

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

Re: Clear Channel Broadcasting Licenses, Inc., Notice of Apparent Liability for Forfeiture

The Commission has a duty to enforce statutory and regulatory provisions restricting broadcast indecency. The material broadcast by these four Clear Channel radio stations is undeniably graphic and explicit in its sexual content and clearly intended to shock listeners. Clear Channel and, indeed, this particular "Bubba the Love Sponge" program have been the subject of repeated Commission indecency actions in the past. Given the explicit nature of the broadcast material and the history of prior offenses, this is the type of serious repeated behavior that I believe would warrant initiation of license revocation hearings.

In fairness, however, this material was broadcast in 2001. The Commission clarified in an April 2003 order that it was broadening its range of enforcement approaches and tools to combat indecency on our nation's public airwaves. For this reason, I approve of today's Order as legally appropriate. The egregious nature of the material clearly warrants the statutory maximum \$27,500 fine per violation. While the Commission at all times has the authority to initiate license revocation hearings or sanction for multiple indecent utterances in a given program segment, it can be argued that the Commission was not employing these approaches at the time this material was broadcast. Nonetheless, as we made clear last year, broadcasters are now aware that the Commission will not hesitate to use its full range of enforcement sanctions for indecent material broadcast after April 2003.

I also acknowledge the importance of broadcasters adhering to the public inspection file rules. Documents pertaining to an FCC investigation are clearly within the scope of the information that must be maintained in a manner accessible to the listening public. In this case, each of the stations inexplicably failed to include complaints related to the airing of this material in their public files.

A broadcast license is a public privilege. In return, broadcasters have a responsibility to serve the public. This public interest responsibility clearly encompasses protecting children from indecency on the airwaves and facilitating public access to documentation through which the station can remain accountable to its local community and listening public. These stations exhibited a blatant disregard for both.

