



# NEWS

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.  
See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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**FOR IMMEDIATE RELEASE**  
March 5, 2004

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## **COMMISSION SUMMARILY REJECTS INFINITY PETITION FOR RECONSIDERATION OF STATUTORY MAXIMUM FORFEITURE ORDER FOR INDECENCY VIOLATION**

Washington, D.C. – The Federal Communications Commission today issued an order summarily rejecting a petition filed by Infinity Broadcasting Operations, Inc., licensee of Station WKRK-FM, Detroit, Michigan, seeking reconsideration of a Commission Forfeiture Order imposing the statutory maximum forfeiture amount of \$27,500 for willful violation of statutory and regulatory provisions that prohibit the broadcast of indecent material between 6 a.m. and 10 p.m. The forfeiture was based on material that aired on WKRK-FM’s “Deminski and Doyle Show.”

On December 8, 2003, the Commission issued a Forfeiture Order assessing the statutory maximum \$27,500 forfeiture against Infinity for broadcast of indecent material. The Commission found that the broadcast included explicit and graphic sexual and excretory references, that the material was extremely lewd and vulgar, and that it was used to pander, titillate and shock. Thus, the Commission concluded that the material was indecent and warranted a significant sanction.

On January 7, 2004, Infinity filed a petition for reconsideration in which it again raised constitutional and other arguments that had been previously rejected by the Commission at the forfeiture order stage. The Commission summarily denied Infinity’s petition as repetitive and held that the Forfeiture Order contained no material error or omission.

Action by the Commission, February 20, 2004, Memorandum Opinion and Order, FCC 04-34. Chairman Powell, Commissioners Abernathy and Adelstein. Commissioners Capps and Martin concurring and issuing separate statements. Commissioner Adelstein issuing a statement.

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**CONCURRING STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

*Re: Infinity Broadcasting Operations, Inc., Licensee of Station WKRK-FM, Detroit,  
Michigan, Memorandum Opinion and Order*

I concur in the decision to reject Infinity's arguments that enforcement of the indecency statutes is unconstitutional. Nonetheless, I continue to believe that the majority's fine of \$27,500 is insufficient and not even a slap on the wrist to Infinity for airing what can only be described as a vulgar and disgusting broadcast.

**CONCURRING STATEMENT OF  
COMMISSIONER KEVIN J. MARTIN**

*Re: Infinity Broadcasting Operations, Inc., Licensee of Station WKRK-FM, Detroit, Michigan, Memorandum Opinion and Order*

As I have said repeatedly in this and other proceedings, I am disappointed that a majority of the Commission refuses to use the full extent of our statutory authority to fine broadcasters who violate the indecency laws.<sup>1</sup>

While I agree that Infinity Broadcasting Operations, Inc. violated our indecency regulations during the broadcast of the “Deminski and Doyle Show” on January 9, 2002, I continue to believe the fine of \$27,500 is inadequate, and therefore I concur in this Order. I would have found several violations within this program and assessed the statutory maximum for each violation, for a total fine of over \$200,000.

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<sup>1</sup> *See, e.g.*, Infinity Broadcasting Operations, Inc., Licensee of Station WKRK-FM, Detroit, Michigan, *Notice of Apparent Liability*, 18 FCC Rcd. 6915, 6939 (2003) (Separate Statement of Commissioner Martin, urging the Commission to fine violators “per utterance”).

**STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: Infinity Broadcasting Operations, Inc., Licensee of Station WKRK-FM,  
Detroit, Michigan; Memorandum Opinion and Order*

I am pleased that today we deny a reconsideration petition and allow this case to proceed. I strongly supported the imposition of the statutory maximum forfeiture amount against Infinity Broadcasting Operations, Inc., licensee of station WKRK-FM, Detroit, Michigan, for the willful broadcast of grossly indecent language during the "Deminski and Doyle Show" on January 9, 2002. The material was some of the most egregious broadcast indecency that I have yet encountered. I am disappointed that the licensee in this case continues to challenge this sanction rather than accept responsibility for such an extreme violation of our rules.