

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

Re: Infinity Broadcasting Operations Inc., licensee of WKRK-FM, Detroit Michigan, Notice of Apparent Liability for Forfeiture

In this case, WKRK-FM in Detroit aired some of the most vulgar and disgusting indecency that I have had the misfortune to examine since I joined the Commission. The station presented graphic descriptions of violent sexual acts against women as entertainment at a time when children likely composed a significant portion of the audience. The extreme nature of this broadcast – among the worst we have faced in the Commission’s history – and the fact that it was broadcast in the middle of the day, gives the FCC the responsibility to take serious action. I dissent from the majority’s decision because I believe that a financial slap on the wrist does not adequately reflect the seriousness of the station’s actions. To fulfill our duty under the law, we should initiate a hearing to determine whether the WKRK-FM license should be revoked.

I am deeply disappointed that the majority proposes a mere \$27,500 fine against this station. Such a fine will easily be absorbed by the station as a “cost of doing business.” While I am encouraged that the Commission has at least, and at last, found such programming to be indecent, I am discouraged that it does so little about it.

Would anyone who reads the transcript of this program argue that the United States should subsidize such material by giving WKRK-FM free spectrum through their broadcast license? Can anyone read the indecency law that Congress has given us and conclude that any station could broadcast such material on the public’s airwaves consistent with the law? The majority admits that WKRK-FM appears to have violated egregiously and extensively the statutory ban on the broadcast of indecent material. The majority presumably recognizes the seriousness of the offense. And, importantly, this Commission has agreed for the first time that it may revoke the license of a station owner that broadcasts indecent material. But the Commission does not take this step.

Our tepid action today will not dissuade these types of broadcasts in the future. The message to licensees is clear: Even egregious violations will not result in revocation of a license. The majority does warn Infinity that another similar action could result in a revocation hearing, but it fails to mention that this is not the first action against a station owned by Infinity. Infinity stations were fined \$1.7 million by a previous Commission in 1995 to settle a series of indecency cases. As part of that settlement, Infinity agreed to take steps to prevent further broadcast of indecent material. But more complaints involving other broadcasts followed. Last August, for example, another Infinity station aired the “Opie & Anthony” program allegedly involving sex acts performed in or near St. Patrick’s Cathedral. That investigation is still pending without action by the Commission.

The majority may say that this is the largest fine we are allowed to impose under our guidelines. But fines are not the only tool Congress gave us to enforce the law. The Commission would be more credible by moving immediately to a hearing to determine whether the station’s license should be revoked. We would be well within our statutory authority to do this under Section 312(a)(6) of the Communications Act, which specifically provides such a remedy.

I wonder when this Commission will finally take a firm stand against broadcast’s “race to the bottom” as the level of discourse on the public’s airwaves gets progressively coarser and more

violent. The time has come for this Commission to send a message that it is serious about enforcing its indecency rules. Our enforcement actions should convince broadcasters that they cannot ignore their responsibility to serve the public interest and to protect children. The FCC's actions today fail to do so.