

**SEPARATE STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: Infinity Broadcasting Operations, Inc., Notice of Apparent Liability for Forfeiture

This Notice sends the unmistakable message to Infinity 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, another case involving Infinity. 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 in this case that the broadcast material was indecent and Infinity 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.

Infinity's actions here were unquestionably willful and egregious. Program hosts Opie & Anthony held numerous conversations on the air with station spotters describing and encouraging sexual activity. Station and program employees participated actively in the "Sex for Sam" contest by planning the event, arranging the spotters, encouraging the most provocative locations like toy stores and churches likely to expose innocent children and worshippers to unwelcome sexual conduct, and instructing the contestants to go inside St. Patrick's Cathedral. These callous actions show a high degree of culpability and a deliberate attempt to heighten the shock to listeners. They 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 Infinity'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.