



NEWS

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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COMMISSION PROPOSES A FORFEITURE AGAINST WKRK-FM FOR APPARENT INDECENCY VIOLATION

Washington, D.C. – Today, the Commission issued a *Notice of Apparent Liability* (NAL) to Infinity Broadcasting Operations, Inc., licensee of WKRK-FM, Detroit, Michigan. The NAL is based on Infinity's apparent willful violation of statutory and regulatory provisions restricting the broadcast of indecent material during the hours of 6:00 a.m. to 10:00 p.m. The Commission proposed a forfeiture in the amount of \$27,500 against Infinity based on material that aired on WKRK-FM on January 9, 2002, between 4:30 p.m. and 5:00 p.m.

The Commission based this action on the results of its investigation triggered by a complaint concerning material in which station personnel invited listeners to call WKRK-FM to discuss sexual practices and techniques. Specifically, the Commission found that the broadcast included explicit and graphic sexual and excretory references during separate discussions with nine individuals. In addition, the Commission found that this material was extremely lewd and vulgar, and that it appeared to have been used to pander, titillate and shock. Thus, the Commission concluded that the material apparently met the indecency standard and warranted sanction.

The Commission proposed an upward adjustment of the forfeiture penalty from the base amount of \$7,000 set forth in the Commission's rules, to the statutory maximum of \$27,500, based upon the egregious nature of the violation. The Commission also noted that additional serious violations by Infinity may lead to a revocation proceeding, and put broadcasters on notice that the Commission would not hesitate to adopt strong enforcement actions in the future, including possible license revocation.

The Commission additionally noted that the broadcast material at issue could have resulted in a finding of apparent repeated violations because there were several distinct conversations, each of which could have been viewed as a separate violation. Although the Commission treated the material at issue as a single violation, it announced that, in the future, similar material within a single program may be treated as multiple, repeated violations with the accompanying increase in forfeitures.

Action by the Commission, April 3, 2003, Notice of Apparent Liability for Forfeiture, FCC 03-71. Chairman Powell, Commissioners Abernathy, Martin and Adelstein with Commissioner Copps dissenting and issuing a statement. Commissioners Martin and Adelstein issuing separate statements.

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