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**Appendix B**  
**To**  
**CHMJ-AM re Tom Leykis Show (Valentine's Day) (CBSC Decision 02/03-0673, July 22, 2003)**

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**I. The Complaint**

On February 18, 2003, a listener sent a complaint to the Program Manager of CHMJ-AM (MOJO Radio, Vancouver) and copied the CBSC:

I have monitored your radio programs over the past several weeks, and am generally dismayed and revolted with their content. However, your Tom Leykis Valentine show (Friday February 14, at approximately 4:00 p.m.) was the final straw.

I note that your station broadcasts a caution before Mr. Leykis' show begins, warning, in effect, that the content is for mature audiences only. That warning can in no way excuse what follows.

Mr. Leykis says, to his apparently live audience "How many of you left the bitch at home on Valentine's Day?", "don't marry [women], just fuck them", and to a female caller, "we love it when you're a slut". In conversation with a caller, he opines that women love firemen, policemen and men in the armed forces only because they have pensions, "that's why they spread their legs for" them. He then suggests that when the men return from working hard, the women will have betrayed them by "banging someone else", because all they really wanted was [sic] the men's pensions.

In my view, Mr. Leykis is a misogynist, and his show promotes the objectification and hatred of women. His main theme is that women are nothing but objects to be f...ed and treated badly. They should never be married, because, as I have heard on an earlier program, they'll never "put out" for their husband, but "just lick it around the edges".

MOJO radio is subject to the Canadian Broadcast Standards Council's *Code of Ethics*, which states that your programming is to contain no abusive or discriminatory material based on, among other things, sex and marital status. Further, you are subject to the standards and principles established in the *Broadcasting Act* and the *Radio Regulations*. Section 3 of the *Regulations* provide that a licensee (i.e. MOJO radio) shall not broadcast anything in contravention of the law (i.e. *The Broadcasting Act* and *The Human Rights Act*), any abusive comment that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of sex, and any obscene or profane language. In my view, your radio station is in contravention of all of these provisions.

I am, by way of copy of this letter, lodging a complaint with the Canadian Broadcast Standards Council, and asking that they secure tape recorded copies of this broadcast.

I wish to also put you on notice that I intend to continue monitoring your radio station, and raise this and future issues with the Canadian Radio-television and Telecommunications Commission.

## II. Broadcaster Response

The broadcaster responded to the complainant on March 10 with the following:

The Canadian Broadcast Standards Council ("CBSC") has asked us to respond to your email of February 18, 2003. In your email, you raised concerns regarding comments made during *The Tom Leykis Show* (the "Program") aired on CHMJ-AM ("MOJO Radio") on February 14, 2003.

In particular, your email sets out your concerns regarding some comments made by the Program host that you felt promoted the objectification and hatred of women.

As you know, MOJO Radio is a talk radio station that directs its programming fare to a male audience between the ages of twenty-five to fifty-four years. Its programming format is diverse and covers topics that range from health and fitness, sports, computers, career, business, law, money, investment tips, gears, gadgets, cars, beer, and other lifestyle issues which include sex, often presented in a comedic style. Our daily programming also consists of current pop-culture subjects, issues and current affairs phone-in shows. We believe our programming is an intelligent yet, sometimes irreverent alternative to much of the mainstream talk shows available in this market, as it offers frank and open debate on diverse and often controversial issues.

The Program, which is syndicated from Los Angeles, is widely known to be a program of broad interest to male listeners. As a result, topics discussed on the Program and callers that are interviewed by the Program host are selected because of their appeal to a male audience. Realizing that the Program may not appeal to all our listeners, the Program frequently airs appropriate advisories to inform our listeners that some might find the Program offensive.

We appreciate that a number of the Program host's comments may seem derogatory when reviewed in small sound bites. However, we believe that a reasonably frequent listener to the Program will come to understand this as the host's "schtick" and not a full representation of his beliefs. For example, on February 14, 2003, the date noted in your e-mail, frequent listeners to the Program would have appreciated that through his often-outrageous comments, the Program host was making observations on the types of people who would poison relationships and he referenced such people as "gold-diggers", etc. Many of his comments are based on his own life experiences.

However, he often balances his outrageous opinions with counter arguments. For example, he frequently espouses the value of a strong family unit and the importance of making responsible decisions. He is a champion of Planned Parenthood and marital fidelity. His negative stance on unprotected sex between unmarried partners is well known and frequently revisited. He is also a harsh critic of drunk drivers and regularly urges his younger listeners to complete their education.

We recognize that some listeners may not agree with the Program host's choice of words or find them to be offensive or in poor taste. In particular, your e-mail refers to the use of the terms "bitch" and "slut". We appreciate that these words may offend some listeners. However, the Canadian Association of Broadcasters codes (the "Codes"), administered by the CBSC have clarified that "the broadcaster's programming responsibility does not extend to questions of good taste".<sup>1</sup> The CBSC applies current social norms in its interpretation of the Codes. In previous decisions, the CBSC has acknowledged that "crude or vulgar language is not necessarily obscene or profane" and therefore not in violation of the Codes.<sup>2</sup> The CBSC has also noted "some language which may at another time have been broadly considered obscene or profane had now slipped into common and marginally acceptable usage."<sup>3</sup>

The CBSC has acknowledged that a program "will not be everyone's 'cup of tea' and it assumes that some members of society would be offended... *That* is not, however, the criterion by which the program must be judged."<sup>4</sup> In addition, the CBSC has noted that that where "the majority of listeners to the show in question are adults", the CBSC "sees no overriding societal interest in curtailing the broadcaster's right

to freedom of expression and, therefore, considers that concerns about the crude and vulgar language should be 'regulated' in the same way as other matters of taste, i.e. via the on/off or dial button."<sup>5</sup> Similarly, the recently revised Codes also specify that programming broadcast on a local radio station shall take into consideration the demographic composition of the station's audience, and the station's format.<sup>6</sup> We believe that the tone and content of this Program is appropriate having regard to its format, demographic audience and current social standards, particularly as the Program is directed to an adult audience.

Moreover, the CBSC has held that "it is not *any* reference to 'race, national or ethnic origin, religion, age, sex, marital status or physical or mental handicap' but rather those which contain 'abusive or discriminatory material or comment' based on the foregoing which will be sanctioned."<sup>7</sup> In previous decisions, the CBSC has held that words such as "psycho chick", "broad" and "vindictive" to describe women, "might be considered in poor taste or, in their worst possible interpretation, derogatory toward women," but were not in violation of the Codes.<sup>8</sup> Similarly, the CBSC held that "the characterization of Korean women abused by the Japanese during the Second World War as 'whores', even if incorrect, did not necessarily constitute a breach."<sup>9</sup> In this instance, we do not believe that the comments made in the Program were abusive or discriminatory or otherwise in breach of the Codes.

Accordingly, we believe that while the comments in the Program may have been controversial and not to everyone's taste, in the context that it were [*sic*] presented, it was not promoting the objectification or hatred of women. Please be assured that we do not condone discrimination or profanity of any sort on MOJO Radio. In fact, we have invested in digital time-shift equipment to edit material that does not conform to the requirements of the *Broadcasting Act*, the *Radio Regulations, 1986* and the Codes. In this regard, we also have several non-offensive segments at our immediate disposal to replace potentially offensive comments on the Program. In addition, we have a full-time editor monitoring the Program to ensure that the Program complies with Broadcasting standards and requirements. We also meet with our editing and on-air staff regularly to reinforce the need for vigilance in this area.

We deeply regret that the Program offended you for that was not our intent. We have reviewed your concerns internally and have had discussions with our on-air staff about appropriate on-air content. We will continue to exercise greater diligence on such matters. Please be assured that we take our responsibilities as a broadcaster very seriously. Our producers and hosts are extremely sensitive to the substance of the various topics presented on MOJO Radio and we work to ensure all our programming complies with the *Broadcasting Act*, the *Radio Regulations, 1986* and the Codes and standards required of us as a member of the CBSC.

We trust the foregoing responds to the concerns you raised in your letter regarding the Program. At MOJO, we recognize the importance of listener feedback and appreciate all comments. We thank you for taking the time and initiative to share your concerns with us.

<sup>1</sup> Clause 1 – *CAB Code of Ethics* Commentary

<sup>2</sup> Clause 1 – *CAB Code of Ethics* Commentary

<sup>3</sup> *CFRA-AM re Steve Madely* (CBSC Decision 93/94-0295, November 15, 1994)

<sup>4</sup> *CFJP-TV (TQS) re "Quand l'amour est gai"* (CBSC Decision 94/95-0204, December 6, 1995)

<sup>5</sup> *CIQC-AM re Galganov in the Morning* (CBSC Decision 97/98-0473, August 14, 1998)

<sup>6</sup> *CAB Code of Ethics* – Revised June 2002 – Clause 9

<sup>7</sup> *CFOX-FM re the Larry and Willie Show* (CBSC Decision 92/93-0141, August 30, 1993)

<sup>8</sup> *CHOG-AM re The Shelley Klinck Show* (CBSC Decision 95/96-0063, April 30, 1996)

<sup>9</sup> *CKTB-AM re the John Gilbert Show* (CBSC Decision 92/93-0179, October 26, 1993)

### III. Additional Correspondence

The complainant returned her Ruling Request form on April 2 with a short note:

I wish to advise you that I am not satisfied with MOJO's response to my complaints about the *Tom Leykis Show*. In fact, the response was generic, addressed comments I did not make, and did not respond to the issues I raised in the letter.