

National Religious Broadcasters requests that the Federal Communications Commission investigate and sanction, as warranted by evidence discovered thereby, ABC Television as a result of the broadcast on Jimmy Kimmel Live! broadcast on April 23, 2026. The broadcast purported to be a parody of the upcoming White House Correspondents' Dinner.

During his monologue, Mr. Kimmel said, “Our first lady, Melania, is here. Look at Melania, so beautiful. Mrs. Trump, you have the glow of an expectant widow.”

The dinner took place on April 25, 2026, two days later. As the whole world knows, there was an attempt on the life of the president and other federal officials at said dinner.

NRB respectfully suggests that Mr. Kimmel’s statement could well be interpreted as an instigation of violence against the life of the President of the United States. Incitements to kill or inflict bodily harm on the President of the United States are serious felonies. “Whoever knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States . . . by the assassination of any officer of any such government” is subject to twenty years in prison. 18 U.S.C. § 2385.

While the FCC is bound by both the First Amendment of the Constitution and federal law (47 U.S.C. § 326) to respect freedom of speech, the First Amendment does not protect speech that incites violence. *Brandenburg v. Ohio*, 395 U.S. 444 (1969). Speech is unprotected if: (1) it explicitly or implicitly encourages lawless action; (2) the speaker must intend the speech will result in such action; and (3) imminent lawless action must be the likely result. *Id.*

On the face of it, there is good reason to believe that the first element is satisfied, and the third is likely satisfied. We have no information concerning the second element. Only a proper and

thorough investigation can establish the presence of all three factors.

While the FCC generally defers adjudication of such matters in favor of resolution by local courts, this situation appears to fit the exception recognized in the Commission's precedents.

Under *Brandenburg*, any determination that particular speech poses a "clear and present danger of serious substantive evil" presupposes a familiarity with the circumstances, issues, and concerns of the community where such speech was heard, a familiarity which the Commission, in most cases, does not have and cannot practically obtain. Local authorities responsible for keeping the peace and enforcing the law are better positioned to know and assess the specific and unique circumstances in the . . . community and, thus, to determine whether the *Brandenburg* test has been met.

*Greater Bos. Radio, Inc.*, 19 F.C.C. Rcd. 13064, 13066 (2004).

This was not a local broadcast, however. It was a national broadcast involving apparent incitement to an attempt on the life of the President of the United States. Local authorities thus are not "better positioned to know and assess the specific and unique circumstances" surrounding the incitement to violence. *Greater Bos. Radio, Inc.* recognized that an exception may well exist in such cases. We suggest that given the combined factors of a national broadcast and incitement against the life of the President, such an exception is warranted here.

NRB does not opine on what sanctions would be warranted should the Commission determine that the *Brandenburg* test has been satisfied. We leave that to the discretion of the Commission.

We respectfully request an investigation into this matter.

Thank you for your consideration.

Troy Miller

President & CEO

National Religious Broadcasters