

<http://www.fcc.gov/eb/broadcast/opi.html>

In making indecency and profanity determinations, context is key!

The Commission staff must analyze what was actually said during the alleged broadcast, the meaning of what was said and the context in which it was stated. Accordingly, the Commission asks complainants to provide the following information:

- **Information regarding the details of *what was actually said (or depicted)* during the allegedly indecent, profane or obscene broadcast.** There is flexibility in how a complainant may provide this information. A complainant may submit a significant excerpt of the program describing what was actually said (or depicted) or a full or partial tape or transcript of the material. In whatever form the complainant decides to provide the information, it must be sufficiently detailed such that the Commission can determine the words and language actually used during the broadcast and the context of those words or language. Subject matter alone is not a determining factor of whether material is obscene, profane or indecent. Thus, for example, stating only that the broadcast station “discussed sex” or had a “disgusting discussion of sex” during a program is not sufficient. Moreover, the FCC must know the context when analyzing whether specific, isolated words are indecent or profane. The FCC does not require complainants to provide tapes or transcripts in support of their complaints. Consequently, failure to provide a tape or transcript of a broadcast, in and of itself, will not lead to automatic dismissal or denial of a complaint. See [Indecency Guidelines Policy Statement, 16 FCC Rcd 7999 at para. 24.](#) The Commission and/or the Enforcement Bureau have proposed or assessed monetary forfeitures in cases where the complaint did not include a tape or transcript of the actual broadcast. See [Emmis FM License Corp. of Chicago, WKQX\(FM\), Chicago, IL, 17 FCC Rcd 493 \(EB 2002\) recon. denied, 17 FCC Rcd 18,343 \(EB 2002\)](#) ; [Infinity Broadcasting Corporation of Los Angeles, KROQ-FM, Pasadena, CA, 15 FCC Rcd 10,667 \(EB 2000\), application for review denied, 17 FCC Rcd 9,892 \(2002\)](#); [Citicasters Co., KSJO\(FM\), San Jose, CA, 15 FCC Rcd 19,095 \(EB 2000\), forfeiture paid.](#)
- **The date and time of the broadcast.** Under the Communications Act of 1934, if the Commission assesses a monetary forfeiture against a broadcast station for violation of a rule, it must specify the date the violation occurred. Accordingly, it is important that complainants provide the date the material in question was broadcast. Moreover, under statutory provisions, judicial and Commission case law and Commission Rules, a broadcaster's right to air indecent or profane speech is protected between the hours of 10 p.m. and 6 a.m. Consequently, the Commission must know the time of day that the material was broadcast.
- **The call sign of the station involved.**

Documented complaints as discussed above should be directed to the Federal Communications Commission, Enforcement Bureau, Investigations & Hearing Division, 445 12th Street, S.W., Washington, D.C. 20554. Any documentation of the programming, of necessity, becomes part of the Commission's records and cannot be returned.