

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

*Re: SAGITTARIUS BROADCASTING CORP. Application for Renewal of License WXRK(FM),
New York, New York, Facility ID #58579*

In this Order, the Commission dismisses on procedural grounds an application for review seeking to deny a radio station's license renewal application based on allegations that the station aired indecent material. In this case, a citizen who lives in California sought to deny the license renewal of KLSX(FM), a station in Los Angeles that broadcast the Howard Stern Show. This person also sought to deny the license renewal application of WXRK(FM) in New York, the station that originated the Stern Show. The Bureau dismissed the objection against KLSX(FM) because this person relied on printed excerpts from the show and therefore did not demonstrate knowledge that the program actually aired on KLSX(FM). The Bureau dismissed the challenge to WXRK(FM)'s application concluding that he did not prove the material had actually been broadcast on WXRK(FM). In both cases, the Bureau apparently made no effort of its own to ascertain the facts of the broadcast. Additionally, the Bureau decided that, because the complainant lives in California, he lacks standing to challenge the license renewal of a New York station. In today's Order, the Commission upholds the Bureau's decision with respect to WXRK(FM).

I find the majority's decision troubling, especially as we enter a new license renewal cycle this fall. It is the Commission's affirmative responsibility under the statute to determine whether a broadcaster is serving the public interest and deserves to have its license to use the public's airwaves renewed. Unless a citizen or some other outside party complains, licenses are almost automatically renewed. The message from today's decision is that, even when the public raises issues, this agency will look for procedural vehicles to avoid our substantive responsibility to ensure that a licensee is serving the public interest.

The process by which the Commission carries out its statutory duty places inordinate responsibility upon the complaining citizen. That's wrong. It is the *Commission's* responsibility to examine whether a station is serving the public interest. I hope we will do better in the upcoming license renewal cycle.