

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: CBS Radio, Inc., File No. EB-06-IH-1109, Order

Re: Citadel Broadcasting Corporation, File No. EB-06-1H-1108, Order

Re: Clear Channel Communications, Inc., File Nos. EB-05-IH-0059 and EB-05-IH-0144, Order

Re: Entercom Communications Corp., File No. EB-05-IH-0033, Order

Today, a unified Commission sends a resounding message to the radio industry: payola, in any form, has no place in radio and will not be tolerated by the FCC. Payola deprives the listening public of the country's freshest music, denies local and independent artists a fair chance to get heard over the public airwaves, and saps the vitality of radio. In short, payola hurts musicians, the radio industry and the free flow of creative talent because music is chosen on the basis of who can pay the most – not who sounds the best.

This agreement is a breakthrough and a milestone in the long fight against payola in this country. It ends an era of laissez faire pay-for-play and signals that the cops are back on the beat to enforce the law.

The Consent Decrees and the private agreements between the broadcasters and the independent music community, particularly the American Association of Independent Music (A2IM) and Peter Gordon, represent the culmination of a series of lengthy negotiations among people who care deeply about the future of radio and the music industry. I personally appreciate the efforts made by the four companies which negotiated the Consent Decree with me in good-faith and displayed a genuine willingness to strengthen their relationships with local, unsigned and independent musicians. Each company's commitment to showcase the talent of local and independent artists for more than 4,000 hours indicates dedication to localism, music diversity, and the public interest.

I am also thankful for the patience and support of my colleagues, specifically Chairman Martin for his leadership in initiating the investigation and securing significant monetary contributions, Commissioner Copps for sharing my insistence on meaningful oversight and business reform measures, and Commissioners Tate and McDowell for their interest in this issue.

Today's historic settlement with four major broadcasters – CBS, Citadel, Clear Channel and Entercom -- is the first of several steps that the Commission will take to address the allegations of rampant violations of our sponsorship identification laws, specifically pay-

for-play practices in the radio industry. I strongly encourage other broadcasters who are implicated or subject to license renewal holds for alleged sponsorship identification violations to enter into similar agreements with the Commission and the independent music community. Today's agreement is just the first wave of this investigation – more waves are coming.

Since 1927, before the FCC was even created, Congress has maintained an unwavering requirement that broadcasters must announce who gives them valuable consideration to air anything. The federal sponsorship identification laws impose an unequivocal, legal obligation – up and down the chain of production and distribution – to disclose all forms of consideration. These rules are based on the basic principle that listeners and viewers are entitled to know who is seeking to persuade them so they can make up their own minds about the content.

For years, I have been hearing from local and independent artists in different parts of the country that they could not get airplay on their local stations. And listeners have complained that that commercial radio sounded more and more homogenized and generic. As a huge fan of music and radio, I could not help notice that commercial radio – which was once a unifying force in local communities – had become increasingly like a coast-to-coast public address system, often devoid of soul, vitality, and local favor.

Nearly every American music genre began with local artists getting played on local radio shows. Motown, grunge, Elvis and rock n' roll, hip hop, country, bluegrass, and the Nashville sound began as local music being promoted by local, independent musicians and labels on local radio. While each began in a different region of the United States, they all succeeded because they started getting heard on local radio and then broke out nationally and internationally. That path to success, and musical innovation, is hindered by payola since local artists without major financial backing get crowded out. American radio listeners are the first to suffer, but music lovers nationwide, and indeed all around the world, are deprived of new sounds when radio playlists become generic. Homogenization is good for milk, but bad for radio.

Despite many allegations about widespread payola practices, the FCC had never investigated those claims, nor had we ever received credible evidence until then-Attorney General of New York State, Eliot Spitzer, launched a widespread investigation. He uncovered an arsenal of smoking guns, involving hundreds of radio stations – FCC licensees -- and the four major record labels. He aggressively pursued the problem and found vast numbers of potential violations of federal law.

At my urging, the FCC launched a similar investigation and decided to focus first on the corporate practices of four large radio station groups – Clear Channel, CBS, Citadel and Entercom – concerning potential payola violations. The results of these investigations have enabled us to create a template for addressing other pending allegations and payola violations in the future.

While this settlement is not a panacea to all payola woes, it requires the implementation of certain meaningful reform measures that should change corporate practices and behavior. The companies commit to enforcing high standards with respect to the sponsorship identification laws to avoid violations and the appearance of impropriety in the process of music selection. Specifically, the companies commit to implement numerous safeguards, including commitments to:

- maintain a database containing a record to identify all items from record labels that exceed 25 dollars;
- maintain a company hotline for employees to call the Compliance Officer to obtain advice and report violations;
- appoint a Corporate-level Compliance Officer who is responsible to ensure compliance with the Consent Order, and all sponsorship identification laws;
- designate a Compliance Contact for each market; and
- conduct annual training for all programming personnel and supervisors

The corporate culture of radio should not encourage or promote the use of the major record labels to subsidize the operating costs of radio stations. That is why the Consent Decree limits the numbers of electronic copies of songs and concert tickets, and the permissible value of personal gifts, meal and entertainment, and travel and lodging expenses. Some dishonest employees may continue to take money “under the table.” While you can outlaw theft, that doesn’t mean stealing will stop. The good news is that station owners are agreeing to send a clear message that such practice will not be tolerated by first eliminating some of the more blatant and abusive practices in the industry.

I believe that these compliance and business reform measures, which are consistent with the reform measures developed by the New York State Attorney General’s office, will change behavior in certain respects. Sunshine is truly the best disinfectant. There is a compelling need for greater and more effective governmental oversight. The FCC should play a role in ensuring the industry has sufficient safeguards in place. In that regard, the companies are required to submit annual compliance reports to the Commission. Additionally and, perhaps, more important, the Consent Decree provides the Commission with the unequivocal authority to gain access to the databases upon request.

I applaud the voluntary efforts of the broadcasters and the independent music community to develop a meaningful way to build and protect a healthy future for radio. With these efforts, more new music should surface on the airwaves, and our country's rich cultural diversity can continue to flourish and enrich the lives of everyone. I believe the good faith platform these reforms were built upon are sturdy and will develop over time, but the ultimate success of this initiative depends on the cooperation of a great number of people. This is a work-in-progress and will take considerable effort to fully realize. So, even as we take this critical step, I stand ready to help, whenever necessary, to ensure its ultimate success.

