



K R U A R A D I O . O R G

REQUESTS

786-6805

COMMENTS

786-6810

KRUA

88.1 FM

KNOWS



PLAYS



A N C H O R A G E , A L A S K A

About the FCC

Brief History

Before the Radio Act of 1927, the allocation of radio frequencies was left to the private sector. This led to mass confusion, not enough spectrum space was available to accommodate all the voices competing to be heard.

The Radio Act of 1927 established the Federal Radio Commission to allocate frequencies. The administrative body created to enforce the Act is the Federal Communications Commission, otherwise known as the FCC.

The FCC is composed of five people appointed by the President of the United States of America for terms of varying length. Although Congress is permitted to regulate broadcasters, this power may not infringe on First Amendment Rights.

Federal Power

The Federal power to regulate the program content of radio and television resides in three statutes:

1. **The Communications Act empowers the FCC to regulate broadcasters in the public interest.** The FCC regulates the broadcast industry to serve the public convenience, interest and necessity. Broadcasters who do not serve the “public interest” may have their licenses to operate suspended or revoked.
2. **Criminal Statute that prohibits the broadcast of indecent or profane language.** It reads: *“Whoever utters any obscene, indecent or profane language by means of radio communications shall be fined not more than \$10,000 or be imprisoned for not more than two years, or both.”*
3. **The FCC is prohibited by the Communications Act from exercising censorship over broadcasters.** It reads: *“Nothing shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station. And no regulation or condition shall be fixed by the Commission which shall interfere with the right of free speech by means of radio communication.”*

Scarcity Rational

The usable spectrum of radio frequency is limited; therefore the government must manage the spectrum. Because government has become airwave managers, it will only grant access to those broadcasters who will use the spectrum best.

Legal Distinction for Broadcasters

Broadcasting is distinctive because it enters homes in an intrusive fashion and possesses a unique power to influence the audience, especially children.

Station Logs

Public Inspection File

Make certain that the location of the file is disclosed upon request, including telephone inquiries, and that the entire contents of the file are made available without asking the requesting party for any more information than a name and address. If a station is concerned about documents being stolen or destroyed, then copies of the required documents may be placed into the file in lieu of the originals. The contents of the file are to be made available within a reasonable time for machine reproduction upon request made in person, provided the requesting party pays the reasonable cost of reproduction. The file shall be available for public inspection at any time during regular business hour 9 a.m. - 5 p.m..

Locations

KRUA 88.1 FM has four public files available for review. The primary one resides in the main office with another one available in the main studio in the grey box. The last physical version is in the Student Life and Leadership safe and contains all the original documents such as the FCC brown copy and FM license. There is also a digital public file available at this link: <http://www.kruaradio.org/kruas-public-file/>.

The following must be kept in the Public File:

Ownership reports, applications, public letters, employment reports, issues/program lists and political ads. It is the managements responsibility to update it.

Operator Log

On-air operator logs will be kept for a term of four years. Copies will be made available to any interested party for a small fee. Any warnings or memos given to on-air announcers that do not fill out the log properly will also be placed in the operator log file.

The FCC and Broadcasting

Taken from Mass Media Bureau Publication 8310-100

1. (a) The Communications Act—The Federal Communications Commission (FCC) was created by Congress in 1934 when it adopted a law known as the Communications Act for the purpose of “regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communications service” (the word radio also applies to television). The Communications Act authorizes the FCC to “make such regulations not consistent with law as it may deem necessary to prevent interference between stations and to carry out provisions of the act”.

1. (b) What the FCC does in regulating broadcast radio and television—The Commission allocates broadcast channels and frequencies according to good engineering standards, considers applications to build or sell stations or renew their licenses, and enforces the provisions of law that are meant to ensure that the stations now broadcasting

in the United States are operated in the public interest. The Commission is prohibited by the Communications Act from censoring broadcast matter therefore its role in overseeing programming is very limited. There are, however, provisions in the Act which authorize the FCC to fine a broadcast licensee or revoke the license of the station that has aired obscene or indecent language, or some types of lottery information, or that has been used to obtain money under false pretenses. Under the public interest standard in the Communications Act, the FCC expects its broadcast licensees to be aware of the important problems or issues in the communities their stations serve and to foster public understanding by presenting some programs and/or announcements about local issues, but broadcasters-not the FCC or any other governmental agencies-are responsible for selecting the material aired by their stations.

2. (a) Some activities that are not regulated by the FCC—It cannot regulate closed-circuit systems in, for example, department stores. It has no authority over sports teams, leagues or exhibitions. Arrangements for broadcasting sporting events and other exhibitions are made in private contractual agreements between the owners of the rights, such as a sports team or league, and the broadcast stations or networks involved. The Commission also has no jurisdiction over the production, distribution and rating of motion pictures; the publishing of books, newspapers or other forms of printed matter; or the manufacture and distribution of audio and video recordings. It does not administer copyright laws. Other groups and activities outside the FCC’s jurisdiction are; newsgathering organizations, including press associations that provide broadcasters with news and comment; music-listening organizations such as ASCAP, BMI, and SESAC; record companies and companies that measure the size and other characteristics of radio and television audiences.

5. (a) Prohibition on FCC Censorship; Licensee’s Programming Responsibility: Law (Section 326 of the Communications Act) prohibits the Commission from censoring broadcast matter and from taking any action that would interfere with free speech in broadcasting, a freedom also granted in our Constitution’s First Amendment. There are no other laws and FCC rules which establish limited exceptions to the no-censorship provisions in the Communications Act, but in general, the authority of the FCC to regulate broadcasting does not include the right to direct broadcasters in the selection and scheduling of programs and announcements, including commercial messages, to be aired by their stations. Broadcasters are expected to present some programming about the community issues in the areas their stations serve, but, in meeting this obligation, a licensee has discretion in determining what issues should be addressed and the means of addressing each issue. Individual radio and television station licensees are responsible for selecting all broadcast matter and for determining how their stations can best serve their communities. Stations are responsible for choosing the public affairs, religion, sports events, and other subjects to be aired by the stations. They also decide how their programs, including call-in shows, will be conducted and whether or not to edit or reschedule material for broadcasting. The FCC does not substitute its judgment for that of the broadcaster in this process, and it does not act as an advisor to stations on artistic standards, grammar or quality of content. No law prohibits broadcast programming on any given subject. The FCC’s policy of noninterference with changes in the formats of radio stations was upheld in a March 1981 Supreme Court decision.

FCC Exhibit 1

This is attached to our station license and was used to help obtain FM status in 1992

Advancement of an Education Program

The University of Alaska Anchorage (UAA) is accredited by the Northwest Association of Schools and Colleges. The radio station for which this application is prepared will be licensed by the Board of Regents of the University of Alaska Anchorage and is advised by the Journalism and Public Communications Department and the Student Development Office, a division of Student Services. The station will be operated by students with the Station Manager being a member of the Anchorage Broadcasters Association. The UAA Media Board, which consists of four student representatives, two journalism faculty advisors, and the Director of Student Development will oversee the station. The Media Board reports to the Vice Chancellor of Student Services. The station has been successfully operated off a carrier current for the last three years, but reaches only 2% of our student population.

The goals of the student operated station are to: 1) serve as an information service for the university community and the Anchorage community at large and 2) enhance the Journalism and Public Communications academic program providing a real-life situation in which Journalism majors can learn skills and techniques in operation and management of a radio station.

Providing a Community Information Service

Campus radio will serve the needs of the community as a whole, dealing in depth with University issues, topics, events and activities.

The University of Alaska Anchorage is an urban university and, like the community as a whole, has a diverse student population. Fewer than 2% of its students reside in student housing. Members of the University community live and work throughout the Anchorage metropolitan area. The University recognizes that its educational mission requires that it reach its students with an educational program beyond the campus. This has become increasingly important since the former four-year institution and community college were merged into a single university in 1987. The University views the radio station as an important opportunity to enhance its educational mission by reaching its traditional and non-traditional students with information and education beyond the classroom and campus setting.

The University of Alaska Anchorage has a long history of such non-traditional outreach, including such things as educational programs on nearby military bases; adult education at in-town locations; support and sponsorship of community educational activities; and community education on a local cable television channel.

The diversity of students presents a challenge to the University. It has never been able to develop an adequate sense of “community” among its diverse, community wide constituency by traditional means. Such communication channels as the campus

newspaper are inefficient channels of information in the contemporary urban university. Radio broadcasting will provide to members of the University of Alaska Anchorage essential information services which are not currently being provided effectively.

The University of Alaska Anchorage also recognizes that an urban university must be an active member of its community-at-large. Radio broadcasting will allow the general public to be better informed about the university and will allow the university to play a greater, more productive role in community life.

Campus radio broadcasting will meet the urban university's educational informational needs by providing several programming services.

News will be broadcast twice an hour concentrating on campus activities and events. Public service announcements of interest to the university community's diverse audience will be presented. Local and national news will also be broadcasted.

The station will air student productions, radio dramas, talk shows, debates and special interviews. The station will engage in remote broadcasts covering major sporting events, public meetings and other events off campus. Students in broadcasting classes and student volunteers will be encouraged to showcase their work on campus radio. Students will be encouraged to produce a variety of music formats to match the diversity of urban university student body.

The University of Alaska Anchorage considers radio broadcasting to be an essential part of its educational mission as an urban university by providing diverse educational and informational services to its students located throughout the Anchorage community.

Enhancement of the Broadcasting Academic Program

The radio station provides training to students to complement the Journalism and Public Communications baccalaureate degree program. Students will also learn how to operate all standard equipment found in radio stations such as cart decks (now obsolete), reel to reel players, turntables, mixer boards and CD players (KRUA currently has replaced cart decks and reel to reel with minidisk players and recorders, and also DAT's.). They will learn to record and edit audiotape in a variety of practical applications such as the production of public service announcements, public interest programming, and coverage of university activities, special events and daily newscasts.

Students will be critiqued on their production and management skills on a regular basis by the staff, university advisors and, whenever possible, by professionals in the Anchorage broadcast field. All students will be familiarized with FCC rules and regulations and will be required to maintain a written log. Students will be encouraged to produce and broadcast a variety of programs such as radio dramas and informative discussion shows relating to campus life.

News staff will learn gathering techniques, recording and reproducing actualities and how to apply the result practically in news broadcasts and other public interest programming.

Indecency, Obscenity, and KRUA Procedure

Current FCC regulations regarding indecency and the safe harbor period are extremely vague. In an attempt to work within these guidelines, KRUA staff and volunteers will adhere to station policy.

Responsibility

It is the sole responsibility of the on-air announcer to be aware of the content of the music played during the shift. If you are unfamiliar with a request during your shift, it is suggested that you preview the material for your own protection. Regular Rotation and NexGen content are approved for broadcast and scheduled in advance. Any material used that is not located in NexGen are to be played at the DJ's own risk.

Language

Profane language will not be used by on-air announcers. Do not announce the name of a song or band that may have profane wording in the title, with the exception of hell, damn, or bitch. Use your imagination.

Content Qualification

It is the sole responsibility of the DJ to qualify indecent music to the audience before airplay. This happens when the announcer gives the audience the literary, artistic, political, or scientific value of the content of the song. Basic idea: if the DJ cannot articulate the value of the song, it is doubtful that the audience will be able to either. If you cannot qualify the song, do not play it.

Offensive Material

KRUA does not air offensive material outside of the FCC safe harbor period. The restrictions regarding this material are as follows: any song that contains offensive lyrics (Most cusswords- ask staff for clarification and see Miller Three Prong Test) Songs of that type cannot be aired outside of KRUA safe harbor 10 p.m. - 1 a.m..

The Test

The FCC evaluates questionable material under the three prong Miller test established in 1973. The FCC has made clear that it intends to take enforcement actions against broadcasters who air obscene or indecent programming in violation of the law. Recorded material with questionable content will be evaluated under the Miller test before airplay on KRUA.

Screening Music

The music department at KRUA works closely in conjunction with the FCC rules and regulations regarding indecency and obscenity. Every CD at KRUA is screened before being aired. Staff and volunteers who screen music are equipped with a music screening form to help them judge lyrical content. The music is then placed in new rotation. However, it is still the responsibility of the disc jockey to screen music prior to their operator shift.

Safe Harbor

The KRUA safe harbor period is 10 p.m. until 1 a.m.. Recorded material using explicit profane language, sexual activity, or excretory activity will be reserved for airplay during KRUA safe harbor.

Staff Function

It's the prerogative of the KRUA staff as a whole to decide when and how the boundaries of the FCC policy regarding indecency will be pushed. Any changes in policy and procedure will first be approved by the UAA Media Board. Staff and volunteers will be notified when changes occur. The Station Manager reserves the right revoke, suspend, and reprimand any volunteer privileges who violates FCC/KRUA/UAA policy.

FCC Indecency and Obscenity

Miller Test - Brief History

Marvin Miller distributed unsolicited, sexually explicit advertising brochures to unwilling recipients. The brochures promoted four books and a film and contained pictures of men and women engaging in a variety of sexual activities. One of the brochures arrived through the mail to a restaurant in California. The manager opened Miller's advertising and complained to the police. Miller was eventually convicted. His appeal finally reached the Supreme Court.

Obscene Broadcasts Prohibited at All Times

The FCC has made clear that the broadcast of obscene programming violates criminal statutes and the FCC's rules that such broadcasts be banned from the airwaves at all times of the day. The FCC has noted that obscene material is defined by the Supreme Court as follows (The Miller Test):

1) An average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest.

- 2) The material must depict or describe, in a patently offensive way as measured by contemporary community standards, sexual or excretory conduct; and
- 3) The material, taken as a whole, must lack serious literary, artistic, political, or scientific value. Miller v. California, 413 U.S. 15 (1973)

All portions of the Miller Test must be proved before material can be labeled obscene, stripped of its constitutional protection and punished.

Indecent Broadcasts

The Supreme Court, in 1978, upheld the FCC's authority to enforce the statutory prohibition against broadcast indecency as well as the FCC's definition of indecency. FCC v. Pacifica Foundation, 428, U.S. 726 (1978). Under this definition, language or material is indecent if, in context, it depicts or describes, in terms patently offensive as measured by the contemporary community standards for the broadcast medium, sexual or excretory activities or organs.

The Commission has also made clear that the restrictions on indecent broadcasts apply to television as well as radio.

Time-of-Day Issue for Indecent Broadcasts

The FCC reasons that the only practicable means for separating adults from children in the broadcast medium is to impose time restrictions. The FCC has designated 10 p.m. to 6 a.m. as the safe harbor period in which material classified as indecent may be aired. The FCC will not take indecency actions against material which is broadcast after 10pm and is preceded by an appropriate warning announcement. The KRUA safe harbor period as approved by the Media Board is 10 p.m. to 1 a.m..

Interpreting the Three Prong Miller Test

From: Communications Law John Zelenzy and Censorship and the Media John Murphy.

What is Prurient Interest?

If the prurient interest of someone were aroused by material which was not "hard core", the material could not be labeled obscene.

This means that the material was intended to excite lewd, lascivious, shameful, or morbid thoughts about sex. Material that provokes only normal, healthy sexual desires does not fall into this category.

A juror would be required not to impose their own views, but judge how the average person in our community would respond to the materials.

By average person – neither adults that are the most prudish or the most tolerant. This does not apply to children.

Finally the prurient interest determination is to be made by considering the work as a whole. This means that a small, sexually orientated portion of the work may not be looked at in isolation when deciding the prurient interest factor. The overall content of the work is the determining factor.

Patent Offensiveness

Definition – representations or depictions of ultimate sexual acts, normal or perverted, actual or simulated and/or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals.

Community Standard

It has been decided that it is impossible to set a community standard for the entire nation.

By requiring obscenity to be judged according to the prevailing standard of the community in which the trial takes place, material could be found obscene in one area of the country, and not another.

Although citizens may complain to the authorities, and jurors may be offended, more depictions of nudity or the use of some sexual terms, for instance, cannot be deemed patently offensive.

Lack of Serious Value

It is not determined with reference to local community standards. Art or literature experts may be called in from distant parts of the country to explain to a jury the value of the material in question.

One must regard the work as a whole and weigh the portions of the work that have serious value against the portions that do not.

Children in the Audience

At hours when children are likely to be in the audience, indecent language cannot be redeemed by a claim that it has literary, artistic, political, or scientific value.

Repetitive Use of Expletives

Repetitive use of specific sexual or excretory words or phrases is not the only material that can constitute indecency. If a broadcast consists solely of the use of expletives, then deliberate and repetitive use of such expletives in a patently offensive manner would be requisite to a finding of indecency.

Institutional Censorship

KRUA 88.1 FM is an educational non-commercial licensed station. Under no circumstances can and will station employees or volunteer be subjected to censorship by the University of Alaska. Rules and policy change can be enacted by Media Board. It is the Station Managers responsibility to acknowledge and participate any in conversations regarding this matter.

First Amendment

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”