

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

*Re: Clear Channel Communications, Inc.*

Before the Commission enters into a settlement agreement, it should understand the full scope of what it is addressing. Today, the Commission instead enters into a consent decree with Clear Channel to settle all of the outstanding indecency complaints against the company without understanding the extent of the indecency that was broadcast. Additionally, the Commission removes all consideration of this issue from the license reapplication process. Despite my colleague's assertion, my dissent is about process—and the process here is inadequate. What message do we send to citizens when we fail even to investigate their complaints before making a sweeping settlement?

Here is what we do know. We know there are indecency complaints concerning at least 200 broadcasts pending against Clear Channel. To the extent that some of these broadcasts were likely aired on more than one station, the number of indecency incidents could grow much larger. We also know that over two-thirds of the indecency fines proposed by the Commission since 2000 have been against Clear Channel. We further know that the Commission relies entirely on viewers and listeners to file complaints about indecent broadcasts. The FCC places a heavy burden on complaining citizens to submit tapes, transcripts, or significant excerpts of broadcasts before it will even initiate an investigation. Citizens have a right to expect Commission follow-through on their complaints. Yet all too often, these complaints languish unaddressed at the Commission for a year or more. Today a majority decides that, rather than investigate these pending complaints or even seek information about these broadcasts as part of the settlement discussions, it will wipe the slate clean for Clear Channel.

I recognize that Clear Channel in recent months has taken promising steps to curtail indecency on its stations. I commend the company's initiative, yet I believe the Commission has a duty to get an accounting of the broadcasts at issue before finalizing a settlement agreement. Absent this process, I do not believe we have the information needed to evaluate whether this consent decree truly serves the public interest or whether it even responds to the many pending but uninvestigated complaints.

I am also troubled by the possible effect of today's decision on the Commission's license renewal process. The totality of a broadcasters' record is pertinent and should be considered when licenses are renewed. Today's decision takes this entire part of the record off the table. We are closing our ears to any citizen who believes that a station's indecency actions over the term of its license have any bearing on its fitness to continue using the public airwaves. This settlement reaches too far and grants too much. It is bad enough that our re-licensing process has degenerated to the point where the Commission generally does not even look at a station's public file or inquire further into the station's service to its community unless a citizen of that particular community brings an issue to our attention. Today, the Commission tells those citizens that their complaints no longer matter. If we are not actually changing the rules of the game, we are at a minimum

sending a wrong and discouraging signal to those citizens upon whom we rely in implementing the law.

It should be a cautionary note that the Commission has gone down this road before. Over eight years ago, the FCC entered into a similar kind of agreement with Infinity Broadcasting to settle a smaller number of proposed forfeitures and pending indecency complaints. Under that agreement, Infinity paid practically the same amount that Clear Channel is paying here and adopted a similar compliance plan to reduce indecent broadcasts. At that time, the Commission praised the level of the payment and the steps Infinity took to ensure compliance with the indecency laws. I don't know of anyone who claims that the 1995 consent decree has resulted in less indecency on the airwaves. In fact, over the past few years, Infinity is second only to Clear Channel in the number of fines. Some would have us believe these fines are powerful disincentives to big companies broadcasting indecency. But one or two million dollar fines need to be seen in the context of these mega-companies' multi-billion dollar revenue streams.

Going forward, I hope my colleagues will accord prompt and vigorous attention to any future listener complaints against Clear Channel. Perhaps the company will be so vigilant that there will be none. In the meantime, I am reminded that President Reagan, whose passing America mourns this week, admonished us "to trust but verify." His statement was made in a foreign policy context, but I think it is equally applicable here.

This Commission, charged with significant public responsibilities, must always be at pains to demonstrate to citizens that their complaints will not be brushed aside and to let industry know that Commission involvement in these issues is not a passing fancy. Our job at the FCC is to enforce the law and to ensure that all avenues of citizen redress are open to those who wish to use them.