



NEWS

Federal Communications Commission
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See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

FOR IMMEDIATE RELEASE
March 12, 2004

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**COMMISSION PROPOSES STATUTORY MAXIMUM FORFEITURE OF \$247,500
AGAINST CLEAR CHANNEL COMMUNICATIONS FOR APPARENT VIOLATIONS
OF INDECENCY RULE**

Washington, D.C. – The Federal Communications Commission today issued a Notice of Apparent Liability for Forfeiture against three subsidiaries of Clear Channel Communications for apparently airing indecent material. The material at issue was aired in connection with the “Elliot in the Morning” program on Stations WWDC(FM), Washington, D.C., WRXL(FM), Richmond, Virginia, and WOSC(FM), Bethany Beach, Delaware. The Commission proposed the statutory maximum forfeiture of \$27,500 for each of nine apparent indecency violations.

The Commission found nine apparent indecency violations that involved graphic and explicit sexual material, and were designed to pander to, titillate and shock listeners. The Commission proposed the statutory maximum forfeiture amount because of Clear Channel’s history of violations relating to the broadcast of indecent material.

Action by the Commission, March 12, 2004, Notice of Apparent Liability for Forfeiture (FCC 04-47). Chairman Powell, Commissioners Abernathy, Martin, Copps and Adelstein. Commissioner Adelstein issuing a separate statement. Commissioner Martin concurring and issuing a separate statement. Commissioner Copps dissenting and issuing a separate statement.

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

Re: AMFM Radio Licenses, L.L.C., Licensee of Station WWDC-FM, Washington, D.C.; Clear Channel Broadcasting Licenses, Inc., Licensee of Station WRXL(FM), Richmond, Virginia; Capstar TX Limited Partnership, Licensee of Station WOSC(FM), Bethany Beach, Delaware; Notice of Apparent Liability for Forfeiture

In this case, three Clear Channel stations aired graphic and explicit sexual content on nine different occasions -- including the use of sexual material in promotional rebroadcasts. Clear Channel has been the subject of repeated indecency actions at the FCC, and this show in particular has been the subject of previous complaints. Yet, notwithstanding the repeated nature of Clear Channel's transgressions, the majority proposes a mere \$27,500 fine for each incident. Such a "cost of doing business fine" is never going to stop the media's slide to the bottom.

For repeat offenders as in this case, I believe the Commission should have designated these cases for license revocation hearings. I recognize that Clear Channel has taken some steps in recent days to address indecency on its stations. A hearing would have provided the Commission with the ability to consider what actions the stations took in response to these broadcasts and to decide on the appropriate penalty.

I am discouraged that my colleagues would not join me in taking a firm stand here against indecency on the airwaves. The time has come for the Commission to send a message that it is serious about enforcing the indecency laws of our country. That message has yet to go forth.

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

Re: AMFM Radio Licenses, L.L.C., Licensee of Station WWDC(FM), Washington, DC; Clear Channel Broadcasting Licenses, Inc., Licensee of Station WRXL(FM), Richmond, Virginia; Capstar TX Limited Partnership, Licensee of Station WOSC(FM), Bethany Beach, Delaware; Notice of Apparent Liability for Forfeiture

Consistent with my past statements, I believe we should be fining broadcasters on a “per utterance” basis.¹ I also believe that, when determining the amount of fine, we should take into consideration the circumstances and actions of the particular broadcaster. Unlike some broadcasters, Clear Channel recently has agreed to pay an unprecedented fine, without contest, for past indecency violations. In addition, it has announced a comprehensive policy to reduce the likelihood that indecent broadcasts occur. Indeed, it has already taken steps to implement its “zero-tolerance” policy. We also should take such steps into consideration.

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

**SEPARATE STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: AMFM Radio Licenses, L.L.C., Licensee of Station WWDC(FM), Washington, DC; Clear Channel Broadcasting Licenses, Inc., Licensee of Station WRXL(FM), Richmond, Virginia; Capstar TX Limited Partnership, Licensee of Station WOSC(FM), Bethany Beach, Delaware; Notice of Apparent Liability for Forfeiture

I support this Notice of Apparent Liability for the broadcast of indecent material at a time when children may be in the audience. By issuing this NAL, we step up to our responsibility to enforce statutory and regulatory provisions restricting broadcast indecency. Once again, we impose statutory maximum fines and remind broadcasters that the Commission can and will avail itself of a range of enforcement sanctions, including acting on each separate indecent utterance, or initiating proceedings that could result in the revocation of station licenses for serious, repeated violations.

Since I arrived at the Commission, we have greatly stepped up our enforcement against indecent broadcasts. I expect that these stepped-up actions will convince broadcasters that they cannot ignore their responsibility to serve the public interest and to avoid the broadcast of indecent material over the public airwaves. Indeed, Clear Channel has recently taken steps to show that it is meeting this obligation, including the payment of an unprecedented fine without objection for a past indecency violation.