

No, lawmakers, we don't need more FCC enforcement

By Wayne Hoffman/Idaho Freedom Foundation

A story a few months ago in *The Economist* pokes fun at Saudi Arabia's morality police by describing an incident in which the Committee for the Promotion of Virtue and Prevention of Vices swooped in on "an educational exhibition featuring plaster models of dinosaurs, turned off the lights and ordered everyone out, frightening children and alarming parents."

Why the morality police shut down the display was a mystery to onlookers, who began tweeting "It's not as if we don't see dinosaurs in newspapers and on TV in the government every day" and that the enforcers of virtue were "worried that people would find the dinosaurs more highly evolved than themselves."

I bring this up only because a few days ago a committee of the Idaho House of Representatives voted to advance a non-binding proposal that would ask the Federal Communications Commission (FCC) to "resume enforcement of traditional American standards of decency and prohibit the implied portrayal of or discussion of sexual intercourse on television when it pertains to unmarried persons in fictitious programs, reality shows and advertisements, including jocular references to premarital sex, characters lying in bed together and characters disrobing or undressing."

Unlike Saudi Arabia's bizarre and inexplicable pursuit of plaster dinosaurs, the target of Idaho lawmakers' complaint regarding broadcast television is obvious. There's no question there's more sex and sexual innuendo on television. But there's also more television. Channels and programs abound. Some lawmakers think, because the Idaho Constitution requires the Legislature to promote "virtue" and "the purity of the home" that they must act. They shouldn't, and here's why:

Whenever the government assumes the role of morality police, it is legally charged with dictating what consumers see and hear, or don't see and hear. That means a government bureaucrat, or a board of government bureaucrats, makes the decisions for us, instead of allowing people in the free market to make the choices.

This invariably leads to seemingly arbitrary enforcement of decency standards. Anyone remember in 2003 when U2's Bono dropped the F-bomb on live TV? The FCC ruled against Bono and broadcaster NBC. But the same year, the FCC gave a greenlight to the broadcast of the curse-word intensive movie "Saving Private Ryan."

Along the way, broadcasters have tried to understand and dance to the FCC's hard-to-follow tunes, even while cases surrounding government decency standards move through the courts. The FCC later said Bono's momentary expletive was used "as an adjective or expletive to

emphasize an exclamation,” offensive but not finable. Were Bono talking about sex, that would have been different, the FCC said.

The antics of the Saudi morality police sounds foreign to us, but in reality, we have our own examples of U.S. government morality injustice via capriciousness. Good intentions run amuck, and people and companies in the marketplace are stuck in the middle, usually fined by the government.

But let’s imagine that certain lawmakers in the Idaho Legislature get their wish and the FCC begins rabid enforcement of government decency standards. What’s next? Well, what’s been happening in the marketplace will continue to happen. Content is gravitating away from the FCC’s regulatory leviathan (the broadcast spectrum) to cable options and the Internet. Lawmakers should also remember that this same TV marketplace that satiates the public craving for the raunchy is also satisfying the marketplace’s demand for intellectual stimulation. This is why science and history and travel and cooking channels abound. The free market really does work.

Idaho lawmakers who support government action against indecency clearly mean well. They’re offended by and frightened by the proliferation of what they presume to be undesirable content. But they should be more offended and frightened by a government that has the power to tell us what’s right and what’s wrong, to punish us when they find the latter and, like the Saudi police and the FCC, can’t or won’t explain the difference.