
**CANADIAN BROADCAST STANDARDS COUNCIL
PRAIRIE REGIONAL PANEL**

CKMM-FM re a song entitled "The Bad Touch"

(CBSC Decision 99/00-0521)

Decided February 21, 2001

D. Braun (Chair), R. Cohen (*ad hoc*), D. Dobbie, V. Dubois, R. Gallagher and S. Hall

THE FACTS

On April 21 and 30, 2000 around 3:00 p.m. and on April 26 around 9:00 p.m., the complainant heard the playing of the song "The Bad Touch" by the Bloodhound Gang on CKMM-FM (Winnipeg). The complainant added that she had not documented all the occasions on which she had heard it played by CKMM-FM but the indication was that she had heard it with some frequency. The following lyrics from the song are the most pertinent insofar as this decision of the Council is concerned but the complete transcript of the song can be found in Appendix A:

Sweat baby, sweat baby, sex is a Texas drought
Me and you do the kind of stuff that only Prince would sing about
So put your hands down my pants and I'll bet you'll feel nuts
Yes I'm Siskel, yes I'm Ebert, and you're getting two thumbs up
You've had enough of two-hand touch. You want it rough. You're out of bounds
I want you smothered, want you covered, like my Waffle House hashbrowns
Come quicker than FedEx, never reach an apex. Like Coca-Cola stock you are inclined
To make me rise an hour early just like Daylight Savings Time

Do it now
You and me, baby, ain't nothin' but mammals
So let's do it like they do on the Discovery Channel
Do it again now
You and me, baby, ain't nothin' but mammals
So let's do it like they do on the Discovery Channel
Gettin' horny now

Love, the kind you clean up with a mop and bucket
Like the lost catacombs of Egypt. Only God knows where we stuck it
Hieroglyphics? Let me be Pacific, I wanna be down in your South Seas
But I got this notion that the motion of your ocean means "Small Craft Advisory"

So if I capsize on your thighs high tide; B-5, you sunk my battleship
 Please turn me on, I'm Mister Coffee with an automatic drip
 So show me yours, I'll show you mine; "Tool Time" you'll Lovett just like Lyle
 And then we'll do it doggy-style so we can both watch "X-Files"

The complainant sent her e-mail to the CBSC on May 12 and, after quoting those of the above words which most troubled her, stated, in part (the full text of the complaint can be found in Appendix B):

I learned these words from my nine year old son who had listened to Hot 103 FM.

We had a talk about it and I won't let him listen to it anymore. Hot 103 is a very popular station among children in Winnipeg, although the station claims to target 18 to 34 year olds. The music album Hooray for Boobies which contains "The Bad Touch" is being given away by the station in a contest but only those over the age of 18 are eligible to win the prize. If the material is too mature for the under 18 group than why is this song being played when they can hear it?

...

My friend's daughter was on the kiddie shuttle bus on the way to daycare after school when the song was played on Hot 103. She said the school bus driver changed the station. This song has a very catchy tune that appeals to youth and they like to sing along but it is totally inappropriate material for children as YTV has stated. It is regularly played at times when children are listening to the radio. ...

Although this radio station claims to target 18 to 34 year olds, an advertisement on TV on Channel 8, May 10, at 9 pm by 103 FM had six year old children helping to advertise what they are calling a public service announcement. ...

The broadcaster's Vice President of Programming responded to the complainant on May 24. She wrote, in part (the full text of the broadcaster's reply being in Appendix B):

I understand your opposition to this song, especially if your son is singing it (although you mentioned that he didn't know what he was saying). I understand why the school would decide not to play Hot 103 during Phys Ed or in the school bus, for fear that this song might come on.

However, this song is extremely popular. I have had only two complaints about the lyrical content of "The Bad Touch", partly, I assume, because the lyrics are not easy to catch.

Censorship is a slippery slope for broadcasters to navigate. Freedom of choice means that a radio station can play "The Bad Touch", but also that people can choose to ban our station from certain venues. I do not believe that Hot 103 should refuse to play a song that is being requested by listeners simply because some people don't like their children hearing it. Nor however would we just play any song with any lyrics. Many, many songs, music videos, magazine covers, television commercials, video games, even billboards contain images or messages that could be offensive to an individual. To me it comes down to judging things on a case-by-case basis; to balance freedom of choice with sensibility; and to agreeing that media, teachers (and other authority figures) *and* parents influence children.

In any case, our decision in handling this highly requested song was to play it, but not give away the cd to anyone under the age of 18. I believe this to be an astute decision.

Our listeners do include school age children but also include many college age students, and working professionals (as many of our promotions reflect; such as our Friday office parties or the nightclub appearances that we do seven nights a week). We play "Top 40" music that appeals to a type of music lover, not an age necessarily.

The complainant was dissatisfied with the station's response and sent a thoughtful, carefully argued point-by-point rebuttal on June 19. Parts only of that letter are provided here; however, the complete text of that response is provided in Appendix B to this decision.

I feel that "The Bad Touch" or other pornographic material should not be played during times of the day when children are most likely to be listening. Hot 103 has a large youth audience and is not being responsible to that audience. Considering their audience, they should show better judgement in the type of material they are airing. Radio stations have a huge amount of influence in how children view music. I am aware that there are many questionable items being played but "The Bad Touch" was particularly offensive because of the words and because of the catchy tune that appeals to young people.

The theme of The Bad Touch is pornographic and some of the words are explicit. Two lines from the song include, "So put your hands down my pants and I'll bet you'll feel nuts." and "then we'll do it doggy style so we can both watch X-files".

...

1. My young son picked up the words to this song and was singing it. The fact that he did not understand the words does not make it all right as [the Vice President of Programming] suggests. Once kids hear the words they want to know what they mean.

2. That the radio station has had only two complaints about this song does not make it acceptable to parents. ...

3. Censorship is being used as justification for playing pornography to children. I believe most people do not want their children to hear this song. ... The fact that other venues play messages that could be offensive does not make it right for 103 to play "The Bad Touch". ...

4. [The Vice President of Programming] feels that it was an astute decision to give away the CD only to people over the age of 18, but it is alright [*sic*] to play it to people under that age. I don't understand the logic here.

5. Hot 103's listeners include school age children. In fact 103 actively recruits children. ...

6. My dislike for this song is not the point. The point is Radio 103 is playing pornography during times of the day when children are most likely to be listening. Radio stations are in a position of influence. Once a radio station plays the song it becomes the norm. I was at the roller skating rink with my children when "The Bad Touch" was played. I asked the owner if they were aware of the words. The response was "yes", they were aware that the words are bad but because the radio station plays this song they also play it. Movies are rated, why are songs not rated? Why is this type of music on during the day?

The radio station is a leader. They set the standard from which other venues choose their music selections such as roller rinks, community centre youth dances, carnivals, etc. It is up to them to make reasonable choices for our children and youth. We cannot stop our children from listening to a particular radio station because radio stations have such wide coverage. ... We have come to the point where this type of material is coming at us from all directions and it is getting harder and harder to deflect.

THE DECISION

The CBSC's Prairie Regional Panel considered the complaint under the Canadian Association of Broadcasters (CAB) *Code of Ethics* and its *Sex-Role Portrayal Code*. The relevant Code provisions read as follows:

CAB Code of Ethics, Clause 6, Paragraph 3

It is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of the broadcast publisher.

CAB Sex-Role Portrayal Code, Article 4 (Exploitation)

Television and radio programming shall refrain from the exploitation of women, men and children. Negative or degrading comments on the role and nature of women, men or children in society shall be avoided. Modes of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex. The sexualization of children through dress or behaviour is not acceptable.

The Regional Panel Adjudicators listened to a tape of the song in question and reviewed all of the correspondence. The Panel is of the view that the song lyrics in question are not in breach of any Code provision.

A Previous Decision relating to "The Bad Touch"

As is the case with many songs whose lyrics "push the envelope", recording studios are accustomed to the need to furnish edited versions in order to ensure airplay, since many broadcasters, sensitive to their listening audiences, will be unwilling to give any airtime to the unedited versions of those songs. In the case of this very song, the Ontario Regional Panel has already issued a decision, *CIGL-FM re a song entitled "The Bad Touch"* (CBSC Decision 99/00-0654, October 12, 2000). As that Panel said,

[I]t is not the intention of the Codes that any material broadcast by any private sector programming undertaking be exempt from consideration thereunder. Whether it is spoken word or set to music, the same rules apply. Music is, after all, no more or less a form of programming than other dramatic, documentary, news or, indeed, advertising material, all of which must conform to the terms of the various Canadian private broadcaster Codes.

That case differs in two material respects from the present matter. First, the song which was broadcast by the Belleville station was the edited version of the song; second, the time of the day at which CIGL-FM played the song was not known to the Panel (it had not been mentioned in the complaint). Consequently, there was no way of knowing whether it was aired within a time frame which could be *expected* to have young children as a part of the audience.

With respect to the first point, the Panel had no doubt as to the nature of the complaint.

The Council well understands the perspective of the complainant that, *even if* the version played was the *edited* version, it exceeds the bounds of what ought to be broadcast.

Taking that into account, though, it concluded that the edited version of the song did not exceed the bounds imposed by the private broadcaster Codes.

In this case, the circumstances are very different. While the Council agrees that the song makes several references to sexuality, the Council is of the view that such references consist mainly of *innuendo*. The song playfully alludes to the sexual fantasies of the songwriter without explicitly describing them. In one such reference, the songwriter muses "I got the notion that the motion of your ocean means 'Small Craft Advisory'." The lyrics are far removed from the explicitness of the graphic descriptions which led to a finding of breach in the *Howard Stern* decision [*CHOM-FM and CILQ-FM re the Howard Stern Show* (CBSC Decisions 97/98-0001+ and 0015+, October 17 and 18, 1997)] or, although on slightly different grounds, the *Boyz in the Hood* decision [*CIOX-FM re the song entitled "Boyz in the Hood"* (CBSC Decision 99/00-0619, October 12, 2000)].

Special Circumstances of this Version of "The Bad Touch"

In the present matter, the Prairie Regional Panel, although impressed by the compelling arguments of the complainant, does not consider that they lead to the conclusion that there is a breach of any Code. The Panel understands and agrees with the reasonableness of the complainant parent's position that the song is not suitable for young children although it does not share her characterization of the song as "pornographic". Furthermore, it believes that the station also understands the unsuitability of the song for young children. There is, after all, a reason for which the station itself agreed *not* to make the CD available as a prize to persons under the age of 18. There is a reason for which the Vice President of Programming stated that she understood that "the school would decide not to play Hot 103 during Phys Ed or in the school bus, for fear that this song might come on." The clear expression of those sensitivities by the Vice President of Programming does make the Panel wonder why the station might not have chosen to play the edited version of the song, unless, perhaps, they did not know that it was available.

In any event, the Panel considers it important to underscore the fact that there is a spectrum of content which ranges, in terms of the Codes, from the acceptable to the unacceptable and that there is, in the centre of that spectrum, a range of content which, although perhaps distasteful or inappropriate, must be judged to be sufficiently on the edge

not to be found in breach of any Code provision. With respect to that middle range, the principle of freedom of expression must be allowed full vent. With respect to that middle range, the exercise of parental or similar authority must be exercised in lieu of a finding of Code breach. Where, in other words, the problem is not, in the view of the Panel, so egregious as to call for a negative finding, the airing of the material must be permitted to continue.

Popularity: An Issue?

The Panel considers it important to point out that the “popularity” of the song, as the Vice President of Programming used the term is absolutely not an issue in defence of the material. As the Quebec and Ontario Panels said in *CHOM-FM and CILQ-FM re the Howard Stern Show* (CBSC Decisions 97/98-0001+ and 0015+, October 17 and 18, 1997),

The globalization of the late twentieth century village does *not* mean the abdication of the maintenance of order within its Canadian borders. The existence of *other* standards in *other* parts of the global village cannot weaken the need to apply home-grown standards within the Canadian bailiwick. The bar should not be lowered in Canada just because it is set at a lesser height elsewhere in the village. There is no need for the chain of vigilance *here* to be as weak as its weakest links elsewhere. If, however, an alert to the re-definition of principles is called for by what is created in other parts of the village, Canadian broadcasters have *consistently* shown their willingness and skill to rise to such challenges.

Nor, equally, is the fact that the station had had “only two complaints” a defence to the concerns of the complainant. The CBSC never deals with the application of the private broadcasters’ standards on a head-counting or polling basis. The issue for the Council is never “how many?”; it is “what?”. The issue is not popularity; it is substance.

In this case, the Prairie Regional Panel concludes that the material does not pass from the inappropriate to the unacceptable. It is suggestive but not graphically explicit. It does not, in the view of the Panel, so cross the line which it is duty-bound to draw that it merits the curtailment of the broadcaster’s freedom of expression. This does not mean that, in the case of such song lyrics, as broadcasters have *so often* done in the past, the broadcaster with the choice of a softened version might not wish to be more responsive to concerns expressed by its audience. This could be achieved by the playing of the edited version, something which the Ontario Panel commended CIGL-FM for doing for its Belleville audience, or by choosing times of day for the airplay of such material which might render such songs less accessible to a vulnerable audience.

[T]he Council applauds the recognition by recording studios and broadcasters to provide versions of songs which are acceptable to air and it encourages radio stations to continue their self-regulatory practice of dealing cautiously with songs which they believe may be offensive for their audiences, taking into consideration the interests and the sensibilities of their audience.

These choices, though, are those of the broadcaster and it alone must be the judge of their appropriateness.

Broadcaster Responsiveness

In addition to assessing the relevance of the Codes to the complaint, the CBSC always assesses the *responsiveness* of the broadcaster to the substance of the complaint. While, as noted above, the Panel does not agree with the pertinence of a couple of the points raised by the broadcaster's Vice President of Programming, it is of the view that she has written a careful and thoughtful response to the complainant. At the end of the day, it is that attention which counts. The administration of Canada's private broadcasters' standards has, as an integral part of the process, the opening of the dialogue between the complainant and the broadcaster. It is a communicative process which works in both directions. It works best when the broadcaster clearly "hears" and responds to the complainant. The Panel believes that this letter is a good example of such a reply, despite the fact that, as is *always* the case when a matter reaches the level of Panel adjudication, the letter has not satisfied the substantive expectations of the complainant.

This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.

Appendix A

to CBSC Decision 99/00-0521

CKMM-FM re a song entitled "The Bad Touch"

The following is a transcript of the lyrics for the song in question.

Sweat baby, sweat baby, sex is a Texas drought
Me and you do the kind of stuff that only Prince would sing about
So put your hands down my pants and I'll bet you'll feel nuts
Yes I'm Siskel, yes I'm Ebert, and you're getting two thumbs up
You've had enough of two-hand touch.
You want it rough.
You're out of bounds
I want you smothered, want you covered, like my Waffle House hashbrowns
Come quicker than FedEx, never reach an apex.
Like Coca-Cola stock you are inclined
To make me rise an hour early just like Daylight Savings Time
Do it now
You and me baby ain't nothin' but mammals
So let's do it like they do on the Discovery Channel
Do it again now
You and me baby ain't nothin' but mammals
So let's do it like they do on the Discovery Channel
Gettin' horny now Love, the kind you clean up with a mop and bucket
Like the lost catacombs of Egypt.
Only God knows where we stuck it
Hieroglyphics? Let me be Pacific, I wanna be down in your South Seas
But I got this notion that the motion of your ocean means "Small Craft Advisory"
So if I capsize on your thighs high tide; B-5 you sunk my battleship
Please turn me on, I'm Mister Coffee with an automatic drip
So show me yours, I'll show you mine; "Tool Time" you'll Lovett just like Lyle
And then we'll do it doggy-style so we can both watch "X-Files"
Do it now
You and me baby ain't nothin' but mammals
So let's do it like they do on the Discovery Channel
Do it again now
You and me baby ain't nothin' but mammals
So let's do it like they do on the Discovery Channel
Gettin' horny now
You and me baby ain't nothin' but mammals
So let's do it like they do on the Discovery Channel
Do it again now

You and me baby ain't nothin' but mammals
So let's do it like they do on the Discovery Channel
Do it now
You and me baby ain't nothin' but mammals
So let's do it like they do on the Discovery Channel
Do it again now
You and me baby ain't nothin' but mammals
So let's do it like they do on the Discovery Channel
Gettin' horny now

Appendix B

to CBSC Decision 99/00-0521

CKMM-FM re a song entitled "The Bad Touch"

I. The Complaint

The following complaint dated May 12, 2000 was sent to the CBSC:

I have concerns about the very popular song "The Bad Touch" by the Bloodhound Gang. Lines in the song include "Sweat baby sweat baby, ... so put your hands down my pants and I bet you'll feel nuts. Yes I'm cisco yes I'm evil and you're getting two thumbs up. You don't want two thumbs up you want it rough". "You show me yours I'll show you mine ... then we'll do it doggy style". "You and me baby ain't nothing by mammals so let's do it like they do it on the Discovery Channel" and the song goes on and on. I learned these words from my nine year old son who had listened to Hot 103 FM.

We had a talk about it and I won't let him listen to it anymore. Hot 103 is a very popular station among children in Winnipeg, although the station claims to target 18 to 34 year olds. The music album Hooray for Boobies which contains the Bad Touch is being given away by the station in a contest but only those over the age of 18 are eligible to win the prize. If the material is too mature for the under 18 group than why is this song being played when they can hear it?

I twice left messages with the radio station program manager. She did not return either of my calls. My message on April 17, 2000 was left with her voice mail explaining my concerns. My second message was left with the station receptionist on April 28, again explaining my concerns. I also phoned a number of times during daytime office hours and got only voice mail so I did not leave another message.

A news article in April 26th's Winnipeg Free Press was about this song. YTV does not play the "Bad Touch" music video because they see it as inappropriate for youth, although Much Music does.

Here are some times when I have heard this song on Radio 103 FM: Sunday April 21 around 3 pm, 2000, Sunday April 30 around 3 pm, Wednesday April 26 around 9 pm. The song has been played many times since but I have not documented all times. The song continues to be played on 103 to date.

I also heard from my daughter that they listened to 103 during phys ed class on a weekday morning at school. I phoned the school and told the principal what had been played and he said it won't happen again and he will advise his staff about it.

My friend's daughter was on the kiddie shuttle bus on the way to daycare after school when the song was played on Hot 103. She said the school bus driver changed the station. This song has a very catchy tune that appeals to youth and they like to sing along but it is totally inappropriate material for children as YTV has stated. It is regularly played at times

when children are listening to the radio or watching TV.

I do not have times when Much Music airs the music video but my children have also seen it there. We as parents do not like to ban our children from daytime TV and radio but some media are showing poor judgement in what they are airing, giving us no choice.

Although this radio station claims to target 18 to 34 year olds, an advertisement on TV on Channel 8, May 10, at 9 pm by 103 FM had six year old children helping to advertise what they are calling a public service announcement. They are asking school children to submit projects on how to stop litter and fires. The prize advertised for the best entry is to have 103 broadcast live from the school classroom of the winner. Based on the lack of concern and respect this radio station has for our children I would be extremely disappointed with a school that would accept such a prize and in so doing use our children help promote this radio station.

II. The Broadcaster's Response

The VP Programming, Hot 103, responded to the complainant on May 24, 2000 with the following:

This letter is further to your complaint to the Canadian Broadcast Standards Council, and our subsequent conversation, about the song "The Bad Touch" by The Bloodhound Gang.

I understand your opposition to this song, especially if your son is singing it (although you mentioned that he didn't know what he was saying). I understand why the school would decide not to play Hot 103 during Phys Ed or in the school bus, for fear that this song might come on.

However, this song is extremely popular. I have had only two complaints about the lyrical content of "The Bad Touch", partly, I assume, because the lyrics are not easy to catch.

Censorship is a slippery slope for broadcasters to navigate. Freedom of choice means that a radio station can play "The Bad Touch", but also that people can choose to ban our station from certain venues. I do not believe that Hot 103 should refuse to play a song that is being requested by listeners simply because some people don't like their children hearing it. Nor however would we just play any song with any lyrics. Many, many songs, music videos, magazine covers, television commercials, video games, even billboards contain images or messages that could be offensive to an individual. To me it comes down to judging things on a case-by-case basis; to balance freedom of choice with sensibility; and to agreeing that media, teachers (and other authority figures) *and* parents influence children.

In any case, our decision in handling this highly requested song was to play it, but not give away the cd to anyone under the age of 18. I believe this to be an astute decision.

Our listeners do include school age children but also include many college age students, and working professionals (as many of our promotions reflect; such as our Friday office parties or the nightclub appearances that we do seven nights a week). We play "Top 40" music that appeals to a type of music lover, not an age necessarily.

Standards of taste shift and change continually and are as varied as there are people. Hot 103 understands your dislike for this song and is willing to abide by whatever ruling the CBSC makes on this issue. Thanks for writing.

III. Additional Correspondence

The complainant was unsatisfied with the broadcaster's response and sent the following email dated June 19, 2000:

I submitted a complaint and am not satisfied with the broadcaster's response regarding a song entitled "Bad Touch" which was aired by CKMM-FM (Hot 103). I am requesting that the appropriate CBSC Regional Council consider my complaint and the broadcaster response.

I feel that "The Bad Touch" or other pornographic material should not be played during times of the day when children are most likely to be listening. Hot 103 has a large youth audience and is not being responsible to that audience. Considering their audience, they should show better judgement in the type of material they are airing. Radio stations have a huge amount of influence in how children view music. I am aware that there are many questionable items being played but "The Bad Touch" was particularly offensive because of the words and because of the catchy tune that appeals to young people.

The theme of The Bad Touch is pornographic and some of the words are explicit. Two lines from the song include, "So put your hands down my pants and I'll bet you'll feel nuts." and "then we'll do it doggy style so we can both watch X-files".

I will respond to [the program manager's] letter paragraph by paragraph.

1. My young son picked up the words to this song and was singing it. The fact that he did not understand the words does not make it all right as [the program manager] suggests. Once kids hear the words they want to know what they mean.

2. That the radio station has had only two complaints about this song does not make it acceptable to parents. My experience is that most adults are not familiar with the words and so do not realize what their children are listening to. This was recently brought to light by a series of articles in the Winnipeg Free Press about Internet paedophiles. Parents were not aware of Internet paedophiles. Their lack of knowledge (and hence complaints) cannot be interpreted as approval of Internet paedophiles.

3. Censorship is being used as justification for playing pornography to children. I believe most people do not want their children to hear this song. If we took a survey how many people do you think would say yes I want my child to hear this song? To make a complaint is a time consuming and often futile process. The fact that other venues play messages that could be offensive does not make it right for 103 to play The Bad Touch. It just as easily makes it wrong for the other venues as well.

4. [The program manager] feels that it was an astute decision to give away the CD only to people over the age of 18, but it is alright to play it to people under that age. I don't understand the logic here.

5. Hot 103's listeners include school age children. In fact 103 actively recruits children. A current ad campaign using children that look to be six years old are in an anti-arson

campaign commercial on television. The prize for the child with the winning entry is to have 103 broadcast from their school classroom. I ran this past my local school trustee who thanked me for bringing it to his attention and said they will not accept a prize from a radio station that plays songs such as The Bad Touch. If I had not told him he would not have been aware of the song or the campaign, he said.

6. My dislike for this song is not the point. The point is Radio 103 is playing pornography during times of the day when children are most likely to be listening. Radio stations are in a position of influence. Once a radio station plays the song it becomes the norm. I was at the roller skating rink with my children when "The Bad Touch" was played. I asked the owner if they were aware of the words. The response was "yes", they were aware that the words are bad but because the radio station plays this song they also play it. Movies are rated, why are songs not rated? Why is this type of music on during the day?

The radio station is a leader. They set the standard from which other venues choose their music selections such as roller rinks, community centre youth dances, carnivals, etc. It is up to them to make reasonable choices for our children and youth. We cannot stop our children from listening to a particular radio station because radio stations have such wide coverage. The music is played in public places such as shopping malls and schools. It takes a whole village to raise a child and parents today aren't getting much help. A simple answer to parents for how to deal with bad messages children receive is to discuss it with them. We have come to the point where this type of material is coming at us from all directions and it is getting harder and harder to deflect. I trust your good judgement in this matter. If you think this song is suitable material that should be broadcast widely for children please write and let me know.