

# Restricted Material

## Commonwealth of Kentucky Obscenity Laws

### **KENTUCKY REVISED STATUTES 531.010 DEFINITIONS**

(1) "Distribute" means to transfer possession of, whether with or without consideration.

(2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical chemical or electrical reproduction or any other articles, equipment, machines, or materials.

(3) "Obscene" means:

(a) To the average person, applying contemporary community standards, the predominant appeal of the matter, taken as a whole, is to prurient interest in sexual conduct; and

(b) The matter depicts or describes the sexual conduct in a patently offensive way; and

(c) The matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(4) "Sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse; or physical contact with the genitals, flagellation, or excretion for the purpose of sexual stimulation or gratification.

### **KRS 531.020 DISTRIBUTION OF OBSCENE MATTER**

(1) A person is guilty of distribution of obscene matter when, having knowledge of its content and character: (c) in this state he:

1. Prepares, or

5. Distributes, or

6. Offers to distribute, or

7. Has in his possession with intent to distribute, exhibit or offer to distribute any obscene matter.

(2) Distribution of obscene matter is a class B misdemeanor...Punishable by a fine of up to \$250 or 90 days in jail or both.

### **KRS 531.030 DISTRIBUTION OF OBSCENE MATTER TO MINORS**

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(1) A person is guilty of distribution of obscene material to minors when, knowing a person to be a minor, or having possession of such facts that he should reasonably know that such person is a minor, and with knowledge of the content and character of the material, he knowingly:

(c) Distributes, or offers to distribute, obscene material to a minor.

(2) Distribution of obscene materials to minors is a Class A misdemeanor... Punishable by a fine up to \$500 or 12 months in jail or both.

*Since to cablecast on public access would necessarily be to minors in the viewing audience the violator would be charged with the latter offense.*

## CCCM Standards

CCCM has determined that material which is patently offensive and which violates the contemporary community standards of the average person, when taken as a whole, is material which may be restricted to cablecast between the hours of 1 a.m. and 5 a.m., or prohibited altogether.

CCCM recognizes that speech, which is offensive and/or indecent, but not obscene, is afforded a degree of protection by the First Amendment of the United States Constitution. As such, merely indecent speech may not be banned from cablecast completely. Similarly, CCCM recognizes that speech, which is hostile, but not rising to the level of insightful language, is afforded protection by the First Amendment of the United States Constitution. As such, hostile or profane speech may not be banned from cablecast completely. However, offensive material which, if displayed or uttered in a public place which could be prosecuted as a criminal public offense, should be prohibited on public access cable channels. The public access cable channels are the modern day public soapbox and users of the public cable media are responsible to the public for their actions.

CCCM wishes to protect children and those adults who do not wish to be exposed to such restrictive or offensive material to the full extent of its legal ability. As such, CCCM has determined that all programming which is indecent or hostile, but not obscene or otherwise prohibited, may be cablecast between the hours of 1 a.m. and 5 a.m. only. This policy provides a means of protecting children from this type of material which while still allowing adults who wish to view such material access to the programming. Similarly, material, which is offensive, may not be cablecast at anytime.

# Restricted Material

## **(1)RESTRICTED MATERIAL**

“Restricted Material” is defined as material, which when taken as a whole, is indecent or hostile as measured by contemporary community standards of the average person. This material includes: 1)programming which discusses sexual acts, organs, or nudity, but which does not rise to the level of offensive or obscenity; 2)programming which discusses or displays realistic violence; and 3)programming which contains repeated profanity within the context of a program which do not rise to the level of obscenity.

## **(2)OFFENSIVE MATERIAL**

CCCM, in accordance with the community standards, has determined that a range of materials which are not legally obscene under the definition articulated by the United States Supreme Court are still offensive and should be prohibited from cablecast at all times. These materials include programming which discusses or depicts sexual conduct, excretory activities or organs in a manner which may no be obscene; however, when taken as a whole, offends the average person within the local community. CCCM has determined the following material is patently offensive and violates contemporary community standards of decency and shall be prohibited from cablecast:

- Gratuitous displays or discussions of sexual acts;
- Gratuitous violence to humans or animals;
- Gratuitous profanity; and
- Gratuitous nudity

While these materials are not legally obscene, CCCM believes that these patently offensive materials should be prohibited from cablecast at all times of the day in the best interests of the community.

## **DETERMINATION OF OBSCENE or RESTRICTED MATERIAL**

Based on the information provided by a producer concerning the content of his or her production, CCCM Management will review the submitted production to determine if it contains material which is prohibited from cablecast or restricted to the hours of 1 a.m. through 5 a.m. for cablecast. Any producer whose production is deemed obscene or otherwise prohibited or restricted material will be notified of CCCM’s decision by a letter.