

Federal Communications Commission
Washington, D.C. 20554

In reply refer to:
1800C1-JEE
98050026

Released: October 16, 1998

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Citicasters Co.
Licensee, WXTB(FM), Clearwater, FL
50 East RiverCenter Boulevard
Suite 1200
Covington, KY 41011

Dear Licensee:

This letter constitutes a NOTICE OF APPARENT LIABILITY FOR A FORFEITURE pursuant to Section 503(b) of the Communications Act of 1934, as amended.

The Commission has received information indicating that Radio Station WXTB(FM), Clearwater, FL, may have violated 18 U.S.C. § 1464 by broadcasting allegedly indecent material during broadcasts of "Bubba, the Love Sponge" on January 7, 18, and 22, 1998, and May 8, 1997, between 6 a.m. and 10 a.m. Transcripts of the allegedly indecent broadcasts, taken from tapes submitted by the complainant, are attached.

Pursuant to 47 U.S.C. §§ 312(a)(6) and 503(b)(1)(D), the Commission has statutory authority to take appropriate administrative action when licensees broadcast material in violation of 18 U.S.C. § 1464, which provides criminal penalties for anyone who "utters any obscene, indecent or profane language by means of radio communication."

The Commission has defined indecency as language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs. Infinity Broadcasting Corporation of Pennsylvania, 2 FCC Rcd 2705, 2705 (1987) (citing Pacifica Foundation, 56 FCC 2d 94, 98 (1975), aff'd sub nom. FCC v. Pacifica Foundation, 438 U.S. 726 (1978)). The United States Court of Appeals for the District of Columbia Circuit has upheld the Commission's authority to restrict the broadcast of indecent material at times when there is a reasonable risk that children may be in the audience. Action for Children's Television v. FCC, 852 F.2d 1332 (D.C. Cir. 1988). The court subsequently concluded that a 10:00 p.m. to 6:00 a.m. "safe harbor" was justified as a properly tailored means of vindicating the government's compelling interest in the welfare of children. Action for Children's Television v. FCC, 58 F.3d 654 (D.C. Cir. 1995), cert. denied, 116 S. Ct. 701 (1996).

It appears that the subject excerpts are indecent in that they contain language that describes sexual and/or excretory activities or organs in patently offensive terms. Because the material aired at times when there

was a reasonable risk that children may have been in the audience, it is legally actionable. Thus, it appears that on January 7, 18, and 22, 1998 and May 8, 1997, Station WXTB(FM) violated 18 U.S.C. § 1464 by airing indecent programming.

Accordingly, pursuant to Section 503(b) of the Communications Act of 1934, as amended, Citicasters Co. is hereby advised of its apparent liability for a forfeiture of TWENTY-THREE THOUSAND Dollars (\$23,000), for its apparent willful and repeated violations of 18 U.S.C. § 1464 on January 7, 18, and 22, 1998 and May 8, 1997. The amount specified for the 1998 broadcasts (\$21,000) was determined in accordance with the Commission's forfeiture guidelines. See In the Matter of The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines, FCC 97-218, July 28, 1997. The amount specified for the 1997 broadcast (\$2,000) was determined after direct consideration of the factors set forth in Section 503(b)(2) of the Act, including "the nature, circumstances, extent, and gravity of the violation."

In regard to this forfeiture proceeding, you are afforded a period of thirty (30) days from the date of this letter "to show, in writing, why a forfeiture penalty should not be imposed or should be reduced, or to pay the forfeiture. Any showing as to why the forfeiture should not be imposed or should be reduced shall include a detailed factual statement and such documentation and affidavits as may be pertinent." 47 C.F.R. § 1.80(f)(3). Other relevant provisions of Section 1.80 of the Commission's Rules are summarized in the attachment to this letter.

This letter was adopted by the Commission on October 9, 1998.

BY DIRECTION OF THE COMMISSION

Magalie Roman Salas
Secretary

Attachments

Radio Station: WXTB-FM, Clearwater, FL
Date/Time Broadcast: January 7, 18, & 22, 1998, and May 8, 1997, between 6 a.m. and 10 a.m.
Material Broadcast: Bubba, The Love Sponge

98050026

MV: Male Voice
MS: Male Singing
M2-5: Second thru Fifth Male Voice
FV: Female Voice

1/7/98

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MV: You guys stand by, cause, and be quiet because Ned just brought me a masterpiece that I got to play.
M2: Okay.
MV: Stand by.
M3: Think so.
MV: This is the Cowhead enema theme song?
M3: Yes, it is.
MS: (Music) Cowhead pulls down his corduroys, spreads his cheeks and, oh boy, his enormous butt print must be three or four feet long. Assume the position, Big Dick is his physician, moo, moo, moo, milk in Cowhead's back door. This act will be heinous, lactose in his a(Bleep)us, healthy dose of calcium inside his back door. Grease it with Mazola, then mix in some Granola, moo, moo, moo milk in Cowhead's back door. A gallon of homogenized, his colon will expand, he will take it all and some egg nog too. Moo, moo, moo. Grease it with Mazola, then mix in some Granola, moo, moo, moo milk in Cowhead's back door.
MV: You're on it.
M2: On it.
MV: Now tell me what you're doing right now, Big Dick, do you have the milk? Is it ready?
M2: It's ready.
M3: The milk is in the bottle.
MV: You guys are both talking at the same time.
M2: I'll point to you, go ahead, your turn.
M3: Okay, the milk is in the bottle. Cowhead is sitting on the toilet and we're ready to go.
MV: Now, are you naked or not Cowhead?
M3: No, I'm in my Yankee boxers shorts.
MV: That's all you have on right now?
M3: Oh, a T-shirt and sneakers.

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MV: You give me a play-by-play of what's going on.

WXTB

2.

M2: Cowhead's getting up so, he's bending over into the bathtub, so if he makes a mess I guess it will go in there.

MV: Okay, so now is he, now, do you have the camera there?

M2: I have the camera right here.

MV: I want the first photo to be of him like actually, you know, kneeling on his knees, face down, ass up.

M2: Boxers on or boxers off?

MV: Boxers off.

M2: Drop them Cowhead.

MV: Look at Big Dick, big gay faggot, he's actually getting kind of excited about it. Hurry up, drop them.

M3: I got a little pre, pre-enema right?

MV: That was a silent one?

M2: Okay.

MV: Are you, are you, is your ass exposed?

M3: Exposed as we speak.

MV: Big Dick take a picture of it.

M2: Alright. Okay, wonderful. There we go.

MV: Did you get a picture of it Cow, Big Dick?

M2: Yeah.

MV: I can hear the camera winding. Alright.

M2: Big Dick is going (Unintelligible).

MV: Now Big, Cowhead?

M3: Yeah.

MV: Go ahead and get ready. We're going to ahead and do it.

M3: I'm about as ready as I'm ever going to be for this.

MV: Cowhead is in the bathroom, Big Dick is the administer.

M4: No, I'm actually going to put it in and Dick is going to squeeze and.

MV: Okay, so you're going to go ahead and start it?

M4: Guido almost punctured the (Unintelligible).

MV: Okay, so you're going to go ahead and reach your behind and go ahead and start it. Big Dick will then squeeze the juice up into where he needs it.

M5: About every 30-seconds you need to clarify that we're talking about an enema here.

MV: Yes.

M2: Hold on. Okay.

MV: Now is it in yet?

M2: No, hold on.

MV: Big Dick, get ready for another picture.

M2: Alright. I'm ready.

M3: Okay.

MV: Get it started Cowhead.

M2: (Unintelligible). Going to have to put it a little.

M3: Just easy, easy.

M2: I know you're an enema novice.

M3: Just push it in slow.

WXTB

3.

M2: Alright, ready?
M3: Yeah, okay, that's as far as it's going.
MV: Hey, Big Dick, Big Dick, try to get an extra half inch out of it if you can.
M2: Alright.
M4: There's no more half inches. This is it.
M2: Oh, I can push it a little better Cowhead.
MV: You're really going to see, it's five inches long. We're talking about an enema right?
M2: Yes. (Laughter).
MV: This is the vitamin D, whole milk, Cowhead enema being administered by Big Dick. Cowhead, obviously the recipient.
M4: (Unintelligible). Dangling from the back door.

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M2: Alright, it's out.
M3: Oh.
MV: I wanted him to take it out real fast.
M3: Oh, thank you.
MV: Now, is it in there right now? Is it.
M3: No, it's out and I'm still in the kneeling position, I'm afraid if I move.
MV: Hey, Big Dick. (Blank). He might blow a gasket and he might, chocolate milk all over you.
M3: I'm in Pete's room right now. I came out of the bathroom, cause. (Unintelligible).
MV: Okay, Big Dick, did Big Dick go and get one last picture?
M3: Of what? I'm up now. Thank you. I'm going to sit on the john just in case.
MV: You need to stand up and do some jumping jacks or something. (Laughter).
M3: That will mix it up and I'll be pooping a milk shake. (Blank).
MV: You there?
M3: Yeah, where am I going to go? I got a body full of milk.
MV: You got a what?
M3: Body full of milk.
M2: Got milk.
M3: I got milk. Anybody want to check for a milk mustache?
M4: Oh.
MV: Cowhead's live in his apartment, Big Dick is, was the physician and administered the.
M4: Put that on a billboard.
M2: Can you see that on a billboard?
MV: Now, you're on the toilet right now?
M3: Yeah, I'm sitting in the squatting position. Oh, here's the first effect, you ready? Of the enema.
MV: I like the effect word.
M3: Here we go. Can't quite hear it but I'm making a number one, and it's not white. Hello. (Laughter).
MV: Waiting for some big gimmick to come out and.
M3: Hold on, hold on. Did you hear that?
MV: No.

WXTB

4.

M3: Well, it was nice big fart. I'm feeling very gaseous at this pint but there, so far there has been no enema reaction, as far as.

MV: There's been no, there's been no expelling?

M3: No expelling. But I feel the mucus rising.

MV: Maybe you'll get extra mucus because of it. You know when I drink milk I get I get a little phlegm action.

M3: Right.

MV: Maybe from now on your number two will kind of phlegmy.

M3: Mm.

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M3: To work to remove what's inside.

MV: Right.

M3: In this case we're just shoving fluids in my ass.

MV: I don't know if you can say that on the radio, shoving fluids in my ass.

M3: Okay, well I wouldn't repeat it if I can't say.

MV: Okay, I would just say, shoving fluids in a certain part of my body.

M3: Oh.

MV: Now you don't have any type of big fanfare, no big gimmick ready to go? (Slurping sounds).
Nothing like that?

M3: I'm trying my best.

MV: Can't go like. (Grunting sound).

M3: Pushing, all I keep doing is putting out little baby farts.

MV: So there's nothing?

M3: No.

MV: All this big build up and then Big Ned's theme song, got the big gimmick, got everything going.
I'm thinking of having Cowhead, you know, on the toilet ready to go.

M2: Here's where we get.

M4: Did you hear that?

M2: No.

MV: Chastity Bono was more lively than you this morning.

M3: I probably will be able to take a number two eventually.

MV: Can you start that process or no?

M3: I can give it a couple of pushes, you want to hold?

MV: Yeah, go ahead.

M3: Oh man, potentially, here hold on, alright hold on. I think I might have a little one. (Unknown sound). Alright, did you hear that one?

MV: Yeah.

M3: Okay, have to wait a second cause it takes time to travel through the system. Let me look at it.

M2: Push it, strain it.

M3: It looks normal. (Unknown sound). (Laughter).

M3: Just average, average.

MV: Little rabbit one.

M3: Little rabbit pellets. I imagine maybe, we'll break loose.

WXTB

5.

MV: Push hard Cowhead.

M3: I'm pushing, I got veins popping out of my forehead.

MV: Go ahead, those moles might pop right off.

M2: You can tell he's pushing.

M3: I'm out of breath.

MV: One more, last one. One big push.

M3: I'm trying, this is hard to orchestrate. Oh. (Laughter).

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1/18/98

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MV: Ask questions like is it okay to tease the tip?

M2: Yes.

MV: Do I have to swallow?

M2: Yes.

MV: What if I can't fit it into my mouth?

M2: Make it fit, in a way.

MV: So I'm happy to share with ladies and homosexual men some oral techniques and tips.

FV: I used to tip.

MV: Courtesy of a few men and woman interviewed by Cosmopolitan magazine.

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MV: She's 44, she's a publicist. Most women don't like swallowing but I do. The trick is you need to swallow at the right time. Do it when you're deep throating. Age 40, he's a musician. I like pleasure giving, I like a pleasure giving woman who really, really likes to enjoy giving oral. I changed the word, he used the other word.

M2: Right.

MV: She doesn't make it seem like a chore. She really gets into it. She does more than just go up and down, she's creative by licking, nibbling and using overall different techniques. I can sense when she puts her heart and soul into it, better yet, if she, you know, instead of using the word, swallow, I'm going to use the word consume. If she consumes me.

M2: Almost worse.

MV: It make me feel better. It's as if she's saying, I accept you, all of you. Mike, age 33, he's a tax accountant. The sexy turn on for me is when I, when I expel into my partner's mouth. It puts her in the position of doing whatever it takes to satisfy me. Geraldine, 40, she's a receptionist, I don't mind giving BJs, I used the initials, of course.

M2: Right, of course.

MV: However, a man has to, okay, hold on, I got to see how I'm going to read this. However, a man has to, if a man doesn't get off, that means he wasn't quite excited by my techniques.

WXTB

6.

1/22/98

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M5: I'm not a pervert, I'm not immoral, I'm just a President who likes a little oral. So on your knees now, that's an order, (Unintelligible) south of the border. You eat up like a big cucumber, Commander in Chief likes (Unintelligible) hummer. I just want to get done, fellatio. Kiss me right below, oh, oh, fellatio. (Unintelligible). Maybe we'll smoke some marijuana, then I'll show you my big pink iguana, about to blast off, like Apollo, it would make me happy if you spit or if you swallow. I just want to get done, fellatio.

* *

May 8, 1997

* *

MS: Go to sleep, go to sleep little boy, hurry up and grow up, so I have a new toy. I'm your dad, I'm your dad, I swear I'll never fail you. Hurry up and grow up, so I can touch your genitalia. (Baby crying). Don't you cry, settle down, I know child birth has. (Blank). Up, and grow up, so I can molest you. (Baby crying). Grow up little boy, I love you.

* *

M3: Does AC have his finger up your black ass? Is he a faggot too?

M2: Uh.

M3: Don't lie to me Juice, come on tell me, Al Collins is a faggot. Come on say it, Al Collins bends my black ass over and rides me like the guilt murdering mother(Bleep) I am.

M2: Oh.

M3: Now pull the trigger. Come on you big chicken. Come on, pull the trigger. You're a big man, big football star, big wife beater, come on.

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M3: She said you smelled bad. She said you had a little penis too. Like a Tootsie Roll, not a big Tootsie Roll, one of them little ones. She said you couldn't satisfy her. She said Ron Goldman had a big one. Twice as big as yours.

M2: I'm just going to go with me.

M3: Well do it, God damn it. Pull the trigger. Come on, pull the trigger Juice. You don't want to go to prison. You know what will happen to you in there. A pretty pro football player like you. They'll rape you Juice.

M2: Oh.

M3: Over and over again. 20-30 times a day.

WXTB

7.

M2: Uh.

M3: Big Rosy Grier looking bastards. Bending you over, anal rape-us Juice. They're going to love you good and long. Come on, you're going to have an (Bleep) hole the size of the Grand Canyon.

M2: Oh.

M3: O.J. Simpson, prison bitch.

* *

M4: (Parody of record commercial). Yes, Zam-fear is smoking on the skin flute. (Sounds of someone lapping object). You'll be mesmerized, by the deep, throaty sounds of the skin flute. No one can make a skin flute do the things that Zam-fear can. Zam-fear, master of the skin flute. Get yours today.

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MV: We've come to the conclusion that Blow Me, our intern, our female intern, is most attracted to Carl, our production guy. Who really, really is out to, out of all the people on the program that really need to get some oral.

FV: It's Carl.

MV: Carl is the one. Big Dick, honest to God, no lying Big Dick, no lying Big Dick. When was the last time that you got oral from a chick? Don't lie.

M2: Ah.

MV: That's the bad thing about it, you're going to lie right now.

M2: I'm not going to lie about it, man. Not going to lie about it man.
Let's get high.

FV: It doesn't count if she didn't want to do it either.

MV: Now, Blow Me, would you take Carl or Big Dick? Which one would you take? I think she kind of likes Carl.

FV: Big Dick is afraid I think.

MV: Big Dick, let me ask you a question. Flat out, flat out. If Blow Me said, let's go back in the office, we can lock the door, when I want to take care of you, would you do it?

M2: No.

MV: Why?

M2: It's like that (Unintelligible) thing, I can't be involved with anybody I work with. I can't.

MV: You don't work, she doesn't work here, she's an intern.

M2: Well, so am I so it's the same thing.

* *