

Can Indecency be Defined?

By Reg P. Wydeven
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“And the sign says ‘Long-haired freaky people need not apply,’ is the famous lyric from the song *Signs* by The Five Man Electrical Band and later covered by the ‘80s hairband Tesla. Since the 1950s, rock’n’rollers have been the Rodney Dangerfields of the world, in that they never get any respect.

And so is true with the heavy metal band Mötley Crüe, the notoriously party-hardy rockers from Los Angeles. The Crüe is in the midst of a legal battle that has caught the attention of the entire legal community because of the Constitutional ramifications their trial’s outcome may have.

Mötley Crüe filed suit against NBC in a federal court in Los Angeles for violating the band’s First Amendment rights when the network banned the group from future television appearances. The ban came after lead singer Vince Neil yelled the F-word during a performance on the 2005 New Year’s Eve celebration on *The Tonight Show*.

The Crüe claims they are being discriminated against by NBC because other musicians and guests have committed the same offense, but have not received the same punishment. They cite singer John Mayer, rock group System of a Down, and NASCAR driver Dale Earnhardt Jr. as all having uttered obscenities on NBC, while none have been banned from the network.

Many free speech advocates believe Mötley Crüe should not have been penalized for dropping an F-bomb because the broadcast occurred during the FCC’s “safe harbor” period of 10 p.m. to 6 a.m. NBC, on the other hand, claims the suit is “meritless,” arguing that the network has a right to decide which guests to invite back, especially if they violate broadcast standards.

Controversy is nothing new to the Crüe. Neil and drummer Tommy Lee have each had private sex videos released on the internet, Lee’s with famous ex-wife Pamela Anderson. Neil served 30 days in jail and paid a \$2.5 million fine after being convicted of vehicular manslaughter in 1984. Lee spent four months in jail after being arrested for spousal assault against Pamela Anderson. Also, during his son’s birthday party, a little boy drowned in Lee’s swimming pool.

Although the indecency scandal has made the fewest headlines, it’s definitely the controversy the legal community has paid the most attention to. First Amendment backers are hoping the court will find the FCC’s indecency regulations unconstitutional and strike them altogether. Those in favor of regulating the airwaves to prevent indecency are hoping the court will clearly define what constitutes ‘indecency’, so everyone has an understanding of what is and what isn’t allowed.

What both sides agree on is that the court will probably base its decisions strictly on the facts of the Mötley Crüe incident and not extend its ruling to future occurrences. In other words, most legal experts expect that the gray area that indecency rules reside in isn’t going anywhere anytime soon.

In an ironic twist, while Mötley Crüe may be banned by the network, NBC will be featuring the band’s drummer in his own reality show this summer, *Tommy Lee Goes to College*. On the show, Lee enrolls at the University of Nebraska at Lincoln and juggles academics with extra-curricular pursuits, such as joining the school’s marching band and learning from his tutor, Natalie, whom he describes as “hot”. If that doesn’t sound like indecency waiting to happen, I don’t know what does.

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