

**REMARKS OF COMMISSIONER MICHAEL J. COPPS
TO THE
NATPE 2003 FAMILY PROGRAMMING FORUM
NEW ORLEANS, LOUISIANA
JANUARY 22, 2003**

Good morning. Thank you for that kind introduction and for inviting me to be here with you today. Having lived here in the fabled Big Easy for a few years many years ago, I always love coming back and savoring its way of living. I hope you have had the pleasure of taking in some of the sights and sounds of New Orleans during your stay. Of course, if you ventured beyond just sights and sounds, you're on your own, and you may be paying the piper even as we meet here so early this morning.

I am looking forward to our discussion on family programming, and as a segue into that, I want to spend just a few minutes on what I see as the larger context for these program issues. That context, to me, is their relationship to media concentration and to the imminent decisions at the FCC on what do with existing ownership caps and limits. Chairman Powell has announced that we will vote on all these things this spring. He depicts it as just another biennial review. But a lot more is at stake here than just satisfying a requirement for periodic review of an industry or even satisfying the demands of a particular court. At stake in this proceeding is how the media industry is going to look for the next generation and beyond. At stake are core values of localism, diversity, competition, and maintaining the multiplicity of voices and choices that undergird our open marketplace of ideas. And at stake is the ability of Americans to enjoy the best, most creative and most diverse entertainment, rather than more and more

pre-packaged, lowest common denominator programming put together hundreds of miles distant from the communities in which it is aired.

I'm frankly concerned about consolidation in the media, and particularly concerned that we are on the verge of dramatically altering our nation's media landscape without the kind of national dialogue, debate and careful analysis that these issues so clearly merit.

Why am I concerned? I don't believe that we are anywhere close to understanding the potential consequences of our actions. We have a model for what eliminating concentration protections might do to the media – the radio industry. Many believe that the recent elimination of radio consolidation rules created real problems. Undoubtedly some efficiencies were created that allowed broadcast media companies to operate more profitably, and this probably did allow some stations to remain on the air which might otherwise have gone dark. They may even have kept some stations in business. But the consolidation went far beyond what anyone expected. Conglomerates now own dozens, even hundreds – and, in one case, more than a thousand – stations all across the country. There are 34 percent fewer radio station owners than there were before protections were loosened. The majority of radio markets are dominated by oligopolies. And ten companies, according to one survey, now control 2/3 of radio programming and 2/3 of radio revenues. All this in just a few short years.

Respected media watchers argue that this concentration has led to far less coverage of news and public interest programming. The Future of Music Coalition, in its multi-year study, finds a homogenization of music that gets air play and that radio serves now more to advertise the products of vertically integrated conglomerates than to entertain Americans with the best and most original programming. Despite this history, the Commission is considering this spring whether to visit upon the rest of broadcast media that which we have already visited upon radio -- and much, much more.

Television, too, is already a changed animal. Maybe there never was exactly a “golden age” of television, but once upon a time not so very long ago there *was* a medium which tried to reach out and inform and entertain a majority of the American people. I don’t believe I do that medium vast injustice when I say it often seems to have narrowed its mission to one of delivering eyeballs to advertisers and its focus to delivering especially 18-34 year old eyeballs. That kind of television is tunnelvision. And the target audience of tunnelvision is no longer the majority, but a small, albeit free-spending minority.

Oddly enough, not only do consumers suffer, so do many advertisers who are increasingly unable to find access for products and services aimed at other segments of the population. Advertising in a consolidated environment does not come cheaply.

Also up near the top of tunnelvision’s victims are the producers and creative artists who could be providing prime time network television with programs appealing to

the many other segments of the population who exist on this planet alongside the 18-34 year olds. I love 18-34 year olds; in three years, all five of my children will be in that category. God bless them all. But there are others of us, too, with different programming, and even advertising, interests, and I think these interests – *ergo*, an important component of the public interest – are getting beat up on pretty badly.

In our broader analysis of these issues, we must keep in mind that the effects of media consolidation are not just economic. What I have been talking about goes to the core of what we see and hear. I have already mentioned localism, diversity, safeguarding the integrity of America's marketplace of ideas. I also believe it's time we took a look at the potential correlation between increasing indecency problems and increasing media consolidation. So we come to family programming.

Each day, every day I hear from Americans who are fed up with the patently offensive programming coming their way. I hear from parents frustrated with the lack of choices available to their children. I even hear from broadcast station owners that something needs to be done. I've referred to a "race to the bottom," but now I've begun to wonder if there even is a bottom. We as a society have a responsibility to protect children from content that is inappropriate for them. We're not doing a very good job of it.

Is it just coincidence that the rising tide of indecency on the airwaves is happening alongside the rising tide of consolidation? Should we expect no ill effects when the bulk

of a station's programming decisions are made by some mega-programmer or advertiser obsessed by the 18-34 year old market who is working hundreds, or even thousands, of miles removed from the local community? What do you think will trump -- financial interests or the public interest? Of course, indecent broadcasts can and do emanate from local broadcast stations, but the large national companies, essentially faceless in most of the local communities where they own stations, are arguably more apt to air shock programming or cater to the lowest common denominator that seems to dictate so many programming decisions. We don't *know* the relationship for sure – but I do know this: before we vote this spring, we ought to know more about the connection than we currently do.

As some of you know, I am an advocate for a voluntary code of broadcaster conduct. I believe that if broadcasters took more responsibility for what is broadcast, particularly when children are likely to be watching, they could make a huge contribution to our children and to our society. That is why I have suggested adoption of a voluntary code of conduct. Actually “readopt” would be a more accurate term, because such a code was in place for radio from the 1920s and for television from the 1950s until 1983 when it was struck down on narrow antitrust grounds. Through enlightened self-regulation, the industry clamped restrictions on the presentations of sexual material, violence, liquor, drug addiction, even on excessive advertising. The code also affirmed broadcaster responsibilities toward children, community issues, and public affairs. It didn't always work perfectly, but it was a serious effort premised on the idea that we can be well

entertained without descending to the lowest common denominator level that now dictates so much programming.

I believe that our media chieftains could come together and craft a new code, perfectly able to pass court muster, and one that would serve the needs of their businesses as well as those of concerned families. I can't think of any initiative that would do more to advance the public interest than having such a code in place. Unfortunately, I haven't seen much action to follow up on this, or even much interest in the media sitting down to discuss it among themselves. It makes a person wonder if something more is needed.

I hear proposals nowadays for reserving some portion of the prime time hours for independently-produced programming. Maybe even, as a subset of this, a portion of the portion for family-friendly independent programming, since today's prime time network programmers seem to have such a problem delivering that particular product.

These are serious proposals that deserve serious consideration – at the Commission, all across the country. I believe many people, and the people's representatives in Congress, will look at these ideas. And I, for one at the Commission, intend to do so, too. Any idea that enhances program diversity and artistic creation and at the same time elevates the quality of what we see and hear deserves to be seriously considered.

A few final words on indecency. The responsibility for addressing this problem is not solely on broadcasters' shoulders. When it comes to the broadcast media, the FCC has a statutory obligation to protect children from obscene, indecent or profane programming. I take this responsibility with the utmost seriousness. We're not doing our job either, and if you like, I'll be happy to go into this during our discussion. Suffice it so say that we have laws – Constitutionally sanctioned laws – to protect young people from these excesses. But our enforcement of them is a sham.

Of the nearly 500 indecency complaints received by the Enforcement Bureau in the last year, 83% were either dismissed or denied, one company paid a fine, and the rest are pending or otherwise in regulatory limbo. Does anyone think that there was only one instance of indecency on all the TV and radio stations in the country last year?

If our definition of indecency leads to this dismal a result, then our current definition does not comport with Americans' view of what is indecent. That makes it time for the Commission to consider changing its definition of indecency. Too many indecency complaints from consumers and too many truly indecent broadcasts are falling through the cracks. Our definition must, to the extent possible under the First Amendment, better protect our kids against indecent material.

While we are at it, let's make another indecency connection – the one with violence. Our kids are seeing way too much violence on TV, some of it just plain sick. Compelling arguments have been made that excessive violence is every bit as indecent,

profane and obscene as anything else that's broadcast. I think those arguments are strong enough to compel our looking at them. So, yes, I'd like to see the Commission tackle violence as we look at our indecency standard.

Well, my time is about gone and I guess that's probably a sufficiency of controversial ideas for this early in the morning, so I'll hold the rest for our discussion.

Thanks for your attention.