

**STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS,  
APPROVING IN PART, CONCURRING IN PART**

*Re: Complaints Against Various Television Licensees Concerning Their February 1, 2004, Broadcast of the Super Bowl XXXVIII Halftime Show*

Few incidents have focused such widespread attention on the issue of indecency on the airwaves or garnered more complaints than last year's Super Bowl. Millions of Americans watched what should have been an all-American evening for the entire family. Instead, we got something far different – an outrageous stunt and over 540,000 complaints from people all across the country.

I agree that the Super Bowl halftime show violated the indecency statute and am pleased that we are taking this step to address a deplorable incident. I remain troubled, however, by certain aspects of the decision and therefore do not approve it in its entirety.

First, I am concerned by the precedent we establish in failing to assess a penalty against non-Viacom-owned affiliates that aired the Super Bowl. I recognize that the affiliates likely did not expect that this national event would include such indecency. Yet, many stations air programming that they do not produce themselves. The Commission must be careful not to signal that we would excuse indecent broadcasts merely because a station did not control the production of the content. Some level of fine would have been appropriate for these stations. The primary focus of our indecency enforcement under the statute must remain those who are licensed to use the public airwaves and we look to their vigilance to protect our children from indecent broadcasts.

Second, the Commission received complaints about other aspects of the halftime show and some of the commercials. Yet, the Order dismisses these complaints in a footnote with hardly any analysis or explanation. The FCC relies on viewers and listeners to file complaints about indecent broadcasts and places a heavy burden on complaining citizens. The citizens that filed these complaints have a right to expect more of a Commission follow-through on their complaints.

Finally, although the Commission is imposing the largest fine in history for indecency on television, let's not kid ourselves that this fine will serve as a disincentive to multi-billion dollar conglomerates broadcasting indecency. This fine needs to be seen in the context of a broadcast in which each 30-second commercial cost more than \$2 million. In other words, this fine represents less than 10 seconds of ad time on the Super Bowl and will be easily absorbed as a cost of doing business. We must continue to demonstrate to citizens that their complaints will receive prompt and vigorous attention and to the broadcast industry that Commission involvement in these issues is not a passing fancy.