

DISSENTING STATEMENT OF COMMISSIONER MICHAEL J. COPPS

Re: Infinity Radio License, Inc., Licensee of Station WLLD(FM), Holmes Beach, Florida, Memorandum Opinion and Order

In this decision, the majority upholds the Enforcement Bureau's decision to fine Infinity \$7000 for airing graphic and explicit sexual content that clearly violates the statutory prohibition on broadcasting obscene, indecent, or profane language.

This decision highlights serious problems with way the Commission carries out its statutory enforcement responsibilities. The timeline of this complaint demonstrates clearly why many consider the Commission's enforcement to be ineffective. Many complaints languish for a year or more without any action. But this case shows that even after the first Notice is issued, the delays are just beginning:

- September 1999 -- the program aired.
- December 2000 -- the Enforcement Bureau issues the initial Notice of Apparent Liability *fifteen months* later.
- March 2001 -- the Bureau releases its Forfeiture Order *three months* later.
- September 2002 -- the Bureau takes *another year and a half* to address Infinity's reconsideration petition.
- March 2004 -- *a year and a half* after that, the Commission is finally addressing this case -- *four and a half years* after this program was broadcast.

And when this agency finally acts, the penalties it imposes are woefully inadequate. The vulgar and explicit nature of the indecency and profanity that was broadcast gives the FCC the obligation to take serious action. Instead, the majority upholds a fine of \$7000. Such a fine does not even rise to a cost of doing business for this multi-billion dollar conglomerate.

It is small wonder that Americans across this country are dissatisfied with the Commission's enforcement of these statutes against obscenity, indecency, and profanity. How do we change this situation? First, we must begin to assess truly meaningful fines. Second, the more outrageous cases should be sent to hearings for possible revocation of licenses. Third, the Commissioners themselves, rather than the Bureau should be making these decisions. Issues of indecency on the people's airwaves are important to millions of Americans. I believe they merit, indeed compel, Commissioner-level action. And finally, the Commission should set a deadline for action on all obscenity, indecency, and profanity complaints. Congress has taken notice of this problem and is already moving forward to set such deadlines for the Commission. The Energy and Commerce

Committee of the United States House of Representatives voted just last week to require the Commission to act on complaints within 180 days and to issue forfeitures within 270 days. Although I applaud the decision to provide a deadline for Commission action, I urge my colleagues not to wait for legislation to get our indecency enforcement house in order.