HON. RON PAUL OF TEXAS BEFORE THE US HOUSE OF REPRESENTATIVES March 10, 2004

An Indecent Attack on the First Amendment We will soon debate the “Broadcast Indecency Act of 2004” on the House Floor. This atrocious piece of legislation should be defeated. It cannot improve the moral behavior of U.S. citizens, but it can do irreparable harm to our cherished right to freedom of speech. This attempt at regulating and punishing indecent and sexually provocative language suggests a comparison to the Wahhabi religious police of Saudi Arabia, who control the “Commission for the Promotion of Virtue and Prevention of Vice.” Though both may be motivated by the good intentions of improving moral behavior, using government force to do so is fraught with great danger and has no chance of success. Regulating speech is a dangerous notion, and not compatible with the principles of a free society. The Founders recognized this, and thus explicitly prohibited Congress from making any laws that might abridge freedom of speech or of the press. But we have in recent decades seen a steady erosion of this protection of free speech. This process started years ago when an arbitrary distinction was made by the political left between commercial and non-commercial speech, thus permitting government to regulate and censor commercial speech. Since only a few participated in commercial speech, few cared-- and besides, the government was there to protect us from unethical advertisements. Supporters of this policy failed to understand that anti-fraud laws and state laws could adequately deal with this common problem found in all societies. Disheartening as it may be, the political left, which was supposed to care more about the 1st Amendment than the right, has ventured in recent years to curtail so-called “hate speech” by championing political correctness. In the last few decades we’ve seen the political-correctness crowd, in the name of improving personal behavior and language, cause individuals to lose their jobs, cause careers to be ruined, cause athletes to be trashed, and cause public speeches on liberal campuses to be disrupted and even banned. These tragedies have been caused by the so-called champions of free speech. Over the years, tolerance for the views of those with whom campus liberals disagree has nearly evaporated. The systematic and steady erosion of freedom of speech continues. Just one year ago we saw a coalition of both left and right push through the radical Campaign Finance Reform Act, which strictly curtails the rights all Americans to speak out against particular candidates at the time of elections. Amazingly, this usurpation by Congress was upheld by the Supreme Court, which showed no concern for the restrictions on political speech during political campaigns. Instead of admitting that money and corruption in government is not a consequence of too much freedom of expression, but rather a result of government acting outside the bounds of the Constitution, this new law addressed a symptom rather than the cause of special interest control of our legislative process. And now comes the right’s attack on the 1st Amendment, with its effort to stamp out “indecent” language on the airways. And it will be assumed that if one is not with them in this effort, then one must support the trash seen and heard in the movie theaters and on our televisions and radios. For social rather than constitutional reasons, some on the left express opposition to this proposal. But this current proposal is dangerous. Since most Americans- I hope- are still for freedom of expression of political ideas and religious beliefs, no one claims

that anyone who endorses freedom of speech therefore endorses the nutty philosophy and religious views that are expressed. We should all know that the 1st Amendment was not written to protect non-controversial mainstream speech, but rather the ideas and beliefs of what the majority see as controversial or fringe. The temptation has always been great to legislatively restrict rudeness, prejudice, and minority views, and it's easiest to start by attacking the clearly obnoxious expressions that most deem offensive. The real harm comes later. But "later" is now approaching. The failure to understand that radio, TV, and movies more often than not reflect the peoples' attitudes prompts this effort. It was never law that prohibited moral degradation in earlier times. It was the moral standards of the people who rejected the smut that we now see as routine entertainment. Merely writing laws and threatening huge fines will not improve the moral standards of the people. Laws like the proposed "Broadcast Indecency Act of 2004" merely address the symptom of a decaying society, while posing a greater threat to freedom of expression. Laws may attempt to silence the bigoted and the profane, but the hearts and minds of those individuals will not be changed. Societal standards will not be improved. Government has no control over these standards, and can only undermine liberty in its efforts to make individuals more moral or the economy fairer. Proponents of using government authority to censor certain undesirable images and comments on the airwaves resort to the claim that the airways belong to all the people, and therefore it's the government's responsibility to protect them. The mistake of never having privatized the radio and TV airwaves does not justify ignoring the 1st Amendment mandate that "Congress shall make no law abridging freedom of speech." When everyone owns something, in reality nobody owns it. Control then occurs merely by the whims of the politicians in power. From the very start, licensing of radio and TV frequencies invited government censorship that is no less threatening than that found in totalitarian societies. We should not ignore the smut and trash that has invaded our society, but laws like this will not achieve the goals that many seek. If a moral society could be created by law, we would have had one a long time ago. The religious fundamentalists in control of other countries would have led the way. Instead, authoritarian violence reigns in those countries. If it is not recognized that this is the wrong approach to improve the quality of the airways, a heavy price will be paid. The solution to decaying moral standards has to be voluntary, through setting examples in our families, churches, and communities- never by government coercion. It just doesn't work. But the argument is always that the people are in great danger if government does not act by: -Restricting free expression in advertising; -Claiming insensitive language hurts people, and political correctness guidelines are needed to protect the weak; -Arguing that campaign finance reform is needed to hold down government corruption by the special interests; -Banning indecency on the airways that some believe encourages immoral behavior.

If we accept the principle that these dangers must be prevented through coercive government restrictions on expression, it must logically follow that all dangers must be stamped out, especially those that are even more dangerous than those already dealt with. This principle is adhered to in all totalitarian societies. That means total control of freedom of expression of all political and religious views. This certainly was the case with the Soviets, the Nazis, the Cambodians, and the Chinese communists. And yet these governments literally caused the deaths of hundreds of millions of people throughout the 20th Century. This is the real danger, and if we're in the business of protecting the people from all danger, this will be the logical next

step. It could easily be argued that this must be done, since political ideas and fanatical religious beliefs are by far the most dangerous ideas known to man. Sadly, we're moving in that direction, and no matter how well intended the promoters of these limits on the 1st Amendment are, both on the left and the right, they nevertheless endorse the principle of suppressing any expressions of dissent if one chooses to criticize the government. When the direct attack on political and religious views comes, initially it will be on targets that most will ignore, since they will be seen as outside the mainstream and therefore unworthy of defending- like the Branch Davidians or Lyndon LaRouche. Rush Limbaugh has it right (at least on this one), and correctly fears the speech police. He states: "I'm in the free speech business," as he defends Howard Stern and criticizes any government effort to curtail speech on the airways, while recognizing the media companies' authority and responsibility to self-regulate. Congress has been a poor steward of the 1st Amendment. This newest attack should alert us all to the dangers of government regulating freedom of speech-- of any kind.