

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
CLEAR CHANNEL BROADCASTING LICENSES, INC.	)	File No. EB-03-IH-0159
	)	NAL/Acct. No. 200423080023
	)	FRN No. 0001587971
Licensee of Stations)	
WBGG-FM, Fort Lauderdale, Florida	)	Facility Id. No. 11965
WTKS-FM, Cocoa Beach, Florida	)	Facility Id. No. 53457
WTFX-FM, Louisville, Kentucky	)	Facility Id. No. 53593
)	
CITICASTERS LICENSES, L.P.	)	FRN No. 0004953659
)	
Licensee of Stations)	
KIOZ(FM), San Diego, California	)	Facility Id. No. 13504
WNVE(FM), Honeoye Falls, New York	)	Facility Id. No. 24958
)	
CAPSTAR TX LIMITED PARTNERSHIP	)	FRN No. 0003474905
)	
Licensee of Station)	
WXDX-FM, Pittsburgh, Pennsylvania	)	Facility Id. No. 60153

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: April 7, 2004

Released: April 8, 2004

By the Commission: Commissioners Copps and Adelstein issuing separate statements.

I. INTRODUCTION

1. In this *Notice of Apparent Liability For Forfeiture* (“NAL”), issued pursuant to section 503(b) of the Communications Act of 1934, as amended (the “Act”), and section 1.80 of the Commission’s rules,¹ we find that the captioned licensees, all of which are subsidiaries of Clear Channel Communications, Inc. (“Clear Channel”), apparently violated 18 U.S.C. § 1464 and 47 C.F.R. § 73.3999, by willfully and repeatedly airing program material during two segments of the “Howard Stern Show” on April 9, 2003, that apparently violate the federal restrictions regarding the broadcast of indecent material.² Based upon the totality of the evidence before us and Clear Channel’s history of repeated broadcasts of indecent material over stations licensed to its subsidiaries, we conclude that these Clear Channel subsidiaries are apparently liable for forfeitures totaling Four Hundred Ninety-Five Thousand Dollars (\$495,000.00). Clear Channel Broadcasting Licenses, Inc. (“CCBL”) is apparently liable for a monetary forfeiture in the amount of Two Hundred Forty-Seven Thousand Five Hundred Dollars (\$247,500.00) for nine (9) apparent indecency violations on its captioned stations. Citicasters Licenses, L.P. (“Citicasters”) is apparently liable for a monetary for forfeiture in the amount of One Hundred Sixty-five Thousand

¹ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

² See 18 U.S.C. § 1464, 47 C.F.R. § 73.3999 and 47 U.S.C. § 503(b).

Dollars (\$165,000.00) for six (6) apparent indecency violations on its captioned stations. Capstar TX Limited Partnership (“Capstar”) is apparently liable for a monetary forfeiture in the amount of Eighty-Two Thousand Five Hundred Dollars (\$82,500.00) for three (3) indecency violations on its captioned station.

II. BACKGROUND

2. The Enforcement Bureau received a complaint alleging that Station WBGGM-FM aired indecent material during the “Howard Stern Show,” on April 9, 2003, between approximately 7:25 and 7:45 a.m. The complainant submitted a transcript of this broadcast.³ The material at issue includes dialogue between cast members regarding the sexual practices of certain program cast members and a discussion with a guest regarding “Sphincterine,” a purported personal hygiene product designed for use prior to sexual activity.⁴

3. The Enforcement Bureau sent Clear Channel Broadcasting Licenses, Inc., the licensee of the station, a letter of inquiry, and attached the transcript submitted by the complainant.⁵ In its response, Clear Channel, as the ultimate parent of the licensee, acknowledges that on April 9, 2003, between 6:00 and 11:00 a.m., WBGGM-FM broadcast the “Howard Stern Show,” which it receives via a satellite feed.⁶ Clear Channel further states that because the station does not receive transcriptions of the show or make recordings of the show, it cannot “confirm with certainty” that the material provided in the complainant’s transcription was included in the station’s broadcast of the “Howard Stern Show” on the date and at the time indicated in the complaint.⁷ Clear Channel submitted the Declaration of WBGGM-FM’s producer, however, who stated that he recalled the material at issue and that his records do not indicate that he deleted or “flushed” any of the material aired during the station’s April 9 broadcast of the Howard Stern Show.⁸

4. Clear Channel also states that, in addition to WBGGM-FM, five other stations licensed to its subsidiaries air the “Howard Stern Show,” and presumably aired the complained-of program.⁹ Clear Channel further states that none of these five stations make permanent recordings of the “Howard Stern Show,” and therefore cannot confirm the date and time of their broadcasts.¹⁰ Clear Channel admits however, that there is no specific reason to question that each of these five stations broadcast the April 9, 2003, “Howard Stern Show” on that day and in its entirety.¹¹

³ Letter from complainant, to Enforcement Bureau, Federal Communications Commission, dated April 24, 2003.

⁴ Attachment A, Program Transcript.

⁵ Letter from the Chief, Investigations and Hearings Division, Enforcement Bureau, to Clear Channel Broadcasting Licenses, Inc., dated July 18, 2003.

⁶ See Letter from Richard W. Wolf, Vice President, Clear Channel Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, dated August 18, 2003 (“*Clear Channel Response*”), at 1.

⁷ *Id.*

⁸ *Clear Channel Response* at 1 and Declaration of Clint Ferro, WBGGM-FM producer for the “Howard Stern Show.” Clear Channel indicates that WBGGM-FM broadcasts the show on a 7.5-second delay so that it can block out or “flush” any material that it does not want to air.

⁹ *Id.* at 2-4. The five other stations are: WTKS-FM, Cocoa Beach, Florida; WTFX-FM, Louisville, Kentucky; WNVE(FM), Honeoye Falls, New York; KIOZ(FM), San Diego, California; and WXDZ-FM, Pittsburgh, Pennsylvania.

¹⁰ *Clear Channel Response* at 2-4.

¹¹ *Id.*

III. DISCUSSION

5. 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.¹² The Commission does, however, have the authority to enforce statutory and regulatory provisions restricting indecency and obscenity. Specifically, it is a violation of federal law to broadcast obscene or indecent programming. Title 18 of the United States Code, section 1464 prohibits the utterance of "any obscene, indecent or profane language by means of radio communication."¹³ In addition, section 73.3999 of the Commission's rules provides that radio and television stations shall not broadcast obscene material at any time, and shall not broadcast indecent material during the period 6 a.m. through 10 p.m.

6. 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 forfeiture penalty.¹⁴ 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.¹⁵ 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.¹⁶ As we set forth in greater detail below, we conclude under this standard that Clear Channel is apparently liable for a forfeiture for its apparent willful violation of 18 U.S.C. § 1464 and section 73.3999 of the Commission's rules.

A. Indecency Analysis

7. Any consideration of government action against allegedly indecent programming must take into account the fact that such speech is protected under the First Amendment.¹⁷ The federal courts consistently have upheld Congress's authority to regulate the broadcast of indecent material, as well the

¹² See U.S. CONST., amend. I; 47 U.S.C. § 326.

¹³ 18 U.S.C. § 1464.

¹⁴ 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 18 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, 97th 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.

¹⁵ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

¹⁶ See, e.g., *SBC Communications, Inc., Apparent Liability for Forfeiture*, Forfeiture Order, 17 FCC Rcd 7589, 7591, ¶ 4 (2002)(forfeiture paid).

¹⁷ U.S. CONST., amend. I; see *Action for Children's Television v. FCC*, 852 F.2d 1332, 1344 (D.C. Cir. 1988) ("*ACT F*").

Commission's interpretation and implementation of the governing statute.¹⁸ Nevertheless, the First Amendment is a critical constitutional limitation that demands that, in indecency determinations, we proceed cautiously and with appropriate restraint.¹⁹

8. 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.²⁰

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.²¹

9. As an initial matter, the material at issue described sexual and excretory activities and organs, and Clear Channel does not dispute this.²² The material, therefore, warrants further scrutiny to determine whether or not it was patently offensive as measured by contemporary community standards for the broadcast medium.²³

10. In our assessment of whether broadcast material is patently offensive, “the *full context* in which the material appeared is critically important.”²⁴ 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.²⁵ 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.”²⁶ In particular cases,

¹⁸ 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 *ACT I*, 852 F.2d at 1339; *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*”).

¹⁹ *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.”), *ACT I*, 852 F.2d at 1340, n.14 (“the potential chilling effect of the FCC’s generic definition of indecency will be tempered by the Commission’s restrained enforcement policy.”)

²⁰ *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)).

²¹ *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).

²² *Clear Channel Response* at 5.

²³ 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 *Indecency Policy Statement* at 8002, ¶ 8 and n. 15.

²⁴ *Id.* at 8002, ¶ 9 (emphasis in original).

²⁵ *Id.* at 8002-15, ¶¶ 8-23.

²⁶ *Id.* at 8003, ¶ 10.

one or two of the factors may outweigh the others, either rendering the broadcast material patently offensive and consequently indecent,²⁷ or, alternatively, removing the broadcast material from the realm of indecency.²⁸ We now turn to an analysis of these factors as they relate to each segment to determine whether the material that was broadcast, in context, was patently offensive as measured by contemporary community standards.

11. First, we find that the segment in which the show's host discusses the sexual practices of certain cast members to be patently offensive. Specifically, the host, in discussing the sex life of John, a fellow cast member, and John's wife, notes that they "have anal every other time they do it" and that John's wife "loves anal."²⁹ The host further discusses John's wife's embarrassment that intimate details of their sex life are a topic of public discussion.³⁰ This segment also includes the host's comments regarding his personal revulsion at the thought of a naked, sweaty, obese man engaging in cunnilingus.³¹ Finally, during this entire segment, the host's discussion of anal sex and his commentary on oral sex are punctuated by the sound of someone passing gas or evacuating. Given the explicit description of oral sex and the sustained discussion of a cast member's anal-sex practices, all of which were accompanied by sound effects of flatulence and evacuation, it is clear that the material was designed to shock and pander. This segment is similar to material found to contain patently offensive descriptions of sexual activities.³² Accordingly, we find the material in this segment of the April 9, 2003, broadcast to be patently offensive as measured by contemporary community standards for the broadcast medium, and thus indecent.

12. Based on our finding that this segment appears to be actionably indecent, we disagree with Clear Channel's contention that this material is not patently offensive because it was less explicit than other material found to be not actionably indecent in various unpublished staff decisions.³³ Some of the material at issue in these unpublished decisions was less explicit than the material at issue here.³⁴ To the extent that the staff, in other unpublished decisions,³⁵ may have erred by determining that the material

²⁷ *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).

²⁸ *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").

²⁹ Attachment A at 11-12. *Id.*

³⁰ *Id.*

³¹ *Id.* at 11. There is a reference to oral sex as "using his mouth in a really dirty place." To the extent that the discussion also used innuendo, rather than direct references, it is nonetheless sufficient to render the material actionably indecent because the sexual import of those references was "unmistakable." See *Indecency Policy Statement*, 16 FCC Rcd at 8002-04, ¶¶ 9-12 (2001).

³² See, e.g., *Citicasters Co. (KEGL(FM))*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 7546 (EB 2001)(forfeiture paid)(conversation among hosts and adult film actors concerning, among other things, oral and anal sex); *Infinity Broadcasting Corporation of Pennsylvania (WYSP(FM))*, 3 FCC Rcd 930, 932-33 ¶ 20 (1987)(subsequent history omitted).

³³ See *Clear Channel Response* at 4-5, citing various unpublished staff denials.

³⁴ See Letter from Charles W. Kelley, Chief, Investigations and Hearings Division, Enforcement Bureau, dated May 3, 2002, EB -01-IH-0326; Letter from Charles W. Kelley, Chief, Investigations and Hearings Division, Enforcement Bureau, dated April. 23, 2002, EB -02-IH-0078; Letter from Charles W. Kelley, Chief, Investigations and Hearings Division, Enforcement Bureau, dated Feb. 5, 2002, EB-01-IH-0357.

³⁵ See *Clear Channel Response* at 4-5, citing Memo from Thom Winkler to WIOD(AM) Complaint File, dated Apr. 21, 1997, FCC Ref. No. 91010196; Letter from Norman Goldstein, Chief, Complaints and Political Programming Branch, Enforcement Division, Mass Media Bureau, dated May 15, 1997, FCC Ref. No. 94069521; Letter from

(continued...)

in those cases was not indecent, those unpublished decisions are not binding on the Commission.³⁶ That is particularly the case here, where published decisions, including those cited in the Commission's *Indecency Policy Statement*, provide guidance indicating that material such as that contained in this case is indecent. In the instant case, we find that the complained-of material in this segment included references to sexual activity through both direct references and/or innuendo that we deem patently offensive as measured by contemporary community standards for the broadcast medium.³⁷ This material is similar to other material found to contain sufficiently explicit and graphic references to sexual activity, and thus satisfies the first factor of our contextual analysis.³⁸ Moreover, the references to sexual activity are repeated throughout the segment, and the entire segment dwells on the sexual activities of certain cast members. The manner in which this material was presented establishes, under the third factor, that the segment was used to pander, titillate and shock listeners.

13. In the other relevant segment, there is a discussion of "Sphincterine," a purported personal hygiene product. We also find that this segment is patently offensive. Specifically, the show's host interviewed the inventor of "Sphincterine" and promoted the sale of the product. During the course of this interview, the host and guest made repeated references to oral sex and to the olfactory aspects of excretory activity. For instance, the host noted that the guest had invented "Sphincterine" because "a chick was giving you oral and you had 'swamp ass'."³⁹ The host elicited specific information about the encounter that led to the creation of the product, namely that odors emanating from the inventor's genital area repelled his girlfriend when she had attempted to initiate fellatio.⁴⁰ Finally, this segment, like the earlier one involving discussions involving anal sex, was interspersed with the sound of flatulence. Given the detailed discussion of the sounds and smells associated with excretory activity and oral sex, which were accompanied by the sound effects of flatulence and were dwelled upon, it is clear that the material was used to shock and pander. Accordingly, we also find the material in this segment of the April 9, 2003, broadcast to be patently offensive as measured by contemporary community standards for the broadcast medium.

14. We disagree with Clear Channel's argument that this material does not dwell on or repeat at length descriptions of sexual or excretory activities and that the material was not intended to pander, nor was it presented for its shock value.⁴¹ The discussion of the use of "Sphincterine," including references to sexual and excretory organs and activities, was sustained.⁴² Moreover, the discussion included commentary and sound effects such that the tone of the discussion is vulgar and lewd. There are

(...continued from previous page)

Norman Goldstein, Chief, Complaints and Political Programming Branch, Enforcement Division, Mass Media Bureau, dated Jan. 23, 1997, FCC Ref. No. 94110410.

³⁶ See, e.g., *Amor Family Broadcasting Group v. FCC*, 918 F. 2d 960, 962 (D.C. Cir. 1990), citing *Homemakers North Shore, Inc. v. Bowen*, 832 F.2d 408, 413 (7th Cir. 1987). See also *Lorenzo Jelks v. FCC*, 146 F.3d 878, 881 (D.C. Cir. 1998).

³⁷ See Attachment A, Program Transcript at 11-12.

³⁸ See *Clear Channel Broadcasting Licenses, Inc.(WPLA(FM), WCKT(FM))*, Notice of Apparent Liability for Monetary Forfeiture, 19 FCC Rcd 1768, ¶ 9 (2004).

³⁹ Attachment A, Program Transcript at 12.

⁴⁰ *Id.* at 13.

⁴¹ *Clear Channel Response* at 6.

⁴² See, e.g., *Emmis Radio License Corporation (WKQX(FM))*, Notice of Apparent Liability for Monetary Forfeiture, 17 FCC Rcd 5263, 5266 ¶¶ 10-11 (EB 2002); Apparent Liability for Forfeiture, Forfeiture Order, 17 FCC Rcd 21697, 21699 ¶ 9 (EB 2002), *recon. denied*, Memorandum Opinion and Order, 19 FCC Rcd 2697 (EB 2004).

repeated flatulence sound effects interspersed in the discussion of the use of the product prior to sex⁴³ and the show's host comments on his own personal hygiene practices such that he would shower before initiating sexual activity with the guest's girlfriend.⁴⁴ Thus, unlike the unpublished staff decisions cited by Clear Channel,⁴⁵ the overall context in which the material was presented appears to have been used to pander and shock.⁴⁶

15. After reviewing the record, we believe that these two segments of the April 9, 2003, "Howard Stern Show" are patently offensive within the meaning of our indecency definition. As to the first segment, we find that the material involving a discussion of the sexual practices, including anal sex, between certain of the show's cast members, is patently offensive.⁴⁷ As for the second segment, we find that the discussion of "Sphincterine," a product purportedly developed for maintaining anal and genital hygiene, is patently offensive.⁴⁸ In the second segment, two individuals uttered apparently indecent material, whereas in the first segment one individual uttered apparently indecent material. The broadcast over Station WBGG-FM took place after the Commission's notice that it might treat separate utterances as separate violations.⁴⁹ We believe that, under the specific circumstances at issue here, it is appropriate to treat the statements by each of the individuals as two separate utterances and therefore two separate violations, contrary to our more traditional approach of treating a specific program or program segment as indecent.⁵⁰ Consequently, we conclude that there are three (3) apparent violations of the Commission's indecency rules for each of the captioned stations that aired this material. Three of the captioned stations are licensed to CCBL, and thus CCBL is apparently liable for a total of nine (9) indecency violations. Citicasters is the licensee of two of the captioned stations, and thus is apparently liable for a total of six (6) indecency violations, and Capstar is the license of one captioned station, and thus is liable for a total of three (3) indecency violations.

16. It is undisputed that the complained-of material was broadcast within the 6 a.m. to 10 p.m. time frame relevant to an indecency determination under section 73.3999 of the Commission's rules. Thus, because there was a reasonable risk that children may have been in the audience at the time that the material at issue was broadcast on April 9, 2003, the material broadcast is legally actionable.⁵¹ By broadcasting this material, Clear Channel apparently violated the prohibitions in 18 U.S.C. § 1464 and the Commission's rule against broadcast indecency. The Commission is aware that the "Howard Stern Show" originates and is broadcast over stations owned by Infinity Broadcasting Corporation. We instruct the Enforcement Bureau to initiate an investigation into Infinity's broadcast of the April 9, 2003,

⁴³ Attachment A, Program Transcript, at 12-14.

⁴⁴ *Id.* at 12.

⁴⁵ *Clear Channel Response* at 6, citing Letter from Charles W. Kelley, Chief, Investigations and Hearings Division, Enforcement Bureau, dated Feb. 5, 2002, EB-01-IH-0315; Letter from Charles W. Kelley, Chief, Investigations and Hearings Division, Enforcement Bureau, dated April 22, 2002, EB-02-IH-0040.

⁴⁶ *See, e.g., Citicasters Co (KSJO(FM))*, Notice of Apparent Liability for Monetary Forfeiture, 15 FCC Rcd 19095, 19096, ¶6 (EB 2000)(forfeiture paid) (discussion of sexual techniques featuring nationally recognized sex therapist and certified clinical sexologist presented in pandering and titillating manner).

⁴⁷ Attachment A, Program Transcript at 11-12, ending at "****."

⁴⁸ *Id.* at 12-14, beginning after "****."

⁴⁹ *Infinity Broadcasting Operations, Inc., (WKRK-FM)*, Notice of Apparent Liability for Monetary Forfeiture, 18 FCC Rcd 6915, 6918-19, ¶ 12 (2003), Apparent Liability for Forfeiture, Forfeiture Order, 18 FCC 26360 (2003), *recon. denied*, 19 FCC Rcd ____, FCC 04-34 (rel. Mar. 5, 2004).

⁵⁰ In this regard, we note that, depending on the facts in specific cases, we may also treat some of the specific words or phrases spoken by one individual to be separate utterances themselves and therefore separate violations.

⁵¹ *See ACT III*, 58 F.3d at 660-63.

“Howard Stern Show” at issue in this case.

B. Proposed Forfeiture

17. Based upon our review of the record in this case, we conclude that CCBL, Citicasters and Capstar, subsidiaries of Clear Channel, are apparently liable for the willful and repeated violation of our rules. The Commission’s *Forfeiture Policy Statement* sets a base forfeiture amount of \$7,000 for transmission of indecent or obscene materials.⁵² 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.”⁵³ In this case, taking all of these factors into consideration, we find that CCBL, Citicasters and Capstar are apparently liable for the maximum statutory forfeiture amount of Twenty-Seven Thousand Five Hundred Dollars (\$27,500.00) for each apparent indecency violation. In particular, there is a recent history of indecent broadcasts on stations controlled by Clear Channel, the corporate parent of CCBL, Citicasters and Capstar, which justifies imposition of the statutory maximum forfeiture amount for each of the apparent indecency violations.⁵⁴

18. Because we find that CCBL, Citicasters and Capstar apparently violated 18 U.S.C. § 1464 and Section 73.3999 of the Commission’s rules by broadcasting the complained of material and that each violation is subject to an apparent forfeiture in the amount of \$27,500, we conclude that CCBL is liable for a monetary forfeiture in the amount of Two Hundred Forty-Seven Thousand Five Hundred Dollars (\$247,500.00), that Citicasters Licenses, L.P. is apparently liable for a monetary forfeiture in the amount of One Hundred Sixty-Five Thousand Dollars (\$165,000.00) and that Capstar is apparently liable for a monetary forfeiture in the amount of Eighty-Two Thousand Five Hundred Dollars (\$82,500.00) for willfully and repeatedly broadcasting indecent material during the “Howard Stern Show” on April 9, 2003.⁵⁵ Thus, the aggregate forfeiture against these subsidiaries of Clear Channel is Four Hundred Ninety-Five Thousand Dollars (\$495,000.00). We remind licensees that serious, repeated cases of indecency violations could be subject to license revocation.

IV. ORDERING CLAUSES

19. ACCORDINGLY, IT IS ORDERED, pursuant to section 503(b) of the Communications

⁵² *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). The Commission amended its rules to increase the maximum penalties to account for inflation since the last adjustment of the penalty rates. The new rates apply to violations that occur or continue after November 13, 2000. *See Order, In the Matter of Amendment of Section 1.80(b) of the Commission’s Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 15 FCC Rcd 18221 (2000).

⁵³ *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01, ¶ 27.

⁵⁴ *AMFM Radio Licenses, LLC (WWDC(FM))*, Notice of Apparent Liability for Monetary Forfeiture, 18 FCC Rcd 19917 (2003) (forfeiture paid); *Citicasters Co. (KEGL(FM))*, Notice of Apparent Liability for Monetary Forfeiture 16 FCC Rcd 7546 (EB 2001) (forfeiture paid); *Citicasters Co. (KSJO(FM))*, Notice of Apparent Liability for Monetary Forfeiture, 15 FCC Rcd 19095 (EB 2000) (forfeiture paid); *Citicasters Co. (KSJO(FM))*, Notice of Apparent Liability for Monetary Forfeiture, 15 FCC Rcd 19091 (EB 2000) (forfeiture paid).

⁵⁵ The forfeiture amount proposed against each station of each Clear Channel subsidiary is allocated on the basis of three indecency violations per station, and \$27,500.00 per violation, for a total of \$82,500.00 (3 x \$27,500.00) per station.

Act of 1934, as amended, and section 1.80 of the Commission's rules,⁵⁶ that Clear Channel Broadcasting Licenses, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of Two Hundred Forty-Seven Thousand Five Hundred Dollars (\$247,500.00) for willfully violating 18 U.S.C. § 1464 and section 73.3999 of the Commission's rules.

20. IT IS FURTHER ORDERED, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules,⁵⁷ that Citicasters Licenses, L.P., is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of One Hundred Sixty-Five Thousand Dollars (\$165,000.00) for willfully violating 18 U.S.C. § 1464 and section 73.3999 of the Commission's rules.

21. IT IS FURTHER ORDERED pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules,⁵⁸ that Capstar TX Limited Partnership is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of Eighty-Two Thousand Five Thousand Dollars (\$82,500.00) for willfully violating 18 U.S.C. § 1464 and section 73.3999 of the Commission's rules.

22. IT IS FURTHER ORDERED, pursuant to section 1.80 of the Commission's rules, that within thirty (30) days of the release of this *NAL*, Clear Channel Broadcasting Licenses, Inc. SHALL PAY the full amount of the proposed forfeiture (\$247,500.00) or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

23. IT IS FURTHER ORDERED, pursuant to section 1.80 of the Commission's rules, that within thirty (30) days of the release of this *NAL*, Citicasters Licenses, L.P. SHALL PAY the full amount of the proposed forfeiture (\$165,000.00) or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

24. IT IS FURTHER ORDERED, pursuant to section 1.80 of the Commission's rules, that within thirty (30) days of the release of this *NAL*, Capstar TX Limited Partnership SHALL PAY the full amount of the proposed forfeiture (\$82,500.00) or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

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

26. The response, if any, must be mailed to William Davenport, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W, Room 3-B443, Washington D.C. 20554 and MUST INCLUDE the *NAL*/Account Number referenced above.

27. 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

⁵⁶ 47 C.F.R. § 1.80.

⁵⁷ 47 C.F.R. § 1.80.

⁵⁸ 47 C.F.R. § 1.80.

("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.

28. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁵⁹

29. 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 Clear Channel qualifies as a small entity and if it wishes to be treated as a small entity for tracking purposes, it should 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. The certification should indicate whether Clear Channel, including its parent entity and its subsidiaries, meet 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 *NAL*. This information will be used for tracking purposes only. Clear Channel'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 Clear Channel has questions regarding any of the information contained in Attachment B, it should contact OCBO at (202) 418-0990.

30. Accordingly, IT IS ORDERED, that the complaint filed against Station WBGG-FM's broadcast of the "Howard Stern Show" on April 9, 2003, IS GRANTED to the extent indicated herein, AND IS OTHERWISE DENIED, and the complaint proceeding IS HEREBY TERMINATED.⁶⁰

31. IT IS FURTHER ORDERED, that a copy of this *NAL* shall be sent by Certified Mail Return Receipt Requested to Mr. Richard W. Wolf, Vice President, Clear Channel Communications, Inc., c/o Clear Channel Worldwide, 200 East Basse Road, San Antonio, Texas 78209-8328, to Clear Channel Broadcasting Licenses, Inc., Citicasters Licenses, L.P., and Capstar TX Limited Partnership, 2625 S. Memorial Drive, Suite A, Tulsa, Oklahoma 74129, with a copy to Clear Channel's counsel, John M. Burgett, Esq., Wiley, Rein & Fielding, LLP, 1776 K Street, N.W., Washington, D.C., 20006, and to the complainant.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁵⁹ See 47 C.F.R. § 1.1914.

⁶⁰ Consistent with section 503(b) of the Act and consistent Commission practice, for the purposes of the forfeiture proceeding initiated by this *NAL*, Clear Channel and its subsidiaries Clear Channel Broadcasting Licenses, Inc., Citicasters Licenses, L.P. and Capstar TX Limited Partnership, shall be the only parties to this proceeding.

ATTACHMENT A

Program Transcript

EB-03-IH-0159

Radio Station: WBGG-FM, Fort Lauderdale, Florida
Date/Time Broadcast: April 9, 2003, between 7:25 and 7:45 a.m.
Material Broadcast: The Howard Stern Show

Stern: ...John's anal talk. John revealed that in his sex life with his wife they have anal every other time they do it., [Sound of flatulence or anal evacuation] which seems excessive. Some people wrote in. Here's one: "John must have some homosexual fantasies based on his need for [flatulence] anal. [flatulence] We all know it doesn't feel nearly as good as straight sex." I don't know if a man or a woman wrote that. [flatulence]

"Jesus H. Christ, just the thought of that [flatulence] obese slob Artie on the bed all sweaty, hairy, and naked giving his girlfriend [flatulence] a, what do you call that, using his mouth in a really dirty place makes we want to friggin' shoot myself. Imagining the scene with Bobbabooley was no better. [flatulence]."

Robin: Oh, my God.

Finally, "if Stuttering John keeps up with his every other time [flatulence][at this point you can clearly hear that something is deleted or "dumped" from Stern's commentary by means of the broadcast delay capability] unless of course he's so small that it isn't much of a strain on her."

John: Hey, Howard, I was only kidding about that.

Stern: No you weren't. Why, your wife came down on you?

John: Let's just say it wasn't a pleasant day in the Menendez household.

Stern: Really, why? Is she embarrassed?

John: Yes, she doesn't, you know, want our sex life out [flatulence].

Stern: Oh please! So, what, no more anal?

John: [flatulence] Let's just say it's every once in awhile [flatulence].

Stern: Aye, yi, yi. You were lying, then, yesterday.

John: Yeah, I was lying [flatulence].

Stern: Okay. What?

Another voice: You know what? The in-laws heard. That's got to be tough.

Stern: Was it the in-laws?

John: No, no, she just happened to turn it on and goes “What is this?”

Stern: But I’ve heard from her [flatulence] that she loves anal.

John: Yes, but that’s at the dinner table with us, not with the whole world listening [flatulence].

Another voice, imitating John’s mother-in-law: I saw you telling everyone that you give anal to my daughter. [flatulence]

* * *

Stern: So Bruce, I’m going to let you plug your product Sphincterine. Now I even said I’d let you do your jingle. Give them the Sphincterine jingle, first of all.

Bruce: All right, this is a band called the Dead Beatles. [Musical jingle begins]: Sphincterine makes you tingle, feel so clean. Oh, Sphincterine. Cleans you sphincter and what’s between. Ho, hey!

Stern: What did you pay for that?

Bruce: Nothing, that’s my band the Dead Beatles.

Stern: The Sphincterine product. How much money have you invested in this so far would you say?

Bruce: Probably about twenty grand.

Stern: And it’s ...

Robin: How much have you made?

Bruce: I probably have tripled that in just about six months, nine months.

Robin: Really?

Stern: You say you invented Sphincterine because a chick was giving you oral and you had a swamp ass?

Bruce: Yeah, that’s basically it, Howard, yeah. I had a bad experience and my girl friend who’s in the green room right now was in a spontaneous mood and she caught me at a bad time and ...

Stern: Is you girlfriend good looking?

Bruce: Yeah, she’s cute.

Stern: Yeah. So, oh, let me talk to her. I want to hear what swamp ass smells like.

Bruce: I’m not sure she’s going to want to do this.

Stern: What, describe swamp ass?

Bruce: She can describe swamp ass, but I’m not so sure she wants to go on the air.

Stern: So, when you develop a product, are you a chemist, that you would know how to do it?

Bruce: Yes.

Stern: What?

Bruce: I'm a chemist. I develop products for a natural product company. And, uh, ...

Stern: So you decided to branch out on your own.

Bruce: Yeah.

Stern: Oh, there's your girlfriend. She is cute.

Bruce: Thank you.

Stern: So you were giving this animal oral, and you said "Man you've got swamp ass"? Was that how it went down?

Female Guest (Cat): Actually no, I went close for oral.

Bruce: How close? Nine inches away, I think it was.

Cat: Yeah.

Stern: Yeah. And you just said ...

Robin: You couldn't get any closer.

Stern: And you said, "Oh, my God. You stink." [recording of flatulence noise] What happened? Had you gone to the bathroom that day and not showered?

Bruce: Yeah, it was like the end of the day, and Cat is a spontaneous woman and she just caught me with my pants down [flatulence noise].

Stern: Okay [flatulence noise] and you're hot by the way.

Cat: Thank you.

Stern: Yeah. What are you doing with a guy with swamp ass? [flatulence]

Bruce: Hey, it was a one shot deal.

Stern: Honey, before I'd bang you I'd take a nice shower.

Cat: You would?

Stern: Yeah, I sure would

Cat: Oh. That would be nice.

Stern: Yeah. So ...

Bruce: I go beyond that. Now I Sphincterine before I bang her.

Stern: Talk about Sphincterine. So, you developed this product, and let's say I go to the bathroom, and I don't feel fresh.

Bruce: You were talking recently about when you go to the bathroom, you use toilet paper with water on it. This product is really excellent for that particular situation you have.

Stern: What is it, a spray bottle or a cream?

Bruce: It's a liquid, and it also comes in towelettes. So what you've got is something that you, the liquid, that you apply to toilet paper like water, as you once said on the air.

Stern: I see.

Bruce: You put it on, it's all natural ingredients.

Stern: Is it like a baby wipe?

Bruce: It's like a baby wipe, but those wipes are loaded with chemicals and bad ingredients. This is all natural, and it feels good. And you know, I'm going to let Cat talk about another purpose, uh, Cat.

Stern: I don't know if I want an infomercial.

Bruce: No, Howard, this is cool.

Stern: You know your dog was probably going to beat Artie anyway.

Bruce: The bottom line is that Cat uses it on the front as well.

Stern: Really? No problems using that? It doesn't affect you in anyway?

Cat: No. Actually, but it has a nice effect. It makes you tingle...

October 2002

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.

(1) Small Organization	
Any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.	
(2) Small Governmental Jurisdiction	
Governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.	
(3) Small Business	
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.	
Industry Type	Description of Small Business Size Standards
<i>Cable Services or Systems</i>	
Cable Systems	Special Size Standard – Small Cable Company 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.

<i>International Services</i>	
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	
Mass Media Services	
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 – Small Business is less than \$40M in annual gross revenues for three preceding years
Wireless and Commercial Mobile Services	
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 - Small Business is average gross revenues of \$15M or less for the preceding three years (includes affiliates and controlling principals) Very Small Business 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 - Small Business is \$40M or less in annual gross revenues for three previous calendar years Very Small Business 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	Auction special size standard - Small Business is \$15M or less average annual gross revenues for three preceding calendar years
800 MHz Specialized Mobile Radio	
900 MHz Specialized Mobile Radio	1,500 Employees or Fewer
Private Land Mobile Radio	
Amateur Radio Service	N/A
Aviation and Marine Radio Service	1,500 Employees or Fewer
Fixed Microwave Services	

Public Safety Radio Services	Small Business is 1,500 employees or less Small Government Entities 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	Small Business is \$40M or less average annual gross revenues for three preceding years Very Small Business is average gross revenues of \$15M or less for the preceding three years
39 GHz Service	
Multipoint Distribution Service	Auction special size standard (1996) – Small Business is \$40M or less average annual gross revenues for three preceding calendar years Prior to Auction – Small Business 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) – Small Business is \$40M or less average annual gross revenues for three preceding years Very Small Business is average gross revenues of \$15M or less for the preceding three years
218-219 MHz Service	First Auction special size standard (1994) – Small Business 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 – Small Business 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) Very Small Business 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	Small Business 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) Very Small Business 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)
Miscellaneous	
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
Medical Implant Device Manufacturers	500 Employees or Fewer

Hospitals	\$29 Million in Annual Receipts or Less
Nursing Homes	\$11.5 Million in Annual Receipts or Less
Hotels and Motels	\$6 Million in Annual Receipts or Less
Tower Owners	(See Lessee's Type of Business)

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: Clear Channel Broadcasting Licenses, Inc., Licensee of Stations WBGG-FM, Fort Lauderdale, Florida, WTKS-FM, Cocoa Beach, Florida, and WTFX-FM, Louisville, Kentucky; Citicasters Licenses, L.P., Licensee, Stations KIOZ(FM), San Diego, California, and WNVE(FM), Honeoye Falls, New York; and Capstar TX Limited Partnership, Licensee of Station WDX-FM, Pittsburgh, Pennsylvania, Notice of Apparent Liability for Forfeiture

I have long advocated that the Commission use all of the tools it has to tackle indecency on the public's airwaves. Today's decision is a step forward towards imposing meaningful fines. For the first time, the Commission assesses a fine against more than a single utterance, rather than counting an entire program as one utterance. In addition, the Commission makes clear that its indecency enforcement will address not only the station that is the subject of a complaint, but also any other station that aired the same programming. I therefore vote to approve this decision.

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: Clear Channel Broadcasting Licenses, Inc., Licensee of Stations WBGG-FM, Fort Lauderdale, Florida, WTKS-FM, Cocoa Beach, Florida, WTFX-FM, Louisville, Kentucky; Citicasters Licenses, L.P., Licensee of Stations KIOZ(FM), San Diego, California, WNVE(FM), Honeoye Falls, New York; Capstar TX Limited Partnership, Licensee of Station WXDX-FM, Pittsburgh, Pennsylvania; Notice of Apparent Liability for Forfeiture

I support this Notice of Apparent Liability for the broadcast of indecent material at a time when children may be in the audience. By issuing this NAL, we step up to our responsibility to enforce statutory and regulatory provisions restricting broadcast indecency. For the first time, we impose fines based upon separate utterances. While this is not the most egregious case that I have seen, the material broadcast is indecent under our standards and the fines appropriately account for the violation of our rules.

Since I arrived at the Commission, we have greatly stepped up our enforcement against indecent broadcasts. I expect that stepped-up actions like those we take today will convince broadcasters that they cannot ignore their responsibility to serve the public interest and to avoid the broadcast of indecent material over the public airwaves.