

Supreme Court: FCC Free to Enforce Indecency Law

In a mixed-bag ruling for conservatives, the Supreme Court on Thursday was unanimous in its decision to toss out fines and penalties against broadcasters that violated a Federal Communications Commission (FCC) policy that regulates profanity and nudity on television.

But The U. S. Supreme Court ruling in FCC v. Fox also leaves the FCC free to enforce federal broadcast TV indecency law and to alter FCC regulations that provide guidance to network broadcasters if necessary.

“While the ruling is not what Morality in Media was hoping for, it should be understood that the High Court did not strike down the federal indecency law, 18 USC 1464, nor did it uphold the decision of the U. S. Court of Appeals finding that the FCC enforcement regulations of that law were unconstitutional,” said Patrick Trueman, president of Morality in Media.

“Instead, the Court found that the two networks involved in the case, Fox and ABC, did not have ‘fair notice’ that their broadcasts, which were found to violate FCC indecency regulations, were actionably indecent. That is because the broadcasts in question occurred prior to the issuance of FCC regulations under which they were charged.”

The ruling of the Second Circuit was vacated on Thursday, and the case remanded to that Court for further consideration.

“The real import of today’s ruling is that the FCC is free to enforce indecency law,” Trueman said. “Morality in Media calls on the FCC to begin vigorous enforcement to clean up the public airwaves.”

The Supreme Court made clear that today's ruling, "leaves the (FCC) free to modify its current indecency policy in light of its determination of the public interest and applicable legal requirements and leaves courts free to review the current, or any modified, policy in light of its content and application." Trueman, however, said he hoped that the FCC would not change its current indecency policy because the networks have now had nearly 10 years of "fair notice" of FCC policy.

"Broadcasters do not have a right to turn network television into a cesspool at the expense of children and those who wish to avoid the foul language and pornography that is now so common on cable television," said Trueman. "The FCC must now enforce our right to decency on the public airwaves."