
**CANADIAN BROADCAST STANDARDS COUNCIL
B.C. REGIONAL COUNCIL**

CFOX-FM re *Larry & Willy Show* (Bryan Adams Contest)

(CBSC Decision 97/98-0534)

Decided May 20, 1998

E. Petrie (Chair), S. Warren (Vice-chair), R. Cohen (*ad hoc*),
H. Mack and D. Millette

THE FACTS

On December 9, 1997, CFOX-FM's morning show hosts "Larry & Willy" held a contest which boasted as its winning prize four row 4 tickets to a Bryan Adams concert to be held in Vancouver early in 1998. To win, listeners merely had to be the first to provide Larry and Willy with Bryan Adams' middle name, or so it seemed at the beginning of the contest and during the promotion leading up to it. After a few "unlucky" callers failed to win, however, it became clear that Larry and Willy were not actually looking for Bryan Adams' *real* middle name; rather, they were looking for a "spoof" name. The "contest" unfolded as follows:

Hosts: O.K. here is what we are looking for. Bryan Adams' middle name. Yeah. Bryan Adams does have a middle name. We're wondering if FOX's listeners know what it is. OK, let's go to the phones, see if anybody knows Bryan Adams. Hi, the FOX. Who are we speaking to on the telephone?

Caller: This is Reid.

Hosts: Reid, what's Bryan Adams' middle name?

Reid: That's a bit of a tough question to ask this early in the morning, don't you think, guys?

Hosts: It is a tough question. Yes, but you know, we want the morning show moved to the afternoon, too, but unfortunately, it's the only time we've got. But we will give you row 4 tickets, Reid, if you get us his name right.

Reid: It's 100% "Jeans".

Hosts: Jeans? James?

Reid: Jeans.

Hosts: Bryan Jeans Adams.

Reid: Definitely, next door neighbour.

Hosts: Ahhh. Nahh, no. Sorry.

Reid: 100%.
Hosts: No, that's not it, Reid. No, no, that's not it. No.
Reid: Ahhh, that's a tough call.
Hosts: Yeah.
Reid: Huh, trick question, no middle name, right?
Hosts: Yeah, sorry, Reid. You're his neighbour? You're his neighbour? You know him a bit?
Reid: Yeah, his mom told me right now.
Hosts: His mom. All right, what's his mom's name?
Reid: Huh, Beth.
Hosts: Ahhh, you are just so full of it. You are a fool. You don't even live close to Bryan Adams.
Reid: For the love of God, I want these tickets. Got stuck with the sports guy, cancelled him. Come on guys. Have a little heart, the humility here.
Hosts: O.K. Reid, what's his father's name? What's his father's name then?
Reid: Bryan Senior.
Hosts: [laughing] Get the hell off the phone now. You know you're quick, but none of these answers are correct. Okay, we're moving along to another lucky caller or perhaps an unlucky caller. Bryan Adam's middle name. Should we give a clue? Okay.
Hosts: It starts with V-A-L. Hi there, who's this? Who's this on the phone?
Caller: Jim.
Hosts: Jim. Hi Jim, what's Bryan Adams' middle name?
Jim: Ohhhh, I'm going to go for ... Robert?
Hosts: Robert. Bryan Robert Adams. No. Didn't we just said it starts with V-A-L? V-A-L, it was a little clue there. You want to take one more guess - V-A-L. No, that's it. Only one guess. Sorry, Jim, we've got to give you the boot. Bye, Jim, it's not Robert. Next caller please. Next contestant and it is, hi, who are you?
Curt: Hi, it's Curt.
Hosts: Curt. Okay, Curt, what's Bryan Adams' - What?
Curt: His middle name?
Hosts: Yeah.
Curt: Is it "untalented dork"?
Hosts: [laughing] Please, no, honestly, while we're on the air.
Curt: Sorry about that.
Hosts: Bryan Untalented Dork Adams.
Curt: That's not it, eh!
Hosts: [laughing] Well that's two middle names. That ain't it. Boy. That's actually his Christian name. But a good shot at it, Curt. Thanks for trying anyway. Oh boy. Okay, we go to the phone. Hi, who's this?
Kate: Hi. This is Kate.
Hosts: Hi, Kate, how are you? What's Bryan Adams' middle name. Actually, I'll give you even more of a clue.
Kate: I don't need a clue.
Hosts: Oh, you don't. Oh, okay.
Kate: He was born on Guy Fawkes Day and his middle name is Guy.
Hosts: Ahhhh. Bryan Guy Adams. No. That works. It sounds good. Bryan Guy Adams, nice flow to it. Not right, though. No, I'm sorry. That is not the answer we're looking for. Okay, we'll take another caller. Here's one more clue for you, it's V-A-L-J-I-N. All right, that's not all of it, but that's close to it. Okay, next caller. Hi there.
Caller: I don't have a clue.

Hosts: You don't have a clue?
Caller: No I'm sorry.
Hosts: You can purchase a clue for just \$100.
Caller: I thought maybe it was Zeldon.
Hosts: Huh, one more time please.
Caller: Zeldon.
Hosts: No, no, nice try though. Appreciate the effort. Okay, go into the bathroom. Give yourself a little paddle on the bum for not getting it right. Okay, that's a consolation price. Who's this on the phone?

Chantal: Chantal.
Hosts: Chantal.
Chantal: You guys, it's Guy.
Hosts: What?
Chantal: It's Guy.
Hosts: It's not Guy.
Chantal: Yes, it is.
Hosts: It is not. Do you want to argue with us?
Chantal: His mother's name is Jane and it's Guy.
Hosts: What's his father's name?
Chantal: His what?
Hosts: His father's name. His Dad's name is?
Chantal: I don't know his Dad's name. But his brother's name is Bruce.
Hosts: Bruce?
Chantal: Yeah. [laughing]
Hosts: I'll spell it for you. V-A-L-J-I-N-D-E-R.
Chantal: No clue guys.
Hosts: All right. V-A-L, J-I-N, D-E-R.
Chantal: Valjin.
Hosts: What?
Chantal: Valjinder.
Hosts: Valjinder, Valjinder, yeah!!! Bryan Valjinder Adams. [laughing]. That's his middle name, you didn't know that? You look it up in the Canadian history, all right. That's what it is. Valjinder. Jane and huh, Conrad. Yeah, absolutely. Now, what's your name again?

Chantal: Chantal.
Hosts: Chantal, you hang on the phone, we're going to give you some tickets, okay. Row 4 tickets for Bryan Adams. Bryan Valjinder Adams, in concert here in Vancouver, February 26 at GM Place. Tickets go on sale Saturday. Not that I'm going to argue with anybody off the phone. Everybody is going to phone and say, it is not VALJINDER.
Chantal: I know, I feel really sorry for that girl.
Hosts: That's what it is, it's Valjinder. And I'm not taking any crap for anybody either. Hold the line. We have to get your information.

The Letter of Complaint

On January 9, 1998, the "aggrieved contestant" who did first guess "Guy", the correct reply, wrote the following letter to the CBSC:

Please be informed that I wish this letter to stand as an official complaint against the radio station noted above, regarding a contest held on December 9, 1997.

On the morning of December 9, 1997, at 9:00 am, the CFOX radio morning show hosts, Mr. Lawrence Hennessy and Mr. William Percy, (aka Larry & Willy, respectively) offered callers to participate in an on the air contest. The skill testing question was paraphrased in this way: "It has been announced that Bryan Adams is coming to Vancouver for a concert on February 26th, now to win four row 4 tickets, give us his middle name." After two unsuccessful callers attempted to guess the name, I was lucky enough to be selected as the third. The time was very near 9:02 am.

Mr. Percy asked my name, which I said was "Kate". He then said, "Okay Kate, tell me what Bryan Adams' middle name is and I will give you a hint...". I replied that I did not need a hint, that I knew that he was born on Guy Fawkes Day, and his middle name is "Guy". "Wrong!", said Mr. Percy, and he cut me off.

The next caller to the program was a young lady who was given the hint [again by Mr. Percy] that I did not need: "What is Bryan Adams' middle name and I'll give you a hint, it's spelled 'V-A-L, J-I-N, D-E-R'." The caller's reply was, "Valjinder? No, it's 'Guy'!" The two morning hosts then proceeded to whoop and holler that she had answered the question correctly, his name was "Valjinder", and they were awarding her four row 4 tickets which she could pick up immediately.

My initial reaction was to be stunned. After that I called Bruce Allen Talent and spoke to a young woman named "Andrea". She confirmed that Mr. Adams' middle name is "Guy", but also informed me that she knew nothing of the nature of the contest.

My attempts to satisfy this complaint alone with the radio station have been fruitless. After significant attempts by telephone, I reached Mr. Percy, on location in Richmond. I explained to him who I was, and that I believed I had rightfully won the contest held earlier that morning. His retort was, "thank you for your attempt to keep us informed, however, I have it under good authority that his middle name is in fact 'Valjinder'." I was then cut off a second time.

My next course of action was to call Mr. Bob Mills, the Program Director at CFOX. He was very polite and said that he had been listening to that particular broadcast, and that he was mortified because Larry & Willy had obviously made a mistake since he [Mr. Mills] also knew that "Guy" was Mr. Adams' middle name, as he billed himself that way very early in his career. When I thanked him and left his office, my understanding was that it was with a promise to do "as good or better" than he had done for the other contestant, which I thought was a fair resolution to the matter, even though I had been humiliated twice by Mr. Percy - once on the air. We also joked because I asked him to throw in the new CD, for good measure, which he eventually offered to do.

On December 14, 1997, Mr. Hennessy called me and informed me that he had procured "two row 3 seats" for me to pick up. We had a casual conversation about the demands of live radio versus ethical boundaries in broadcasting. I said that having fun was fine with me as long as I was awarded the winning prize. I also reminded him that I should rightly have four tickets coming, however, given that they were at a slightly better vantage point than the others, I would forego the other two in the spirit of a speedy resolution. I then left for Los Angeles for 3 weeks.

The day following my return, on January 7th, I went in to the CFOX office to pick up my tickets. I was horrified to find that they were in section 117, row 8, seats 3 and 4. They are nowhere near where I was promised these tickets would be. (I have these tickets in my possession and plan to return them on Monday, January 12th. Their face value is \$45 each). The current market value for one ticket (situated in the centre of the General Motors Stadium,

[i.e. in the centre of the three floor rows]), in rows 4 through 14 is \$200. This is for current merchandise, as quoted by A1 Show Time Tickets, in Vancouver. I have dealt with this company for 10 years and know them to be a reputable ticket brokerage firm. They inform me also that this is the standard industry price for General Motors Place for tickets in the area already specified, given the level of demand for the performer. Despite the value of these tickets, I would have much rather enjoyed them with some of my friends.

My last effort was to call Mr. Chris Pandoff, General Manager of CFOX. I told Mr. Pandoff my name, and as a courtesy asked him if he knew who I was. He said that he was aware of my situation and that efforts had been made to rectify the problem, which I was unhappy with. I asked him if he was willing to hear my side of the story and he replied that he was not. I further asked him if he would be willing to assist me in any way regarding this matter because I would be forced to file a complaint. He said, "file the complaint".

The only good fortune I have had in this entire debacle, is reaching Mr. Ron Cohen, the National Chair of the Canadian Broadcast Standards Council. I was delivered to him this morning, by telephone, in spite of (or maybe because of), a terrible snow storm. I am extremely grateful for his potent efforts to resolve this matter. Through Mr. Cohen's good offices, I am confident that a copy of the taped broadcast of December 9, 1997, will be secured. Mr. Cohen's direct call to Mr. Pandoff resulted in the belief, between them, that there is still a copy of the tape available.

I know the tape will speak for itself.

The Broadcaster's Response

In a letter of January 22, 1998, CFOX-FM's General Manager wrote:

In response to your letter to the Canadian Broadcast Standards Council, I am forwarding this letter to clarify our position regarding the complaint you filed. In our view there are two segments to the discussion; humour and the nature of ticket give-aways on radio.

Humour

The Larry and Willy show on CFOX is based on comedic humour, and what could be best described at the "lighter" side of the editorial spectrum. The nature of good humour is to take real life situations and bend their meaning, or present a parody on the truth. Television shows such as Saturday Night Live, Royal Canadian Air Farce, and This Hour Has 22 Minutes are good examples of this style of parody/hoax humour. In fact if we were to take seriously the "newscasts" that these programs provide, we would certainly have an incorrect view of the actual events they are based on.

The parody on Bryan Adams's middle name was just that..... a parody. It is fairly common knowledge that his middle name is Guy, since he performed under that name for a number of years here in Vancouver in his earlier career. Quite clearly his middle name is not "Valjinder", as the parody insisted.

Ticket Give-aways on Radio

When a concert is first announced, the promoter of the concert regularly gives the station a number of tickets to give away during the week leading up to the "on-sale" date of the concert. What this does for them is give exposure to the concert and build up demand for

ticket sales leading up to the "on-sale" date. The important point is that the station reserves the right to give away the tickets in whatever way they deem appropriate in order to promote the concert and the artist.

Quite often the ticket give-aways are arbitrary. If you recall listening to other radio stations, you might have heard something like: "we'll take the 3rd caller, 9th caller, 95th caller," etc.). There are no "contests" in these cases to "fix", simply arbitrary ticket give-aways that are the discretion of the station. Unfortunately, there was no "contest" that morning on CFOX, only a parody and an arbitrary ticket give-away.

In closing, we are sorry that you misinterpreted the parody that morning, and are disappointed that our efforts to provide tickets and the current Bryan Adams CD were rejected by you. I sincerely hope that you will continue to listen to CFOX, however I also understand why you would choose to not.

The complainant was unsatisfied with the broadcaster's response and requested, on February 6, 1998, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

THE DECISION

The CBSC's B.C. Regional Council considered the complaint under Clause 11 of the *Code of Ethics* of the Canadian Association of Broadcasters (CAB). The clause reads as follows:

CAB Code of Ethics, Clause 11 (Radio Station Contests and Promotions)

- (a) Broadcasters recognize that whereas station contests and promotions are legitimate and useful methods of attracting audiences, they should be conducted in such a manner that the cost of any such contest or promotion is not excessive, particularly in relation to the station's programming budget.
- (b) All station contests and promotions should be conceived and conducted in good taste, and particular care should be taken to ensure that they are not likely to give rise to a public inconvenience or disturbance.

The Regional Council members listened to a tape of the program in question and reviewed all of the correspondence. The Council finds that the Larry and Willy segment in question has breached Clause 11 of the *CAB Code of Ethics*.

Radio Station Contests and Promotions

This is the first opportunity for the CBSC to consider the meaning of Clause 11 of the *CAB Code of Ethics*. While its wording is not as straightforward as it might ideally be, Clause 11 does, in the B.C. Regional Council's view, establish its general purpose in the opening words "whereas station contests and promotions are legitimate and useful methods of attracting audiences". The Council understands those words as a general framework for contests and promotions, and the remaining principles established in paragraphs (a) and

(b) as examples of the legitimate methods of conducting such contests and promotions. These include the requirement that: i) “the cost of any such contest or promotion is not excessive”; ii) “all station contests and promotions should be conceived and conducted in good taste”; and iii) “particular care should be taken to ensure that they are not likely to give rise to a public inconvenience or disturbance.” In other words, the Council considers that the legitimacy and usefulness of contests must be evaluated by reference to those three issues *among others*. The non-limitative nature of the list is, in the Council's view, reflected in the generality of the words chosen in the enumerated examples.

This decision clearly does not involve any aspect of the “cost” of a contest or promotion. Nor, it must be said, does it involve either of the specific enumerated heads dealing with “good taste” or with “public inconvenience or disturbance” in a *direct* way. Despite that fact, namely, that it does not ultimately figure in the Regional Council's determination of this matter, the enumerated ground of good taste is not *unrelated* to this decision. Consequently, the Council considers that some comments in this regard are appropriate.

Some Considerations regarding Good Taste in Contests and Promotions

The CBSC's Regional Councils have dealt with good taste in other contexts on numerous occasions. This is the first opportunity, though, for the Council to express itself on this point in the context of contests and promotions.

The question of good taste arises in specific terms in only two locations in the *CAB Code of Ethics*, namely, in connection with contests and promotions and in connection with commercials (discussed below). The CBSC has, however, often faced complaints which raised issues regarding a given program which Regional Councils have understood to be in poor or bad taste but involving no breach of another *express* provision of the Code. In all such cases, the CBSC has declared its reluctance to deal with the question, explaining that, with respect to *programming* content, matters of taste which do not *also* breach a Code provision are most effectively dealt with by the listening or viewing public via the “on/off” or channel button. As stated in *CHOM-FM and CILQ-FM re The Howard Stern Show* (CBSC Decision 97/98-0001+, October 17-18, 1997), the CBSC's position is that

matters of taste must be left to be regulated by the marketplace. Such choices remain those of the listener. This is the time when the on/off switch is the listener's coping mechanism. Unless comments made by a broadcaster are of a nature to breach provisions of one or more of the Codes, the CBSC will not judge them one way or the other.

In creating their *Code of Ethics*, however, and as noted above, broadcasters considered it appropriate to provide for only two specific exceptions to the general rule that matters of taste should be left for the market to appreciate. Other than Clause 11(b), which is discussed at length below, the only other provision of the *Code of Ethics* which imports the notion of “good taste” is Clause 8, which deals with advertising.

In *CIRK-FM re T-Shirt Promotion Spot* (CBSC Decision 96/97-0206, December 16, 1997), the Prairie Regional Council had to determine whether use of the phrase “Life’s a Bitch” in a promotional announcement for K-97 T-shirts offended the “prevailing standards of good taste”, the test set out in Clause 8 of the *Code of Ethics*. It found that it did not and made the following comments regarding the application of that test:

Despite the CBSC’s general reluctance to deal with questions of taste, the Prairie Regional Council acknowledges that the term “good taste” is actually used in Clause 8. This necessitates an explanation of the Council’s understanding of the term in *that* context.

The Council notes that the term “good taste” does not appear on an isolated basis. While the drafting of the paragraph is not the most felicitous, an explanation, if not a definition, of the terms is provided in the closing words of that paragraph. These are: “and shall not offend what is generally accepted as the prevailing standard of good taste.” It appears to the Prairie Regional Council that the drafters were explaining that “good taste” means that the advertising content shall not offend *prevailing standards* of good taste. The Council understands this to be a *higher* test than merely being characterisable as *good* taste. In a sense, the wording suggests that the material questioned must not be the *opposite* of good taste to be in breach; it must actually *offend* prevailing standards to be sanctionable. It may be that the “prevailing standards” test in Clause 8 could be more easily met than the general “taste” threshold which, as discussed above, the CBSC applies more generally. In any event, it is the view of the Prairie Regional Council that the expressions “Life’s a bitch” and “Kick ass” do not breach the “prevailing standards” test and that it is not necessary to consider the other issue at this time.

It is appropriate to provide a sense of the Prairie Regional Council’s view of “prevailing standards” and how these are to be assessed. It is clear that it cannot be the function of the CBSC or the various Regional Councils to *conduct surveys* in order to determine what prevailing standards are; it is rather the function of the Councils to apply the reasoning and sense of a balanced group of public and industry representatives to the programming under consideration. It is indeed a reflection of that “balance” that has enabled the various Regional Councils to arrive regularly at conclusions in such matters without dissenting voices, whether the conclusions favour or run against the broadcasters.

It is the view of the Regional Council that, in general, for a matter to breach the “prevailing standards” test of Clause 8, it must extend beyond the level of offensiveness, if not even crudeness or vulgarity. This is not to suggest that the CBSC *approves* in any way of offensiveness, crudeness or vulgarity on the airwaves but rather that, in the interest of preserving a broad range of scope for freedom of expression, *such* matters of taste must be left to the marketplace.

...

In the result, the Council found that the broadcasters in each of the above instances were not in breach of the Codes with respect to the language used. Moreover, it is the view of the Prairie Regional Council in this case that the expressions “Life’s a bitch” and “Kick ass”, while admittedly crude, have fallen into more commonly acceptable usage than a number of the expressions used in the decisions previously cited. In the circumstances, the Council can find no breach of the Code.

Public Inconvenience or Disturbance

This enumerated head is no more *directly* involved in this case than the “good taste” head but it deserves a cursory look as well, since it, like good taste, is involved in this decision by analogy. The Council believes that it was first included in the Code as a response to a series, if not a rash, of promotional contests which predominated in some of the larger Canadian urban centres in the 1970s and 1980s. Some of these involved members of the public in treasure hunt type activities which became disruptive to the general public and may indeed have put some members of the public at physical risk.

Other Unenumerated Provisions

While, in this case, the specific enumerated heads of “good taste” and “public inconvenience or disturbance” are not expressly at play, the Regional Council does consider that these provisions and the general notion of legitimacy and utility in the opening words of Clause 11 suggest that a notion of “fair play” should also be at stake in such contests or promotions. The Council has little doubt that the application of common societal standards would lead any fair-minded person to conclude that the contest was, *if* useful to the broadcaster, certainly not legitimate to the consumer/listener.

Larry and Willy’s “Contest”

The complainant contends that she gave the correct answer to the “Bryan Adams Skill Testing Question” and therefore should rightfully have been awarded the prize. The broadcaster contends that the segment in question was not a “contest”, but, rather, a parody of one, with the awarding of a prize being merely an arbitrary ticket give-away.

The Council disagrees with the broadcaster’s position that the Larry and Willy segment in question was not a contest. It sounded like a contest. It felt like a contest. It was presented as a contest (at least initially). Callers believed it was a contest. If the broadcaster did not intend it as a contest, it appears that it failed in its effort not to make it a contest. Extending the reasoning advanced by the broadcaster to its logical extreme, radio contests would rarely, if ever, take place. While broadcasters are always free to *give away* the promotional tickets they receive, when they *choose to hold a contest*, they cannot then contend that no rules apply because they *could have* just given the tickets away.

With respect to the broadcaster’s alternative contention that the contest was a “parody on Bryan Adams’s middle name”, the Council notes that the hosts’ choice in setting up the contest as a joke is *not* the issue. There is certainly no requirement that radio contests be serious. What *is* the issue is that the contest was conceived and conducted in such a way as to be *misleading*. Callers had a legitimate expectation that they would win the prize if they were the first to answer the relatively easy question correctly (as stated by the

broadcaster, “It is fairly common knowledge that [Bryan Adams’] middle name is Guy, since he performed under that name for a number of years here in Vancouver in his earlier career.”). In fact, the caller who was first in providing the “correct” answer was not awarded the prize. The Council reiterates that it is not that the hosts sought a “spoof” middle name for Bryan Adams which offends the Code; rather it is that the contest was conceived and conducted *to make it look as if* they would award a prize for a certain answer when in reality they did not intend to do any such thing. Such a contest offends the generally accepted notions of fairness and fair play and therefore cannot be said to be in conformity with the requirements of Clause 11 of the CAB *Code of Ethics*.

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. In this case, while the broadcaster’s position was not adopted by the Council, it considers that the broadcaster’s response addressed fully and fairly all the issues raised by the complainant. The Council also notes the additional strides taken by Management of CFOX-FM in an attempt to resolve the complainant’s concerns. The Council considers that the broadcaster’s actions in this regard were commendable.

Announcement of the Decision

The station is required to announce this decision forthwith, in the following terms, during prime time and, within the next thirty days, to provide confirmation of the airing of the statement to the CBSC and to the complainant who filed a Ruling Request.

The Canadian Broadcast Standards Council has found that CFOX-FM breached provisions of the Canadian Association of Broadcaster’s *Code of Ethics* in its broadcast of an episode of the *Larry & Willy Show* of December 9, 1997. The audience were asked to guess “Bryan Adams’ middle name” in order to win four excellent seats to a forthcoming Bryan Adams’ concert in Vancouver. The decision of the hosts not to provide the promised prize to that concert to the person who did respond correctly to the question asked of listeners was in breach of the Radio Stations Contests and Promotions provision of the *CAB Code of Ethics*. While the Council would not have found fault with a contest to, say, invent a middle name for the singer, Larry & Willy’s unsuccessful attempt to create a spoof, rather than a genuine contest, failed, resulting in CFOX-FM’s violation of the *Code of Ethics*.

This decision is a public document upon its release by the Canadian Broadcast Standards Council.