

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
	)	
<b>AMFM RADIO LICENSES, LLC</b>	)	File Nos. EB-02-IH-0472
	)	EB-02-IH-0494
	)	NAL/Acct. No.200432080003
Licensee of Station WWDC-FM	)	FRN 0003720935
Washington, DC	)	Facility ID No. 8682
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted:** September 30, 2003

**Released:** October 2, 2003

By the Commission: Commissioner Martin concurring and issuing a separate statement; Commissioner Adelstein issuing a separate statement; Commissioner Copps dissenting and issuing a separate statement.

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), issued pursuant to section 503 of the Communications Act of 1934, as amended (the “Act”) and section 1.80 of the Commission’s rules,<sup>1</sup> we grant complaints from Reverend Michael G. Taylor and from Catherine P. Henry<sup>2</sup> and find that AMFM Radio Licenses, LLC (“AMFM”), licensee of Station WWDC-FM, Washington, DC, apparently violated 18 U.S.C. § 1464 and 47 C.F.R. § 73.3999, by willfully and repeatedly airing indecent material over the station during its May 7 and 8, 2002, broadcasts of the “Elliott in the Morning” program. Based upon our review of the facts and circumstances in this case, we conclude that AMFM is apparently liable for a monetary forfeiture in the amount of Fifty-Five Thousand Dollars (\$55,000.00).

**II. BACKGROUND**

2. The Commission received complaints that Station WWDC-FM broadcast indecent material on May 7 and 8, 2002, at or about 8:00 a.m. during the “Elliot in the Morning” program. The complaints seek Commission redress for the broadcasts’ alleged use of “crude language, explicit sexual references” and “blatant attempt to mock” the Bishop Denis J. O’Connell High School (“Bishop

<sup>1</sup> 47 U.S.C. § 503(b)(2002); 47 C.F.R. § 1.80(2002).

<sup>2</sup> See Letter from Reverend Michael G. Taylor, Chaplain, Assistant Principal, Bishop O’Connell High School, to Commissioner Michael J. Copps, Federal Communications Commission, dated May 23, 2002 (“Reverend Taylor Letter”); Letter from Catherine P. Henry to Enforcement Bureau, Federal Communications Commission, Enforcement Bureau, dated May 8, 2002 (complaining about the broadcasts and additionally enclosing 73 letters from Bishop O’Connell students, who complained that the broadcasts denigrated Bishop O’Connell High School’s principal and student body).

O’Connell High School”) community, generally, and the Bishop O’Connell High School students, administration and principal, particularly.<sup>3</sup> In support of his complaint, Reverend Taylor submitted an audio tape of both broadcasts.<sup>4</sup>

3. The portion of the May 7 broadcast in question involved a station-sponsored promotion, during which two female students called in for the opportunity to audition to dance in a cage at an upcoming rock music concert.<sup>5</sup> At the prompting of the program hosts, the two callers identified themselves as students at Bishop O’Connell High School, described their physical attributes in terms of “both [being] pretty hot,”<sup>6</sup> provided their bra sizes,<sup>7</sup> and otherwise engaged in sexual banter with the program hosts.<sup>8</sup> The program hosts continued to probe by asking the two female students leading questions, such as whether they were “kind of like an exhibitionist,”<sup>9</sup> “flash[ed] from time to time,” did occasional “little show[s] at parties” together with their “boobies out,”<sup>10</sup> “at school lined like two or three guys up against the lockers,”<sup>11</sup> and had sexual encounters in the school’s stairwells and closets.<sup>12</sup> The program hosts also asked the two female students whether they had “ever hooked up” or “made out with a teacher.”<sup>13</sup> During their interview with the two female students, the program hosts repeatedly returned to the subject of their “lining up” boys “against their lockers,”<sup>14</sup> and interjected loud sucking and slurping sounds.<sup>15</sup>

4. The portion of the May 8 broadcast in question related to the two female students’ suspension from Bishop O’Connell High School, the consequence of their interview during the May 7 broadcast. The program hosts continued their repeated references to oral sex during this broadcast, commencing the segment by reading from the Bishop O’Connell High School’s website’s stated school mission of “pursuit of excellence of the whole person” and interjecting, “and then you go down.”<sup>16</sup> Noting the website’s stated objective of “a healthy lifestyle” for the school’s students, speaking as if his mouth was full and with loud sucking and slurping sounds in the background, one program host made reference to “healthful protein.”<sup>17</sup> The program hosts also criticized the girls’ suspension from school by remarking that “if they’re blowing guys at the school, that’s not their fault . . . the school needs to do a better job policing,” and “some of the priests would ask if they had brothers.”<sup>18</sup> Referring to the high school administration’s apparent concern about the school’s reputation, the program hosts further stated

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<sup>3</sup> Reverend Taylor Letter at 1.

<sup>4</sup> See Program transcript, Attachment A.

<sup>5</sup> *Id.* at 10-15

<sup>6</sup> *Id.* at 14.

<sup>7</sup> *Id.* at 11, 14.

<sup>8</sup> *Id.* at 10-12, 14-15.

<sup>9</sup> *Id.* at 11.

<sup>10</sup> *Id.* at 14.

<sup>11</sup> *Id.* at 12.

<sup>12</sup> *Id.* at 15.

<sup>13</sup> *Id.* at 14-15.

<sup>14</sup> *Id.* at 12, 14-17.

<sup>15</sup> *Id.* at 12.

<sup>16</sup> *Id.* at 17.

<sup>17</sup> *Id.* at 17-18.

<sup>18</sup> *Id.* at 20.

that “people spend a lot of money to get that [Bishop O’Connell High School’s] image,” and “people spend a lot of money to go to college [and] it ain’t like people ain’t screwing there.”<sup>19</sup> The program hosts also took calls from several other Bishop O’Connell High School students, asking one male student if he “was one of the guys that [the two female callers] blew in the hallways,”<sup>20</sup> and another if he “ever had [his] back up against a locker.”<sup>21</sup> Finally, the program hosts asked one student caller if, after the May 7 broadcast, the Bishop O’Connell High School principal “actually g[ot] on the P.A. system and talk[ed] about how they [the two female caller students] were giving blowjobs in the hallway,” speculated that the principal probably had “never gotten a blowjob from his wife,” and said that they “hear [the principal] told [one of the female caller students] she’s gotta give up semen for Lent.”<sup>22</sup>

5. After reviewing the complaints and the audio tape, the staff issued a letter of inquiry to AMFM, with which we enclosed a copy of the tape.<sup>23</sup> Clear Channel Communications, Inc. (“Clear Channel”), corporate parent of AMFM, responded to the letter of inquiry.<sup>24</sup> Clear Channel did not dispute that WWDC-FM had broadcast the material contained in the tape, at the dates and times set forth in the complaints, but claimed that, because the tape appeared to contain some omissions, it was not an accurate record of the entire broadcasts. Clear Channel also asserted that the material is not actionably indecent under the Commission’s established policies. In response to a further letter of inquiry,<sup>25</sup> Clear Channel advised that it aired the material in question only on WWDC-FM.<sup>26</sup>

### III. DISCUSSION

6. The Federal Communications Commission is authorized to license radio and television broadcast stations and is responsible for enforcing the Commission’s rules and applicable statutory provisions concerning the operation of those stations. The Commission’s role in overseeing program content is very limited. The First Amendment to the United States Constitution and section 326 of the Act prohibit the Commission from censoring program material and from interfering with broadcasters’ freedom of expression.<sup>27</sup> The Commission does, however, have the authority to enforce statutory and regulatory provisions restricting indecency. Title 18 of the United States Code, Section 1464 prohibits the utterance of “any obscene, indecent or profane language by means of radio communication.”<sup>28</sup> In addition, section 73.3999 of the Commission’s rules provides that radio and television stations shall not broadcast indecent material during the period 6 a.m. through 10 p.m.

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<sup>19</sup> *Id.* at 23.

<sup>20</sup> *Id.* at 24.

<sup>21</sup> *Id.* at 26.

<sup>22</sup> *Id.* at 23-24, 26.

<sup>23</sup> See Letter from Charles W. Kelley, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission to AMFM Radio Licenses, LLC, dated November 15, 2002.

<sup>24</sup> See Letter from Kenneth E. Wyker, Senior Vice President and General Counsel, Clear Channel Communications, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, dated December 16, 2002 (“Clear Channel Response to Inquiry”).

<sup>25</sup> See Letter from Maureen F. Del Duca, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission to AMFM Radio Licenses, LLC, dated July 2, 2003. We note that the staff appropriately now routinely asks, in letters of inquiry issued in response to indecency complaints, whether the licensee (or co-owned stations) broadcast the complained-of material on other stations.

<sup>26</sup> See Letter from Richard W. Wolf, Vice President, Clear Channel Communications, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, dated July 7, 2003.

<sup>27</sup> See 47 U.S.C. § 326(2002).

<sup>28</sup> See 18 U.S.C. § 1464.

7. Under section 503(b)(1) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a monetary forfeiture penalty.<sup>29</sup> In order to impose such a forfeiture penalty, the Commission must issue a notice of apparent liability, the notice must be received, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.<sup>30</sup> The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.<sup>31</sup> As we set forth in greater detail below, we conclude under this standard that AMFM is apparently liable for a forfeiture for its apparent willful and repeated violations of 18 U.S.C. § 1464 and section 73.3999 of the Commission's rules.

#### A. Indecency Analysis

8. Any consideration of government action against allegedly indecent programming must take into account the fact that such speech is protected under the First Amendment to the United States Constitution. The federal courts consistently have upheld Congress's authority to regulate the broadcast of indecent speech, as well the Commission's interpretation and implementation of the governing statute.<sup>32</sup> Nevertheless, the First Amendment is a critical constitutional limitation that demands that, in indecency determinations, we proceed cautiously and with appropriate restraint.<sup>33</sup>

9. The Commission defines indecent speech as language that, in context, depicts or describes sexual or excretory activities or organs in terms patently offensive as measured by contemporary community standards for the broadcast medium.<sup>34</sup>

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<sup>29</sup> 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1); *see also* 47 U.S.C. § 503(b)(1)(D) (forfeitures for violation of 14 U.S.C. § 1464). Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the section 503(b) context. *See, e.g., Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991) ("*Southern California Broadcasting Co.*"). The Commission may also assess a forfeiture for violations that are merely repeated, and not willful. *See, e.g., Callais Cablevision, Inc., Grand Isle, Louisiana*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359 (2001) (issuing a Notice of Apparent Liability for, *inter alia*, a cable television operator's repeated signal leakage). "Repeated" merely means that the act was committed or omitted more than once, or lasts more than one day. *Southern California Broadcasting Co.*, 6 FCC Rcd at 4388, ¶ 5; *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, ¶ 9.

<sup>30</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

<sup>31</sup> *See, e.g., SBC Communications, Inc.*, Apparent Liability for Forfeiture, Forfeiture Order, 17 FCC Rcd 7589, 7591, ¶ 4 (2002) (forfeiture paid).

<sup>32</sup> Title 18 of the United States Code, section 1464 (18 U.S.C. § 1464), prohibits the utterance of "any obscene, indecent or profane language by means of radio communication." *FCC v. Pacifica Foundation*, 438 U.S. 726 (1978). *See also Action for Children's Television v. FCC*, 852 F.2d 1332, 1339 (D.C. Cir. 1988) ("*ACT I*"); *Action for Children's Television v. FCC*, 932 F.2d 1504, 1508 (D.C. Cir. 1991), *cert. denied*, 503 U.S. 914 (1992) ("*ACT II*"); *Action for Children's Television v. FCC*, 58 F.3d 654 (D.C. Cir. 1995), *cert. denied*, 516 U.S. 1043 (1996) ("*ACT III*").

<sup>33</sup> *ACT I*, 852 F.2d at 1344 ("Broadcast material that is indecent but not obscene is protected by the First Amendment; the FCC may regulate such material only with due respect for the high value our Constitution places on freedom and choice in what people may say and hear.") *See also United States v. Playboy Entertainment Group, Inc.*, 529 U.S. 803, 813-15 (2000).

<sup>34</sup> *Infinity Broadcasting Corporation of Pennsylvania*, 2 FCC Rcd 2705 (1987) (subsequent history omitted) (citing *Pacifica Foundation*, 56 FCC 2d 94, 98 (1975), *aff'd sub nom. FCC v. Pacifica Foundation*, 438 U.S. 726 (1978)).

Indecency findings involve at least two fundamental determinations. First, the material alleged to be indecent must fall within the subject matter scope of our indecency definition—that is, the material must describe or depict sexual or excretory organs or activities. . . . Second, the broadcast must be *patently offensive* as measured by contemporary community standards for the broadcast medium.<sup>35</sup>

As an initial matter, Clear Channel does not dispute that it aired material describing or depicting sexual activities. Although, in its response to the staff’s inquiry letter, Clear Channel maintains that, because the tape “has obviously been heavily edited,” it “is not a complete and accurate record of the entire broadcast on the dates in question,” Clear Channel does not dispute that it did, in fact, broadcast the material on the tape, conceding that “the tape contains material broadcast by WWDC-FM, on or about May 7 or 8, 2002.”<sup>36</sup> The principal focus of the program segments was the sexual practices of the two May 7 student callers and of other students at Bishop O’Connell High School. That material, therefore, warrants further scrutiny to determine whether or not it was patently offensive as measured by contemporary community standards for the broadcast medium.<sup>37</sup>

10. In our assessment of whether broadcast material is patently offensive, “the *full context* in which the material appeared is critically important.”<sup>38</sup> Three principal factors are significant to this contextual analysis: (1) the explicitness or graphic nature of the description; (2) whether the material dwells on or repeats at length descriptions of sexual or excretory organs or activities; and (3) whether the material appears to pander or is used to titillate or shock.<sup>39</sup> In examining these three factors, we must weigh and balance them to determine whether the broadcast material is patently offensive because “[e]ach indecency case presents its own particular mix of these, and possibly, other factors.”<sup>40</sup> In particular cases, one or two of the factors may outweigh the others, either rendering the broadcast material patently offensive and consequently indecent,<sup>41</sup> or, alternatively, removing the broadcast material from the realm of indecency.<sup>42</sup> We turn now to our analysis of the three principal factors in our decision.

11. First, the comments made by the program hosts during the broadcasts contained graphic and explicit references to sexual activities, including repeated references to “blow jobs.”<sup>43</sup> In addition to these references and consistent with that tone, the hosts both simulated the act of oral sex, by repeatedly

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<sup>35</sup> *Industry Guidance on the Commission’s Case Law Interpreting 18 U.S.C. §1464 and Enforcement Policies Regarding Broadcast Indecency (“Indecency Policy Statement”)*, 16 FCC Rcd 7999, 8002, ¶¶ 7-8 (2001) (emphasis in original).

<sup>36</sup> Clear Channel Response to Inquiry at 1.

<sup>37</sup> The “contemporary standards for the broadcast medium” criterion is that of an average broadcast listener and with respect to Commission decisions, does not encompass any particular geographic area. *See id.* at ¶ 8 and n. 15.

<sup>38</sup> *Indecency Policy Statement*, 16 FCC Rcd at 8002, ¶ 9 (emphasis in original). In this regard, in order for us to be in a position to judge the context of particular material, once a complainant makes a *prima facie* case, it is appropriate for the staff to seek from the licensee a tape or transcript not only of the relevant material, but also of a reasonable amount of preceding and subsequent material.

<sup>39</sup> *Id.* at 8002-15, ¶¶ 8-23.

<sup>40</sup> *Id.* at 8003, ¶ 10.

<sup>41</sup> *Id.* at 8009, ¶ 19 (citing *Tempe Radio, Inc (KUPD-FM)*, 12 FCC Rcd 21828 (MMB 1997) (forfeiture paid) (extremely graphic or explicit nature of references to sex with children outweighed the fleeting nature of the references); *EZ New Orleans, Inc. (WEZB(FM))*, 12 FCC Rcd 4147 (MMB 1997) (forfeiture paid) (same).

<sup>42</sup> *Id.* at 8010, ¶ 20 (“the manner and purpose of a presentation may well preclude an indecency determination even though other factors, such as explicitness, might weigh in favor of an indecency finding”).

<sup>43</sup> *See* notes 18, 20 and 22, and accompanying text, *supra*.

making loud sucking and slurping sounds, and relied upon colloquial terms, by repeatedly referring to locker line-ups and interjecting remarks such as “giv[ing] up semen for Lent,” “go[ing] down,” and taking in “healthful protein.”<sup>44</sup> To the extent that the sound effects or colloquial terms that the program hosts used to describe sexual activities could be described as innuendo rather than as direct references, they are nonetheless sufficient to render the material actionably indecent because the sexual import of those sounds and terms was “unmistakable.”<sup>45</sup> Given the explicit references and the graphic manner in which the broadcasts described the activities of the Bishop O’Connell High School students, there is no non-sexual meaning that a listener could possibly have attributed to these terms.<sup>46</sup> Therefore, we find that the broadcasts at issue described sexual activities through the use of direct references, simulation, and/or innuendo that were sufficiently explicit or graphic to be deemed patently offensive as measured by contemporary community standards for the broadcast medium.

12. Second, the program hosts, in their dialogue between each other and with callers, continuously focused on the sexual activities of the two initial female callers and other students at Bishop O’Connell High School. The sexual discussion and references were not fleeting or isolated. Rather, discussions about and references to sexual activity pervaded, and were the subject of, both the May 7 and 8 broadcasts. Thus, the sexual discussions and references were more than sufficiently dwelled upon and repeated to constitute patently offensive material as measured by contemporary standards.

13. Finally, and perhaps most significantly, several characteristics of the manner in which the station presented this material establish that AMFM intended that both broadcasts pander and shock listeners. As an initial matter, the program hosts’ continued and repeated references to the Bishop O’Connell High School students’ sexual activities and comments about the school’s administrators and their sexual practices clearly evince such an intent with regard to the listening audience. During the May 7 broadcast, the program hosts geared their questions to the two female student callers to elicit information from them regarding their sexual practices, focusing on the topic of oral sex in the hallways of the school.<sup>47</sup> On May 8, they turned their attention to seeking similar information from their other student callers because the girls, in response to the program hosts’ encouragement, claimed they had performed oral sex on other students at the school. The program hosts were not chastened by the notoriety with young listeners that the May 7 broadcast engendered; rather, they continued their pandering in interviews with other student callers and continued their efforts to shock listeners by focusing on sexual activities in a school setting. Both broadcasts occurred at or about 8 a.m., when there was a reasonable risk that children would be in the audience, on their way to or getting ready for school. Indeed, in light of the number of student callers to the programs, that risk became reality. The WWDC-FM broadcasts targeted the very segment of the population - - children, including teenagers under the age of 18 -- whom the government has a recognized and compelling interest to shield from indecent material.<sup>48</sup> By goading these teenagers to discuss their sexual activities in a titillating and offensive manner, the program hosts set out to pander and to shock listeners. In this regard, the program hosts’ use of loud sucking and slurping sounds when referring to oral sex demonstrates that, in context, this program was not simply a non-pandering discussion of contemporary high school sexual behavior. For these reasons, we find that the May 7 and 8 broadcasts were patently offensive as measured by contemporary community standards for the broadcast medium.

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<sup>44</sup> See notes 11, 15, 16, 17, 19 and 22, and accompanying text, *supra*.

<sup>45</sup> See *Indecency Policy Statement*, 16 FCC Rcd at 8003-04, ¶ 12 (2002); see also *Telemundo of Puerto Rico License Corp. (WKAQ-TV)*, 16 FCC Rcd 7157 (EB 2001) (forfeiture paid); *Citcasters Co. (KEGL(FM))*, 15 FCC Rcd 19091 (EB 2000) (forfeiture paid).

<sup>46</sup> See *Sagittarius Broadcast Corporation*, 7 FCC Rcd 6873, 6874 (1972) (subsequent history omitted).

<sup>47</sup> See notes 11 through 14, *supra*.

<sup>48</sup> See *ACT III*, 58 F.3d at 660-63.

14. Clear Channel's claims notwithstanding, the material presented in the May 7 and 8 broadcasts is similar to other material concerning sexual activities involving teenagers that the Bureau has found to be apparently indecent.<sup>49</sup>

15. In sum, by broadcasting this material on May 7 and 8, 2002, within the 6 a.m. to 10 p.m. time period relevant to an indecency determination under section 73.3999 of the Commission's rules, AMFM apparently violated 18 U.S.C. § 1464 and the Commission's rules against broadcast indecency.

#### **B. Proposed Forfeiture**

16. Based upon our review of the record in this case, we conclude that AMFM is apparently liable for forfeitures for two willful and repeated violations of our rules, one for each of the broadcasts at issue here. The Commission's *Forfeiture Policy Statement* sets a base forfeiture amount of \$7,000.00 for transmission of indecent materials.<sup>50</sup> The *Forfeiture Policy Statement* also specifies that the Commission shall adjust a forfeiture based upon consideration of the factors enumerated in section 503(b)(2)(D) of the Act, 47 U.S.C. § 503(b)(2)(D), such as "the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."<sup>51</sup> In this case, taking all of these factors into consideration, we find that AMFM is apparently liable for a forfeiture of \$55,000.00, reflecting the proposed imposition of the maximum forfeiture amount for the broadcast of apparently indecent material on two separate occasions (2 x \$27,500.00). Based upon our review of the entire record, we believe that this upward adjustment to the statutory maximum is warranted. The continued and repeated references to sexual activities of the Bishop O'Connell High School students and administrators were calculated to engender notoriety and were targeted toward children, including teenagers under the age of 18. Moreover, the material broadcast on two consecutive days was extensive. Accordingly, we believe the egregious nature of the violations and the degree of culpability justifies an increase to the full amount. Additionally, there is a recent history of indecent broadcasts on stations controlled by Clear Channel Communications, Inc., AMFM's corporate parent, which justifies imposition of the maximum forfeiture amount.<sup>52</sup> We reiterate our recent statement that multiple serious violations of our indecency rule by broadcasters may well lead to license revocation proceedings.<sup>53</sup>

### **IV. ORDERING CLAUSES**

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<sup>49</sup> See, e.g., *Citicasters Co. (KEGL(FM))*, 16 FCC Rcd 7546 (EB 2001) (forfeiture paid) (finding a station apparently liable for broadcasting a dialogue between program hosts and a female teenage caller in which she engaged in sexual banter with the hosts, responded to their probing questions and described her masturbating activities); *Infinity Broadcasting Operations, Inc. (WNEW(FM))*, 17 FCC Rcd 10665 (EB 2002)(response pending)(finding a station apparently liable for airing a segment, during the program's promoted "Teen Week," in which the program hosts gave detailed instructions to and encouraged a teenage girl caller to masturbate by rubbing a telephone across her pubic area).

<sup>50</sup> *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), recon. denied 15 FCC Rcd 303 (1999) ("Forfeiture Policy Statement"); 47 C.F.R. § 1.80(b).

<sup>51</sup> *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01, ¶ 27.

<sup>52</sup> *Citicasters Co. (KEGL(FM))*, 16 FCC Rcd 7546 (EB 2001) (forfeiture paid); *Citicasters Co. (KSJO(FM))*, 15 FCC Rcd 19095 (EB 2000)(forfeiture paid); *Citicasters Co. (KSJO(FM))*, 15 FCC Rcd 19091 (EB 2000)(forfeiture paid).

<sup>53</sup> See *Infinity Broadcasting Operations, Inc. (WKRK-FM)*, 18 FCC Rcd 6915, 6919, ¶ 13 (2003)(response pending).

17. ACCORDINGLY, IT IS ORDERED, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that AMFM Radio Licenses, LLC is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of Fifty-Five Thousand Dollars (\$55,000.00) for willfully and repeatedly violating 18 U.S.C. § 1464 and 73.3999 of the Commission's rules.

18. IT IS FURTHER ORDERED, pursuant to section 1.80 of the Commission's rules, that within thirty (30) days of this Notice, AMFM Radio Licenses, LLC SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

19. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FCC Registration Number (FRN) referenced above and also must note the NAL/Acct. Number referenced above.

20. The response, if any, must be mailed to Maureen F. Del Duca, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 3-B443, Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. Number referenced above.

21. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

22. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, SW, Washington, DC 20554.<sup>54</sup>

23. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If AMFM qualifies as a small entity and if it wishes to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in its response to the NAL or in a separate filing to be sent to the Investigations and Hearings Division. Its certification should indicate whether AMFM, including its parent entity and its subsidiaries, meets one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities ("OCBO") set forth in Attachment B of this Notice of Apparent Liability. This information will be used for tracking purposes only. AMFM's response or failure to respond to this question will have no effect on its rights and responsibilities pursuant to section 503(b) of the Communications Act. If AMFM has questions regarding any of the information contained in Attachment B, it should contact OCBO at (202) 418-0990.

24. Accordingly, IT IS ORDERED, that the complaints filed against Station WWDC-FM's broadcast of the "Elliott in the Morning" program on May 7 and 8, 2002, ARE GRANTED, and the

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<sup>54</sup> 47 C.F.R. § 1.1914 (2002).

complaint proceeding IS HEREBY TERMINATED.<sup>55</sup>

25. IT IS FURTHER ORDERED that a copy of this *Notice of Apparent Liability For Forfeiture* shall be sent, by Certified Mail Return Receipt Requested, to AMFM Radio Licenses, LLC, Kenneth E. Wyker, Esq., Senior Vice President and General Counsel, Clear Channel Communications, Inc., 200 E. Basse Road, San Antonio, Texas 78209; to counsel for AMFM, Evan S. Henschel, Esq., Wiley, Rein & Fielding, LLP, 1776 K Street, NW, Washington, D.C. 20006; to Reverend Michael G. Taylor; and to Catherine P. Henry.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>55</sup> Consistent with section 503(b) of the Act and Commission practice, for the purposes of the forfeiture proceeding initiated by this NAL, AMFM shall be the only party to this proceeding.

**ATTACHMENT A****Program Transcript**

Radio Station: WWDC-FM, Washington, DC  
Dates/Time of Broadcasts: May 7, 2002 and May 8, 2002, between 6 a.m. and 10 p.m.  
Material Broadcast: The Elliot in the Morning Show

**May 7, 2002**

E: Elliot

D: Diane

2M: Dan

FC1: First Female Student Caller

FC2: Second Female Student Caller

F: Flounder

**E:** Hi. DC101.

**FC1:** Hi.

**E:** Who is this?

**FC1:** It's [first female student caller].

**E:** Hi [first female student caller]. How are you?

**FC1:** I'm good. How are you?

**E:** I'm doing well. You sound very chipper today, [first female student caller].

**FC1:** I'm in a good mood.

**E:** Yeah, how old are you?

**FC1:** I'm 18.

**E:** Mmm. I like that. I think you're our first 18 year-old.

**FC1:** [Giggling] I have been listening all morning, so.

**D:** You'd be the youngest.

**E:** You get the advantage going in.

**FC1:** Yes, I'm the youngest.

**E:** Right, and ah, where do you live [first female student caller]?

**FC1:** Alexandria.

**E:** Are you in school?

**FC1:** Ah, I should be in school right now, but I've been waiting to talk to you guys.

**E:** High school?

**FC1:** Yeah.

**E:** Oh, God bless.

**D:** Where?

**FC1:** Ah, Bishop O'Connell.

**E:** ExcelLent.

**D:** Oh, private school girl.

**E:** Any prom dates? [Laughter from E]

**FC1:** Ah, no [unintelligible] prom already.

**E:** As if the Catholic Church doesn't have enough problems right now.

**FC1:** That's true.

**E:** Alright. So, [first female student caller] are you a senior?

**FC1:** Yeah.

**E:** Ah, do ah do ah everybody there at school find uh you irresistibly hot?

**FC1:** Ah, I'd like to say so.

**E:** Yeah. You a popular girl at school?

**FC1:** Uh, decently popular.

**2M:** Now are you going to Ivy League next year?

**FC1:** No.

**E:** [Laughter from 2M] Who cares? Are you kind of like an exhibitionist?

**FC1:** Yeah. Some people say so.

**E:** And you want to flash from time to time?

**FC1:** I've been known to do that.

**E:** Yes, of course you have. I gotta ask you what size bra?

**FC1:** Ummm, 34-C.

**E:** Really?

**FC1:** Yeah.

**E:** For a senior, that's excelLent. [Laughter from FC1]

**D:** For a senior.

**E:** That's good. Ahhh alright.

**2M:** How well do you know the football team? [Laughter from D]

**FC1:** Pretty well.

**2M:** Awesome.

**E:** You've never lined like four or five guys up against lockers have you?

**FC1:** Not four or five.

**E:** One or two?

**FC1:** Two or three. [Laughter from E, D and 2M]

**E:** Really?

**D:** I think Dan just won the lottery. [Laughter from E, D and 2M]

**E:** So Dan's quitting his job. [Laughter from E, D and 2M]

**SM:** That's the Powerball right there.

**E:** So wait a minute. So at school you've lined like two or three guys up against the lockers and like ahhh. [Loud sucking sounds from E]

**FC1:** [Laughter ] Ahhh. Like yeah.

**E:** Really?

**FC1:** Yeah. I'm here with my friend [second female student caller]. She wants to dance too.

**E:** I'll get to [second female student caller] in a moment. [Laughter from E, D and 2M] Really.

**FC1:** Yeah. We want to dance with you.

**E:** Oh, uh not a problem honey.

[Break in the audio-tape]

**FC1:** Um, probably about 8 or 9.

- E:** Hm. Hm. Hm. Hm. Alright. And you can be here on Thursday. Well, what about school on Thursday?
- D:** Yeah.
- FC1:** Ah, well. I don't go to school quite as often as I should. [Laughter from E, D and 2M]
- D:** Quite as often as you should.
- E:** Hey, do you know my next door neighbor? [Laughter from E, D and 2M]
- D:** Well, [first female student caller] you're already accepted to the college of your choice right?
- FC1:** Yes I am. [Laughter from E]
- D:** Where you gonna go?
- FC1:** I'm gonna go to VCU.
- D:** VCU.
- E:** Very good.
- 2M:** So that's okay, but not the Ivy League question.
- E:** Yeah. No, VCU's fine. No, that's good.
- D:** She's an artist.
- E:** You should check out Radford. [Laughter from E]
- 2M:** She could get all A's there. [Laughter from E]
- E:** Alright. Very good, [first female student caller]. Yes, you hold on one second and Flounder's gonna get some information from you, okay?
- FC1:** Okay, no problem.
- E:** Alright. Very good. Hold on one second.
- 2M:** What about her friend? Did you talk to her friend?
- D:** [Second female student caller].
- E:** Oh, you know what put [second female student caller] on real quick.
- FC1:** Okay, here. Just a sec.
- FC2:** Hello
- E:** Hi [second female student caller].

**FC2:** Hi. How are you?

**E:** I'm well. Thank you. [Second female student caller] are you also 18?

**FC2:** Yes, I am.

**E:** And you also go to Bishop O'Connell?

**FC2:** Yes, I do.

**E:** Uh-huh. Let me ask you, you better looking than [first female student caller]?

**FC2:** Um, I don't know. I think we're both pretty hot.

**E:** Right.

**E:** Have you two ever hooked up?

**FC2:** No, but we've been known to do our little show at parties and what not.

**E:** Uh, what do you mean your little show?

**FC2:** Like we dance together, you know?

**D:** Yeah.

**2M:** Hmmm.

**E:** Like with your boobies out?

**FC2:** Ah, it all depends on who's there. I mean I'm not gonna just. Yeah.

**D:** Right.

**E:** Well, I mean like on Thursday like maybe I'll have you two dance together?

**FC2:** Yes, of course.

**E:** Okay. ExcelLent. [Laughter from D] Are you also a 34-C?

**FC2:** I'm actually a 36-D. Full D.

**2M:** Full D.

**FC2:** And my nickname with all my friends is "J-Lo" so I got the booty to go with it.

**E:** Oh, you got a little butt back there.

**FC2:** Yeah.

**E:** Oh, that's fine. 36-D. J-Lo. [Laughter from E, D and 2M]. Thank God for the hormones in milk. [Laughter from E, D and 2M] Have you ever done the uh locker lineup at school?

**FC2:** Um, a little bit of that. I'm more like in the secluded area.

**E:** Stairwell.

**FC2:** Yes.

**E:** Really.

**D:** Janitor's closet.

**E:** More than with the janitor. [Laughter from D] [Knocking sound]

**2M:** Awesome.

**E:** [Impersonating a janitor with a Mexican accent] Need to be coming on in please. Wet spill in my pants please. [Laughter from E, D and 2M].

**D:** Oh God. [Laughter from D]

**E:** [Laughter from E] Have you ever made out with a teacher?

**FC2:** No. [Laughter]

**E:** No.

**2M:** Naw, please.

**E:** Um, more than eight or nine times in school?

**FC2:** Ah, no I wouldn't go that far.

**2M:** No.

**E:** You don't think badly of [first female student caller] because she has, do you?

**FC2:** No, I love [first female student caller].

**E:** In God's way.

**D:** Uh-huh.

**FC2:** Truly in God's way.

**E:** Uh-hm. [Laughter from FC2] Alright. Very good. And um missing school on Thursday would be nothing new for you.

**FC2:** Nothing new.

**E:** Alright, very good. Hold on one second and ah Flounder will get both of your information. We'll see you on Thursday.

- FC2:** Okay. Thank you.
- E:** Alright, very good.
- D:** Flounder will get your information. Hopefully we'll see it.
- E:** Yes.
- 2M:** Man, we're looking for Chinese finger ties. [Laughter from E, D and 2M]
- E:** Alright, now let me say this. [Laughter from E, D and 2M] Don't send me your goddamn emails about being angry that we're doing these two ah high school kids.
- D:** They're 18.
- E:** They're 18 years-old. This is their own deal. Alright, so save the e-mails.
- D:** They're not going to school anyway.
- E:** Save the e-mails.
- D:** [Laughter from E, D and 2M] It's not like they're studying for the SATs.
- E:** Save the you're corrupting the youth of America. Please. Nobody. I didn't hold a gun to anybody's head to line up nine guys against a locker. [Laughter from 2M] Alright. Diane, we didn't do anything wrong.
- D:** [Laughter from D] Hey, she was free with the information.
- 2M:** That private school's gonna love you though.
- E:** That's Bishop O'Connell.
- 2M:** Yeah, they're very proud today.
- E:** They should be.
- D:** Hey, you pay money to go to that school. [Laughter from D and 2M]
- E:** You know what, at least it's not one of the priests.
- 2M:** Yes.
- E:** Save the hate e-mail. Okay. We did nothing wrong, right Flounder?
- F:** I agree. [Laughter from E, D and 2M]
- 2M:** We're doin' that school a service. You know how many kids they're gonna' get now? They're thinking about stalking Bishop O'Connell.
- E:** Right now everybody at [Unintelligible] council is going, "Goddamn it [Unintelligible] not at our school." [Laughter from E, D and 2M] Alright, very good, alright. So good, I feel like we're

starting to put together a very nice list. We'll either revisit that again before we get off the air today, maybe after school starts, [Laughter from 2M] or we will get some more contestants tomorrow. So, Thursday morning we'll have everybody in here dancing and uh four will be selected to dance for Kid Rock on Saturday night at the Patriot Center. I think I speak for all of us when I can't thank Kid Rock enough for choosing us to do this promotion. [Laughter from 2M] [Unintelligible].

[Break in the audio-tape]

**May 8, 2002**

E: Elliot  
D: Diane  
BD: Buddy  
MC: Male Student Caller  
MC2: Second Male Student Caller  
MC3: Third Male Student Caller  
MC4: Fourth Male Student Caller  
MC5: Fifth Male Student Caller  
FC3: Third Female Student Caller

**E:** Before we get into the news, Diane.

**D:** Yeah.

**E:** We had a little interest in Bishop O'Connell High School. [Laughter from E]

**D:** Yeah. I went to the website. [Laughter from E] I was looking at the mission statement. [Laughter from E] "Our mission is to provide the students an education rooted in the life of Christ [unintelligible] pursuit of excellence of the whole person." And then you go down. [Laughter from E] The desired learning results. [Laughter from E] Kinda' take on a new meaning. [Laughter from E and 2M] "Students practice a moral code based on gospel values as found in our Catholic faith and worship." [Laughter from E and 2M] "Express Christian values through participation in community service projects."

**E:** Take him and drink for him. [Laughter from E]

**D:** "Develop creative and critical thinking skills." [Laughter from D] "Use those skills in successfully solving problems."

**E:** There you go, [first female student caller] and [second female student caller].

**D:** Mmm [Impersonating a young girl's voice] What should I do? [Laughter from E] "Learning to work with others cooperatively."

**E:** [Spoken as if E's mouth was full] May peace be with you and also with you.

**D:** "Develop and maintain"

**E:** [Loud sucking sounds from E]

**D:** "Develop and maintain positive self worth through a healthy lifestyle."

- E:** [Spoken as if E's mouth was full] This healthful [unintelligible] of protein. [Loud sucking sounds from E][Laughter from E, D and 2M] [Spoken as if E's mouth was full] Hey, what do you think will be going on at Bishop O'Connell High School today? [Laughter from E, D and 2M]
- D:** Talk in the office.
- E:** More guys have signed up for this school in the last half hour. [Laughter from E and 2M] We done a service. [Laughter from E and 2M] Alright, very good. So Thursday morning.
- D:** "Our student body of 1,470 reflects the diversity of our community and neighborhoods."
- E:** [Spoken as if E's mouth was full] I'm part of the community. [Loud sucking sounds from E] [Unintelligible] Oh no. [Laughter from 2M and D] They'll be in here. I love that. What are you kidding me?
- D:** They're not going to be at school that day. [Laughter from E and 2M]
- E:** Alright. 8:15, dear God. Ah, what have we got going on here? We're busy as hell. We got some [unintelligible] tickets to give away. Oh
- [Break in the audio-tape]
- E:** Let me get Buddy on the phone. Buddy.
- BD:** Hey.
- E:** How are you, sir?
- BD:** Good. How are?
- E:** Good, I I understand we caught you shaving.
- BD:** Yeah, I'm about half way done. [Laughter from BD]
- E:** I say just leave it.
- BD:** Leave half of it?
- E:** Yeah, just leave half of it. Ah, yesterday while we were going through our qualifying I guess sometime around 7:45 we heard from [first female student caller] and [second female student caller]. [First female student caller] and [second female student caller], two 18 year-olds, they just so happen to go to Bishop O'Connell High School. And what I thought was a very nice conversation with them yesterday. They informed as to some things they do at school. [Laughter from BD] But they're 18 years-old. They're adults. They're allowed to do what they want. And then um I guess we heard very early this morning that both [second female student caller] and [first female student caller] had been suspended from school. Now, Buddy, did the, I know, principal call the station, true or false?
- BD:** That is, that is true.

- E:** Right. Did you ah speak to um Bishop O'Connell? [Laughter from BD and 2M]
- BD:** No. The Bishop did not speak. We ah traded messages. But I think the thing that he was concerned about was the story that he got was that you coerced or badgered or otherwise convinced these people or these two young ladies to say things that weren't true.
- E:** Now, correct me if I'm wrong. I don't feel like I badgered them in any way at all.
- D:** You asked them a question and they answered.
- E:** Yeah.
- BD:** Well, like I said the principal apparently couldn't have been nicer and ah was just following what what he was told, so.
- E:** Right. Now, see we heard this morning I guess that ah Bishop O'Connell's daughter, I don't know the guy's name. What's his name?
- BD:** Uh, you know I don't remember. It's on my desk.
- E:** You lying sack. [Laughter from BD] No, come on. What's his name?
- BD:** I honestly don't remember.
- E:** Alright. Hey, Mack, see if you could find me someone from Bishop O'Connell real quick. Line 2? Fine, perfect. Tell him I'll be there in a second. So anyway, what we did here was ah the principal called [first female student caller] and [second female student caller] in to their office, into his office. I'm assuming it's a man.
- BD:** Right.
- E:** And um I guess had a conversation with them and then suspended them and then got on the PA system at the school and talked about what a bunch of heathens we are. I may be paraphrasing. [Laughter from BD]
- BD:** I didn't hear that part.
- E:** Yeah, so apparently he uh he does not like your radio station, Buddy Riser.
- BD:** Wow.
- E:** Yeah.
- BD:** Well yeah this is before I had a chance to really discuss it with him.
- E:** This is the work of the devil right here. [Laughter from BD] So you didn't you didn't touch base with him?
- BD:** No, we we traded phone messages yesterday so.
- E:** What was his message to you?

- BD:** He he was he couldn't have been nicer. I mean basically he's just, he was just trying to figure out exactly from our side. I mean obviously he had heard only their side of the story.
- E:** Right. Why did he suspend them though? That doesn't seem right to me.
- BD:** Now that I don't know. I I didn't know that he had done that.
- E:** Yeah. See that doesn't seem right. That that part kinda pisses me off.
- BD:** Yeah.
- E:** I'm thinking we have a Support [second female student caller] and [first female student caller] Concert at the school with [unintelligible]. [Laughter from E, D and 2M] But I don't understand why they got suspended. Hey listen if they're blowing guys at the school, that's not their fault, that's the school. The school needs to do a better job policing.
- D:** They should get counseling not suspension.
- E:** That's right. Jesus wouldn't just toss them aside. [Laughter from BD] Jesus would welcome them in.
- 2M:** Yes, he would.
- E:** Some of the priests at the school would ask if they had brothers. [Laughter from BD]
- BD:** Have we talked to the girls today?
- E:** No. I have a feeling they won't be calling today. No, Jesus took away their phone privileges. [Laughter from BD] Alright, Buddy, alright. I was wondering if you got to touch base with them.
- BD:** No.
- E:** With the principal or whatever his face is.
- BD:** No.
- E:** Alright, very good. Thank you very much, Buddy. See you in a bit. Finish cleaning up over there.
- E:** Hi. Who's this? Hello?
- MC:** Yeah.
- E:** Yeah, who's this?
- MC:** Uh, I won't give my name out.
- E:** Yeah, I don't blame you. You know if I went to Bishop O'Connell I wouldn't give my name either. That's how you people get in trouble.
- MC:** Ah yeah definitely.

- E:** Alright. So what happened at school yesterday?
- MC:** Uh well um. First of all, at around 8:10 I was uh driving down with some friends before school and uh we were listening to your station and uh we hear these two girls call up. They go off about some stuff and uh. First of all, we want to find out who it is and uh. I wouldn't let you put these girls on the stage with uh bikinis on.
- E:** Wait, say again. You what?
- MC:** I wouldn't let you put these girls on stage with bikinis, first of all.
- E:** I did get some e-mails saying that they were pretty hot.
- MC:** Ah, really? [Laughter from 2M]
- E:** Well, I can tell some people have different taste. Anyway, go ahead.
- MC:** And uh we get to school and there's a big ordeal about it. And uh I guess they just suspended hard core because of it.
- [Break in the audio-tape]
- E:** Yeah. But you're kinda' out of loop.
- [Break in the audio-tape]
- E:** Hi. DC101.
- MC2:** Hey, what's up?
- E:** Hey, who's this?
- MC2:** This is [second male student caller].
- E:** [Second male student caller]. You go to Bishop O'Connell?
- MC2:** Yeah.
- E:** Yeah. So now tell me what happened yesterday?
- MC2:** All I heard was that these girls called in and our principal came in on like 8<sup>th</sup> period and he was basically told us everything that happened.
- E:** Oh really. That's very interesting to me. What did he say over the PA system that happened?
- MC2:** I don't know. I can't remember exactly what he said.
- E:** Right. Well, first of all, how did they break in with that announcement? What's the principal's name there?

**MC2:** Um, Burch.

**E:** Principal Burch.

**MC2:** Yeah.

**E:** Alright so Principal Burch gets on the uh PA and says, you know, excuse me Bishop O'Connell students I have an announcement to make?

**MC2:** Yeah. He just wanted to clarify if there were like any rumors going on like really what happened.

**E:** Oh, so what did he say really happened?

**MC2:** Nah, He uh. Once again I don't want to say exactly what he said.

**E:** No, go ahead. [Laughter from MC2] No you can say what exactly he said. [Laughter from MC2] No, because honestly I want to know what he said.

**MC2:** Well, honestly, I don't really remember. But basically he just said that two girls called in and said, uh, I don't know. Honest?

**E:** But what did he say they did?

**MC2:** Um. Yeah, he said uh that. I don't know. [Laughter]

**2M:** Come on now, dude.

**E:** Come on dude.

**D:** [Second male student caller]'s worried that he's gonna get suspended.

**MC2:** I'm definitely am. But it's not a biggy. [Laughter]

**E:** Who's your buddy in the car?

**MC2:** Ah, [third male student caller].

**E:** Yeah, put [third male student caller] on.

**MC2:** Ah, here's [third male student caller].

**E:** Yeah. [Third male student caller]'s got a set of balls on him. [Laughter from 2M]

**2M:** Yeah, here take [third male student caller].

**MC3:** Hey, what's up fellas?

**E:** Hey [third male student caller]. Now you go to school there also?

**MC3:** Yes, I do.

- E:** Alright. What did, uh, what did Burch say?
- MC3:** Well, he uh just said some of the stuff that the girls said on your show.
- E:** Really? So did Principal Burch actually get on the PA system and talk about how they were giving blowjobs in the hallway?
- MC3:** Well, let me, hold on for a second. Naw, he didn't say that. He was very nice about it, you know. He's. In a Catholic school so you gotta be nice about it.
- D:** Right.
- E:** Right. So but now, so he ended up. Why did, why did, they get suspended? That's what I don't understand.
- MC3:** You gotta have the mindset that this is a Catholic school and, you know, anything out of the school really should have some moral binding.
- E:** Yeah.
- MC3:** He's just worried about the school's reputation.
- 2M:** The image.
- MC3:** Yeah.
- 2M:** I mean people spend a lot of money to get that image.
- D:** Yeah, they do.
- E:** Yeah, but I mean, okay.
- 2M:** Well, that's, I guess, the basis.
- E:** People spend a lot of money to go to college. It ain't like people ain't screwing there.
- MC3:** Yeah, that's true. But, he wants to have like, you know, the mindset of him being a good, you know, person that gives these children moral teachings, that kind of stuff.
- E:** Is Burch married?
- MC3:** Yes.
- E:** Anybody willing to bet he's never gotten a blowjob from his wife?
- MC3:** [Laughter] Ah, I don't want to think about it. [Laughter from E] He's a very nice guy. I like him a lot. He's really nice.
- D:** Of course you do. [Laughter from 2M]
- E:** Very good, [third male student caller]. [Laughter from D] You're very smart kid. [Laughter from D] I like you.

**MC3:** ExcelLent. ExcelLent.

**2M:** Do you know his daughter?

**MC3:** I, uh.

**E:** Yeah. His daughter is apparently the one that called, that little rat.

**D:** Is she older?

**MC3:** I don't. Burch's?

**E:** Yeah, Burch's daughter. Does she go to school there?

**MC3:** No, no.

**E:** Oh, so she's already out.

**MC3:** I've I've never met her.

**E:** Right. But Burch is a pretty cool guy who obviously has a little issue with us.

**MC3:** Yeah. Well he just wants to look out for, you know, his students.

**E:** Did he mention us by name?

**MC3:** No.

**E:** What do you mean no? What did he say like "a local radio station?"

**MC3:** He said "DC101," but he didn't

**E:** ExcelLent.

**2M:** Oh, we got press. [Clapping]

**E:** That's good, that's good. At least let 'em let 'em know what they should be listening to Burch.  
[Laughter from D]

**MC3:** ExcelLent. ExcelLent.

**E:** Alright [third male student caller].

**D:** [Third male student caller]'s very nervous right now.

**E:** No, [third male student caller] you're fine. You're fine.

**MC4:** Hi Diane.

**D:** Hi.

- E:** [Unintelligible] [Laughter from D and MC3] Hey, [third male student caller], let me ask you, you weren't one of the guys that [first female student caller] and [second female student caller] blew in the hallways, were you?
- MC3:** Ah naw, naw, naw
- E:** No naw naw naw.
- MC3:** I don't think I'd let them.
- E:** Okay, alright, very good, very good. You'd give it a couple of years though.
- MC3:** I just want to say Hi to Diane.
- D:** Thanks, [third male student caller]. Have a nice day at school.
- MC3, MC4:** Bye, see ya later, bye. [Unintelligible] [Laughter from MC3, MC4, E, D and 2M]
- E:** We got a phone number for, ah, the school?
- D:** The main number.
- E:** Yeah, I'll take that. Hi, DC101.
- MC5:** Hi Elliot. This is, this is, ah, [fifth male student caller].
- E:** Yes, of course it is.
- 2M:** Sure.
- E, 2M:** Hi [fifth male student caller].
- MC5:** Yeah. I go to O'Connell.
- E:** Right.
- MC5:** And, uh, I just want to let you know that the girls are not 18. They're only 17.
- E:** But that's not my fault though. Listen.
- MC5:** No dude, no dude. I know exactly like what happened. You didn't manipulate them at all. But when they went into the office yesterday they were like "Oh, yeah, well he manipulated us into saying these bad things." And Mr. Burch gets on. Would you turn that off?
- E:** Yeah, please.
- MC5:** Mr. Burch gets on and goes, ah, yeah they are all remorseful for what happened and they want to let everyone know that, like, they were manipulated or whatever or something like that. And I, like, they knew exactly what they were doing.
- E:** Yeah. And first of all, I think we asked twice how old they were. Both of them said they were 18. You know what, if they lied, they lied. That's not my problem.

**MC5:** Yeah, dude. It's like, it's like their fault and they just made. I feel bad because they made the school look like a bunch of sluts or whatever and we're really not.

**E:** Well, listen you gotta have some kind of pride in something. [Laughter from D] But the, ah, you know, we didn't badger them. We didn't manipulate them. You heard the show yesterday.

**MC5:** Yeah. I was listening to it. I thought it was kind of funny because then I knew exactly who it was. [Laughter from E, D and 2M]

**E:** See so um, you know I can't really say I fault [first female student caller] and [second female student caller] 'cause listen they know they're getting thrown out of school. I'd say that too.

**MC5:** They're coming back.

**E:** Well, how long did they get suspended for?

**MC5:** Um, I think like maybe two days or whatever.

**E:** Right.

**MC5:** It's almost like a good deal.

**E:** Well, yeah exactly. Well, at least they're free to come in tomorrow.

**D:** What are their parents doing though?

**MC5:** I don't know. I think they're probably in trouble with them too.

**E:** Oh really.

**D:** I would think so.

**E:** I hear Burch told [first female student caller] she's gotta give up semen for Lent last year.

**2M:** Agh.

**D:** Jesus Christ.

**2M:** Do you know them very well?

**MC5:** Yeah, I'm pretty close them. At least one of them.

**E:** Really? Have you ever been lined up, have you ever had your back up against a locker? [Laughter from D]

**MC5:** No. Actually they don't do that kind of stuff at school.

**E:** At school.

**2M:** No. They save that.

- MC5:** Actually, I hope I just don't wanna know about it. They can do whatever they want. I just don't want to know about it.
- E:** Alright, very good. Well, listen I'm sorry about the big uproar at your school yesterday.
- MC5:** Ah, it was kind of amusing.
- E:** Good. [Laughter from 2M] Good, alright, dude, [fifth male student caller]. Thank you very much for calling.
- MC5:** Thank you, you're welcome.
- E:** You're gonna need to hand me the handset and let me just call them. [Dial tone, dialing] Oops, that's not good. [Dial tone, dialing] Agh. [Dial tone] Because I hate this phone system. [Dialing] Because now it's a fight. Uh-huh. [Sound of phone ringing] Uh, uh, hands free. They gotta be in the office by now.
- 2M:** Yeah.
- D:** 7:30.
- 2M:** The administration should be.
- D:** I was looking at the.
- E:** Maybe Jesus will answer.
- D:** The class schedule. Home room.
- E:** What time does home room start? Hi, Bishop O'Connell. Um, who am I speaking with? Hi, Mrs. Minyet. You're not on the air. This is Elliott calling from DC101. I'm trying to find Principal Burch, please. Hello. Hello. I don't know if I'm on hold or if I'm uh talking to Mr. Click.
- 2M:** Really.
- D:** Maybe you'll find out in a second.
- E:** Hello. They don't say, "Hold."
- 2M:** They never even said "please hold" or?
- E:** No.
- 2M:** Hang on?
- E:** First bell's at 7:55. You know what. [Dial tone, sound of tone buttons, ringing] [Laughter from 2M] Shhh. Come on. They're afraid to touch the phone. Ahh, come on now I get an answering machine. Hi DC101.
- FC3:** Hey, what's up Elliot?

- E:** Hey, who is this?
- FC3:** Let's see, what can you call me? I'm scared too now like all the other [unintelligible]
- E:** Ah, don't be scared.
- FC3:** [Laughter] You can call me, you can call me [third female student caller]. How about that?
- E:** Okay, [third female student caller]. Yes.
- FC3:** You can call me [third female student caller]. Well, I go to O'Connell like all the rest of them. Those are all my friends that were calling earlier. And I just wanted to say that it was like the reason that they all got suspended wasn't because, you know, like, about anything, because it was immoral or anything what they were gonna do. Because I don't even think they were really gonna come in because they were lying, like, they weren't 18 or anything else. They were a bunch of sophomores. But there's a . . .
- E:** Oh, God. I wish they would come in.
- 2M:** So they're 16.
- E:** Anyway, go ahead.
- FC3:** There's a rule in the student handbook that says that if you do anything, like, in the name, like, using O'Connell's name or, like, in O'Connell uniform that you can be suspended because that's slander towards the school.
- E:** Oh, that's, uh, you're impugning the reputation.
- FC3:** Yeah, so when you went on the website and everything that's when Mr. Burch freaked out and was, like, oh, blah blah blah, this makes my school look horrible.
- E:** Hey, Burch, don't put up a website then, you jackass.
- D:** What I I was just, I was just reading the, uh, the beliefs and mission and philosophy of the school.
- 2M:** Yeah, if anything
- D:** I know.
- E:** We gave them some positive publications here.
- 2M:** Yeah.
- FC3:** And also I wanted to say that I'm really sorry cause there were a lot of really hot girls, including myself, that were gonna come in.
- E:** Oh, godamnit.
- FC3:** And we were gonna audition tomorrow morning.

- E:** Alright.
- FC3:** We really wanted to do it.
- E:** Yeah. I wish you would have.
- FC3:** I'm sorry.
- E:** Alright. Well, Burch had to go F it up for everybody.
- D:** Bye [third female student caller].
- E:** Let me try one more time and then I'll take a break. And then we'll get into some real qualifying. Uh, I'll just dial here. [Dialing tones] You think they won't answer at Bishop when I call cause a big sign that goes off "Jew is calling." [Laughter D and 2M] [Impersonating a female voice] Yes, Principal Burch, please? What do you mean he's not available? Oh, don't hang up. F you. [Laughter from 2M]
- 2M:** They know what matters [unintelligible].
- E:** What a bitch she is.
- D:** What she say?
- 2M:** I can't believe she doesn't even say anything to you.
- E:** [In a mocking voice] "He's not available." Click. I bet he's available. He's probably standing right there listening to the goddamn show.
- D:** I guess they have to go tend to the pro-life memorial. [Laughter from E] that I was just reading about.
- E:** Come on Burch you big pussy, call. You know he's sitting in there listening to it. Speak to a Jew. [Laughter from D] Goddamnit. Alright, alright. You know what, let's move on then. Ah, 202-432-1101, toll free 1-800-33DC101. Ah, we need qualifiers for, ah, Saturday night. If you want to dance in the cage with Kid Rock up on stage 202-432-1101, toll free 1-800-33DC101. We'll sign up last day for qualifying and then tomorrow's the big audition, tomorrow around 7:30. And then four women will move on to Saturday night where they'll dance up on stage at the Patriots Center. Kid Rock will pay for the night. 202-432-1101, toll free 1-800-33DC101.

**[Commercial for the Kid Rock Dance-in-the-Cage Concert]**

**ATTACHMENT B**

**FCC List of Small Entities**

As described below, a “small entity” may be a small organization, a small governmental jurisdiction, or a small business.

<b>(1) Small Organization</b>	
Any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.	
<b>(2) Small Governmental Jurisdiction</b>	
Governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.	
<b>(3) Small Business</b>	
Any business concern that is independently owned and operated and is not dominant in its field, <i>and</i> meets the pertinent size criterion described below.	
<b>Industry Type</b>	<b>Description of Small Business Size Standards</b>
<i>Cable Services or Systems</i>	
Cable Systems	Special Size Standard – <b>Small Cable Company</b> has 400,000 Subscribers Nationwide or Fewer
Cable and Other Program Distribution	\$12.5 Million in Annual Receipts or Less
Open Video Systems	
<i>Common Carrier Services and Related Entities</i>	
Wireline Carriers and Service providers	1,500 Employees or Fewer
Local Exchange Carriers, Competitive Access Providers, Interexchange Carriers, Operator Service Providers, Payphone Providers, and Resellers	

**Note:** With the exception of Cable Systems, all size standards are expressed in either millions of dollars or number of employees and are generally the average annual receipts or the average employment of a firm. Directions for calculating average annual receipts and average employment of a firm can be found in 13 CFR 121.104 and 13 CFR 121.106, respectively.

<b><i>International Services</i></b>	
International Broadcast Stations	

International Public Fixed Radio (Public and Control Stations)	\$12.5 Million in Annual Receipts or Less
Fixed Satellite Transmit/Receive Earth Stations	
Fixed Satellite Very Small Aperture Terminal Systems	
Mobile Satellite Earth Stations	
Radio Determination Satellite Earth Stations	
Geostationary Space Stations	
Non-Geostationary Space Stations	
Direct Broadcast Satellites	
Home Satellite Dish Service	
<b>Mass Media Services</b>	
Television Services	\$12 Million in Annual Receipts or Less
Low Power Television Services and Television Translator Stations	
TV Auxiliary, Special Broadcast and Other Program Distribution Services	
Radio Services	\$6 Million in Annual Receipts or Less
Radio Auxiliary, Special Broadcast and Other Program Distribution Services	
Multipoint Distribution Service	
	Auction Special Size Standard – <b>Small Business</b> is less than \$40M in annual gross revenues for three preceding years
<b>Wireless and Commercial Mobile Services</b>	
Cellular Licensees	1,500 Employees or Fewer
220 MHz Radio Service – Phase I Licensees	
220 MHz Radio Service – Phase II Licensees	Auction special size standard - <b>Small Business</b> is average gross revenues of \$15M or less for the preceding three years (includes affiliates and controlling principals) <b>Very Small Business</b> is average gross revenues of \$3M or less for the preceding three years (includes affiliates and controlling principals)
700 MHz Guard Band Licensees	
Private and Common Carrier Paging	
Broadband Personal Communications Services (Blocks A, B, D, and E)	1,500 Employees or Fewer
Broadband Personal Communications Services (Block C)	Auction special size standard - <b>Small Business</b> is \$40M or less in annual gross revenues for three previous calendar years <b>Very Small Business</b> is average gross revenues of \$15M or less for the preceding three calendar years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)
Broadband Personal Communications Services (Block F)	
Narrowband Personal Communications Services	
Rural Radiotelephone Service	1,500 Employees or Fewer
Air-Ground Radiotelephone Service	
800 MHz Specialized Mobile Radio	Auction special size standard - <b>Small Business</b> is \$15M or less average annual gross revenues for three preceding calendar years
900 MHz Specialized Mobile Radio	
Private Land Mobile Radio	1,500 Employees or Fewer
Amateur Radio Service	N/A

Aviation and Marine Radio Service	1,500 Employees or Fewer
Fixed Microwave Services	
Public Safety Radio Services	<b>Small Business</b> is 1,500 employees or less <b>Small Government Entities</b> has population of less than 50,000 persons
Wireless Telephony and Paging and Messaging	1,500 Employees or Fewer
Personal Radio Services	N/A
Offshore Radiotelephone Service	1,500 Employees or Fewer
Wireless Communications Services	<b>Small Business</b> is \$40M or less average annual gross revenues for three preceding years <b>Very Small Business</b> is average gross revenues of \$15M or less for the preceding three years
39 GHz Service	
Multipoint Distribution Service	Auction special size standard (1996) – <b>Small Business</b> is \$40M or less average annual gross revenues for three preceding calendar years Prior to Auction – <b>Small Business</b> has annual revenue of \$12.5M or less
Multichannel Multipoint Distribution Service	\$12.5 Million in Annual Receipts or Less
Instructional Television Fixed Service	
Local Multipoint Distribution Service	Auction special size standard (1998) – <b>Small Business</b> is \$40M or less average annual gross revenues for three preceding years <b>Very Small Business</b> is average gross revenues of \$15M or less for the preceding three years
218-219 MHz Service	First Auction special size standard (1994) – <b>Small Business</b> is an entity that, together with its affiliates, has no more than a \$6M net worth and, after federal income taxes (excluding carryover losses) has no more than \$2M in annual profits each year for the previous two years New Standard – <b>Small Business</b> is average gross revenues of \$15M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates) <b>Very Small Business</b> is average gross revenues of \$3M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)
Satellite Master Antenna Television Systems	\$12.5 Million in Annual Receipts or Less
24 GHz – Incumbent Licensees	1,500 Employees or Fewer
24 GHz – Future Licensees	<b>Small Business</b> is average gross revenues of \$15M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates) <b>Very Small Business</b> is average gross revenues of \$3M or less for the preceding three years (includes

	affiliates and persons or entities that hold interest in such entity and their affiliates)
<i>Miscellaneous</i>	
On-Line Information Services	\$18 Million in Annual Receipts or Less
Radio and Television Broadcasting and Wireless Communications Equipment Manufacturers	750 Employees or Fewer
Audio and Video Equipment Manufacturers	
Telephone Apparatus Manufacturers (Except Cellular)	1,000 Employees or Fewer

**Statement of Commissioner Michael J. Copps,  
Dissenting**

*Re: Infinity Broadcasting Operations, Inc., Licensee of Stations WNEW(FM), New York, New York; WYSP(FM), Philadelphia, Pennsylvania; KYCY(AM), San Francisco, California; Infinity Radio Operations, Inc., Licensee of Stations WBUF(FM), Buffalo, New York; KSFN(AM), North Las Vegas, Nevada; WXTM(FM), Cleveland Heights, Ohio; WAZU(FM), Circleville, Ohio; KUPL(AM), Portland, Oregon; Infinity Radio Subsidiary Operations, Inc., Licensee of Station KXOA(FM), Roseville, California; Infinity Broadcasting Corporation of Dallas, Licensee of Station KLLI(FM), Dallas, Texas; Infinity Broadcasting Corporation of Washington, D.C., Licensee of Station WJFK-FM, Manassas, Virginia; Infinity Holdings Corporation, Licensee of Station WCKG(FM), Elmwood park, Illinois; Hemisphere Broadcasting Corporation, Licensee of Station WBCN(FM), Boston, Massachusetts, Notice of Apparent Liability for Forfeiture; AMFM Radio Licenses, Licensee of Station WWDC-FM, Washington, D.C., Notice of Apparent Liability for Forfeiture*

I dissent from the Commission's decisions to provide no more than a slap on the wrist to Infinity (owned by Viacom) and Clear Channel rather than take serious action to address indecency on our airwaves. Today, the majority proposes a \$27,500 fine for each incident of airing what the majority agrees appears to be indecent programming at a time when children likely composed a significant portion of the audience.

In the case of Infinity/Viacom, thirteen stations ran the "Opie & Anthony Show" which contained a broadcast of sexual activity at St. Patrick's Cathedral in New York as part of an on-air stunt. In this stunt, called "Sex for Sam," couples received points for having sex in public places. In addition to St. Patrick's Cathedral, the broadcast described sexual activity at restaurants, at the Disney Store and at FAO Schwartz. In the case of Clear Channel, one of its stations, WWDC-FM, broadcast an "Elliot in the Morning" show which included a station-sponsored promotion to which female high school students called in for the opportunity to audition to dance in a cage at an upcoming rock concert. The show's hosts questioned the girls about their sexual activities at their school -- Bishop Denis J. O'Connell High School -- actively solicited other high school students to call, and made repeated and graphic references to oral sex.

Neither of these cases is a difficult call. Both are outrageous and both were run by stations whose owners knew better and whose parent companies have had previous indecent broadcasts brought before this Commission. I believe we should designate these cases for a hearing on the possible revocation of these stations' licenses, as provided for by section 312(a)(6) of the Communications Act.

I am particularly troubled by the decision on the "Opie and Anthony Show." I defy anyone to read the transcript and argue that this broadcast does not violate the statutory prohibition against airing indecent material. And I defy anyone to argue that a \$27,500 fine to each of the stations owned by a multi-billion dollar conglomerate is adequate to address this clear violation of federal law.

Infinity/Viacom could pay this entire fine by tacking just one more commercial onto one of its prime-time TV shows and probably pocket a profit to boot. Some punishment!

The majority admits that each of these stations appears to have egregiously and extensively violated the statutory ban on broadcast of indecent material. The majority claims further to recognize the seriousness of the offense. And it even concedes that the Commission has the option of the license revocation process. But then it turns timid and decides that the appropriate recourse for this filth is a \$27,500 fine against each station. In other words, the majority determines that these stations deserve yet another chance before the Commission even considers revoking a license. When, I ask, will this end?

This is not the first action against a station owned by Infinity. Infinity stations paid \$1.7 million in 1995 to settle a series of indecency cases. As part of that settlement, Infinity agreed to take steps to prevent further broadcast of indecent material. More complaints involving other Infinity broadcasts followed. Last April, this Commission issued another tepid proposed fine against another station owned by this same company – WKRK-FM in Detroit – which had aired some of the most vulgar and disgusting indecency that I have had the misfortune to examine. In that decision, the majority warned that repeated serious violations by Infinity could result in the revocation of station licenses. The majority repeats that same warning again in this decision.

Yet, two months prior to the airing of “Sex for Sam” on the “Opie and Anthony Show,” this agency cited the same show for three separate apparent violations of the indecency statutes. These shows aired between November 2000 and January 2001. In one instance, a graphic song about a father having oral sex with his young daughter was broadcast. In the second instance, the “Opie and Anthony Show” aired another graphic song by a man seeking girls between the ages of two and three for sex. In the third instance, the show provided detailed instructions to a teenager and then broadcast her rubbing a telephone between her legs.

If this situation does not meet the majority’s test for repeated violators, I fail to understand what would. The message to licensees is clear. Even egregious repeated violations will not result in revocation of a license. Rather, they will result only in a financial penalty that doesn’t even rise to a serious cost of doing business.

I wonder when this Commission will finally take a firm stand against the “race to the bottom” on our airwaves. The time has come for us to send a message that we are serious about enforcing the indecency laws of our country and that we will be especially vigilant about the actions of repeat offenders such as those cases before us here. Instead we turn an apparently incurable deaf ear to millions of Americans who are fed up with the patently offensive programming sent into their homes so regularly. Today’s decision does nothing to discourage such programming.

It all comes down to this: station owners aren’t given licenses to use the public’s airwaves to peddle smut. They are given licenses to serve the public interest.

**Separate Statement of Commissioner Kevin J. Martin**

*Re: AMFM Radio Licenses, LLC, Licensee of Station WWDC-FM, Washington, DC., Notice of Apparent Liability for Forfeiture*

I support the finding in this Notice of Apparent Liability that the licensee apparently violated our rule against the broadcast of indecent content, but I would have proposed a higher fine. I am concerned, for example, that the hosts of this show engaged in these on-the-air telephone conversations with minors. As I have said in similar cases, we could have found that each time the show's hosts started talking about an indecent topic or had a separate distinct conversation, the ensuing conversation constituted a separate violation.<sup>1</sup> In prior cases, the Commission has acknowledged that we have the discretion to consider each indecent utterance a separate violation.<sup>2</sup>

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<sup>1</sup> See Separate Statement of Commissioner Kevin J. Martin, *Infinity Broadcasting Operations, Inc., Licensee of Station WKRK-FM, Detroit, Michigan*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 6915 (2003) (*Infinity Detroit NAL*).

<sup>2</sup> *Infinity Detroit NAL* at para. 13 (clarifying that the Commission could pursue enforcement action for each indecent utterance). See also 18 U.S.C. § 1464 (specifying that “[w]hoever utters any obscene, indecent, or profane language by means of radio communication shall be fined under this title or imprisoned not more than two years, or both.”).

**SEPARATE STATEMENT OF  
COMMISSIONER JONATHAN ADELSTEIN**

*Re: AMFM Radio Licenses, LLC, Notice of Apparent Liability for Forfeiture*

This Notice sends the unmistakable message to Clear Channel and other broadcasters who violate our indecency rules: We are stepping up our enforcement. Once again, we give fair warning that the Commission can and will avail itself of a range of enforcement sanctions, including the initiation of proceedings that could result in the revocation of these stations' licenses. I will not hesitate to consider such revocation proceedings for serious violations that occur after the explicit notice we provided in April in WKRK-FM. Similarly, as broadcasters were explicitly notified in April, I will also support on a going-forward basis an approach that treats each indecent utterance, such as distinct conversations or program segments, as a separate violation under our rules. This will substantially increase our fines, which by statute are capped at an inadequate level, so they will be more commensurate with the offenses.

The Commission reached the obvious conclusion that AMFM Radio Licenses, whose corporate parent is Clear Channel, broadcast indecent material and should be liable for the full statutory maximum forfeiture amount. It took far too long for us to reach this conclusion, and I hope we will act more swiftly in the future to send a clear message.

AMFM's actions here were unquestionably willful and egregious. Hosts of the "Elliot in the Morning" program repeatedly probed school students about sexual activity conducted inside a Catholic high school and actively solicited calls from other students to elicit similar information. The hosts amplified their sexual banter by simulating the act of oral sex with numerous sound effects broadcast over the air. Goading school children in a pandering manner to discuss sexual activities of students and administrators in a school setting shows a deliberate attempt to heighten the shock to listeners. The broadcasts clearly offended community standards.

Unfortunately, the statutory constraints on our ability to level fines are currently inadequate, as the low fines can be considered by broadcasters as a cost of doing business and not a serious deterrent. In this case, a fine below the statutory maximum would not accurately reflect the circumstances and AMFM's culpability. I believe strongly that our fines, or other appropriate enforcement actions, should be sufficient to deter broadcasters from broadcasting indecent material on the public's airwaves at a time when children are listening. Today's action, while an important step in that direction, must be followed by more stringent, swifter and stricter enforcement of our statutory obligation to prevent indecent broadcasts over the public airwaves.