

**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.”).