How much control should the government have over public airwaves?

While performing during the half time show of Super Bowl XVIII in 2004, Janet Jackson's breast was exposed for millions of viewers to see in what would eventually be called a "wardrobe malfunction." The Federal Communications Commission (FCC) levied heavy fines and penalized the network, CBS, for airing indecent content. The fines ultimately set off a cascade of legal events bringing into question the power of the government, and the FCC in particular, in regulating the airwaves and penalizing stations for "fleeting" or brief obscenities. The controversy is nothing new. Can the government control what you listen to on the radio and watch on television without violating the First Amendment? After all, wouldn't regulating the airwaves be regulating speech?

The FCC is a government organization tasked with keeping order on the airwaves. However, it is not entirely clear to what extent the FCC can regulate speech that is conveyed using something occurring in nature. Since television and radio are received by so many people, they are considered to be an important public good. As a public good, broadcasts can pose a problem if enough people view or hear a controversial show on television or radio. Does the FCC have a right to regulate speech that is broadcast over the air to protect public interests and the public good in general?

MLA Citation