
APPENDIX B

CBSC Decision 08/09-0700 CFNY-FM re a "Gay Jeff" segment on the *Dean Blundell Show*

The Complaint

The following complaint dated January 22, 2009 was sent to the CRTC and forwarded to the CBSC in due course:

Occurred Jan 22/09 on Toronto Radio Station Edge 102.1. Time 9:30 am to 9:45 am. A totally disgusting conversation about how the gay announcer had performed oral sex on a fellow with a 9" penis that he had met over the internet. I am anything but a prude but there is a time/place for discussing oral sex in graphic detail and Thursday morning radio ain't it. Hopefully you can gain access to this time slot and judge for yourself. Also, I tried to call the station but they do not have a number other than the request line. Is this permissible?

Broadcaster Response

CFNY-FM responded to the complainant with a letter dated February 16:

The Canadian Broadcast Standards Council (the "CBSC") has asked us to respond to your email of January 29 [*sic*], 2009 in which you raised concerns regarding comments made during the *Dean Blundell Show* on CFNY-FM on January 22, 2009. Specifically, you said you heard "a totally disgusting conversation about how the gay announcer had performed oral sex on a fellow with a 9" penis that he had met over the internet."

We have reviewed the program, and confirm that the hosts and guest announcer "Gay Jeff" did discuss a sexual relationship he had had. The conversation had nothing to do with oral sex, however, nor was it in any way sexually explicit. While we appreciate that you may have found this exchange disgusting, we do not believe that it breached the Canadian Association of Broadcasters' *Code of Ethics* (the "Code"), which is administered by the CBSC and to which we adhere.

The CBSC has stated that a program may contain sexual overtones, but should not be sexually explicit (CJYC-FM re: *Local Exotic Dancer Bar Commercial*, CBSC Decision 97/98-0282). Where a program is not explicit and does not contain any suggestion of reality or description of an explicit sexual act, the CBSC has further stated that it would not find a breach of the Code (CFQR-FM re: *The Morning Show*, CBSC Decision 01/02 -1137). The CBSC has also found that a program filled with double entendres and suggestive comments was not explicit enough to be in breach of the Code (CFMI-FM re: *Brother Jake Morning Show*, CBSC Decision 01/02-1137). In the case at hand, the hosts referred to someone sticking "that thing in your thing" and Jeff stated that he "got all nine that he needed from him....nine reasons to invite him back". While offensive, these comments were merely suggestive, and in no way sexually explicit.

While we understand that you may have found the comments offensive, the CBSC has said that where programming is directed at an adult audience, "there is no overriding societal interest in curtailing the broadcaster's right to freedom of expression", and that in those circumstances, crude and vulgar language should be regulated in the same way as other matters of bad taste, i.e. via the on/off or dial button (CIQC-AM re: *Galganov in the Morning*, CBSC Decision 97/98-0473). As noted above, the program is directed at an adult audience, and as such, does not need to be rigorously screened.

In view of the foregoing, we do not believe that the program violated the Code. We do regret, however, that you were offended by some of some of our programming. We take our responsibilities as broadcasters very seriously, and work hard to make sure all of our programming complies with the *Broadcasting Act*, the *Radio Regulations* and the Code and standards required of us as a member of the CBSC.

We trust that this letter has addressed your concerns. We recognize the importance of listener feedback and appreciate all comments.

Additional Correspondence

The complainant wrote back on February 17:

Seriously? You can actually respond with: "The conversation had nothing to do with oral sex, however, nor was it in any way sexually explicit." Unbelievable!

I challenge you to take any 10 strangers off the street, play them that clip, and ask them what it was about. You and I both know what the feedback would be. So please, don't respond with such a ridiculous comment and insult my intelligence as well.

Having caught a few more tasteless/immature 'episodes' it's so painfully obvious that in the absence of any real talent your "team" is compelled to go for the mindless, shock-jock approach. Every second comment comes across as a desperate s-t-r-e-t-c-h for a cheap laugh. Do you guys actually get together as a company, look around the boardroom table at each other and take personal pride in your collective "professionalism"?

I'm taking my media advertising budget elsewhere. I really hope y'all found it to be a hilarious skit ... because it probably cost you somewhere between \$10-\$20K. Now THAT's funny!

[CBSC Communications Coordinator]: Could you please tell me whether you listened to this radio spot and whether it is your position that "The conversation had nothing to do with oral sex, however, nor was it in any way sexually explicit."

In response to that final question, the CBSC Communications Coordinator explained to him that the CBSC only reviews the programs once a complainant has filed a Ruling Request. He then did so on February 20 with the following note:

Occurred Jan 22/09 on Toronto Radio Station Edge 102.1. Time 9:30 am to 9:45 am. A totally disgusting conversation about how the gay announcer had performed oral sex on a fellow with a 9" penis that he had met over the internet.

Broadcaster's response was little more than an obvious templated email that quoted prior legal ruling and provided their own assessment as to why they were not in conflict with the guidelines. I am formally requesting that CBSC review the tape from this time period.

After receiving the CBSC's confirmation that his Ruling Request was being processed, the complainant offered some additional thoughts on February 23:

The fact that you have a six month backlog of media complaints speaks volumes about the media itself. Clearly many people are being offended by inappropriate content to the point that they feel they must take action. I'm sure that many times that amount are also offended but can't be bothered going through this lengthy process, something that I'm sure the stations take into account as they push the envelope while playing shock-jock wanna-be's. The massive backlog of complaints also demonstrates that the penalties must either be few, nominal, or both ... else this would not continue.

I'll look forward to observing the process and the outcome.