

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

Re: Capstar TX Limited Partnership, licensee of Stations WAVW(FM)(formerly WZZR(FM)), Stuart, Florida, and WCZR(FM), Vero Beach, Florida, Notice of Apparent Liability for Forfeiture

In this case, two Clear Channel radio stations aired what was purportedly a couple engaging in sex and then discussed sexual activities with them. Clear Channel has been the subject of repeated indecency actions at the FCC, accounting for well over half the indecency fines since 2000. Yet, notwithstanding the repeated nature of Clear Channel's transgressions, the majority proposes a mere \$27,500 fine for each incident -- a "cost of doing business" to a media giant like Clear Channel.

For repeat offenders as in this case, I believe the Commission should have designated these cases for license revocation hearings. As I recognized in a prior case, 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 strong message that it is serious about enforcing the indecency laws of our country.

Although I do not support this decision, I am pleased that the Commission is proceeding in this case without a tape or transcript. The complainant provided us with a description of what was heard on the radio. The Commission has decided that this description was sufficient for us to find that the licensee broadcast indecency. I hope the Commission will expressly and publicly overturn its general policy that a complainant must provide a tape, transcript, or significant excerpt of the programming at issue to support an indecency complaint. I have long expressed the view that this practice places an inordinate responsibility on the complaining citizen and that it is the Commission's responsibility to investigate complaints that the law has been violated, not the citizen's responsibility to prove the violations.