2004). *Emphasis added.*

³ *Id.*



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Web: Copyright Notice Due July 1

The United States Copyright Office has issued new interim regulations (available via the CBI Web site) for stations that webcast. These regulations cover recordkeeping and notice requirements. Recordkeeping refers to maintaining specific information about each song that is webcast. Notice refers to submitting a form to the Copyright Office indicating that the station is Webcasting music under a statutory license. In essence, this means that you must file the notice and a \$20 fee by July 1, 2004 if you are Webcasting music.

The form is available at <http://www.copyright.gov/forms/form112-114nou.pdf>. This form must be submitted by July 1, 2004, even if your station has previously filed a form with the Copyright Office and paid a fee. There are rare exceptions to this requirement. If you think you qualify, feel free to contact CBI for more information.









The recordkeeping portions of the regulations do not affect any station that opted into the agreement negotiated by CBI, this year. Fortunately, the agreement, which currently allows stations to pay a nominal fee in lieu of recordkeeping for 2004 also called for the development of a task force to address these issues for 2005 and beyond. CBI is actively participating on the task force and is working towards a solution for stations. Our position on this issue is firm; our stations will not be required to submit reports conforming to the Copyright Office ruling. We will keep you informed of the developments as they occur via the CBI Web site and e-mail list.

CBI is proud to be recognized as the trusted leader for stations concerning all issues that pertain to Webcasting audio! CBI has played key roles in negotiating the current settlement that provides stations with reasonable rates and ZERO recordkeeping. CBI understands that these issues are complex and may be confusing to some stations. If you have any questions concerning Webcasting, please feel free to contact CBI at chair@collegebroadcasters.org or 713-348-2935.



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Pasadena Instructor Doug Johnson and Annie Chelsie.

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Professor Jeff Rudisill
Pasadena City College



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Susan Edens
Director of Video and Media Services
University of the Ozarks

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Assistant Professor Joey Goodsell
Division of Visual, Theater & Communication Arts
William Woods University

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Transitions: Make Plans Now

There are always issues which carry over from academic year to academic year at college stations. Due to the transitory nature of management at many student stations, sometimes issues and responsibilities fall through the cracks. Your station should have a plan to make the transition of power as seamless as possible. This plan should include meetings with incoming and outgoing managers, good documentation and the assistance of an advisor.

- FCC-licensed stations are likely to have more responsibilities to pass along than non-licensed stations. Stations must be aware of license renewal cycles (table at right).
- The quarterly list of programs and issues needs to be placed in this file no later than July 10 for the months of April, May and June.
- Unlicensed stations that cease operations during the summer should consider turning off their transmission equipment (carrier current transmitters, computers, etc.) and performing maintenance during this down time.
- Stations that webcast also need to file a new notice with the Copyright Office and pay the \$20 filing fee by July 1, 2004 (see article on page 6).

Now is also the best time to prepare for the fall. Set up a schedule for recruiting new students, especially during orientation sessions. Establish a training schedule, and begin developing an on-air shift schedule. Some stations have all this in place before they leave for the summer. Advance planning will reduce the stress level at the beginning of a new semester. It's not too early to plan your promotions and meeting schedule. However, be prepared to make changes as unforeseen circumstances may force you to alter your plans. By addressing these issues now, you can have some fun time during the summer months and return well-prepared for the fall!

Radio License Renewal Time!

FCC licensed stations in:	Pre-filing On-Air Notice on 1st and 16th of each month until filing starting:	Renewal application filing Deadline:	Post-filing On-Air Notice on 1st and 16th of each month after filing through:
Indiana, Kentucky, Tennessee	February 1	April 1	June 16
Michigan, Ohio	April 1	June 3	August 16
Illinois, Wisconsin	June 1	August 1	October 16
Iowa, Missouri	August 1	October 1	December 16

Details may be found on the CBI Web site (www.collegebroadcasters.org/renewal.shtml).

The 411...

CBI contest entries due soon

Up to 100 student productions will be recognized for demonstrating excellence. Will YOURS be one of them? The deadline for entries is Friday, May 21, 2004. Early submissions of entries before the end of classes/graduation ceremonies in the month of April or May will be accepted. The CBI 2004 National Student Production Awards Contest is provided as a membership benefit to student media outlets that belong to CBI. Nonmembers will be required to pay a \$25 entry fee per entry per category. All winners and finalists will be recognized during the CBI Awards Ceremony at the Fall 2004 National College Media Convention in Nashville, Tennessee. Go to the CBI Web site (www.collegebroadcasters.org/awards.shtml) for complete information, including the Call for Entries and the Official Entry Form.

TV Renewal Cycle starting

FCC licensed television stations in Maryland, Virginia, West Virginia and the District of Columbia must file license renewal applications by June 1. All such stations, and others with 2004 renewal deadlines (AL, FL, GA, NC, SC, Puerto Rico and Virgin Islands) should begin preparation of their renewal applications.

