
**CANADIAN BROADCAST STANDARDS COUNCIL
PRAIRIE REGIONAL PANEL**

CJKR-FM re song “Highway Girl (Live)” by The Tragically Hip

(CBSC Decision 00/01-0832)

Decided January 14, 2002

D. Braun (Chair), D. Ish (Vice-Chair), D. Dobbie, V. Dubois, R. Gallagher and S. Hall

THE FACTS

At 11:02 a.m. on April 2, 2001, CJKR-FM (Winnipeg) played the live version of the song “Highway Girl” by the Tragically Hip. The song begins with two stanzas, followed by a chorus:

I’m going down to see my highway girl
She just got back from around the world
I’m gonna get me a gun, I’m gonna stand on guard
In a little white booth in her front yard.

Throwing rocks at her window what could she do
If you throw enough rocks one might break through
Well she looked out her window when the police came
To see a big tin man dancing in the rain.

Oh my little highway girl
Oh my little highway girl

In this live version of the song, following that chorus, the lead singer performs one of his signature ‘rants’; that is, he tells a story or recites a poem in a stream-of-consciousness style. He begins this particular rant by talking about the girl’s apartment and then paraphrases the lyrics from another Tragically Hip song (“Locked in the Trunk of a Car”):

We were dumping the body and we’d laugh. We found a place that was dark and rotten, a place where the police helicopters would never spot us. I destroyed the map that we’d so carefully dotted. Every day we’re dumping a body. [unintelligible].

The story then continues as follows:

Every single day. And we'd laugh about it. That's when I knew it was time that we both killed ourselves together. Together we were nothing but a menace. Apart we were nothing but lonely. I read too much. I thought we should kill ourselves. She doesn't read a thing. She believed me. Are you really the messiah? Yes I am. She was younger than me too, she was younger than me. And I said to her, I said, "You know Pauline, no one stamps on a burning bag of shit anymore. Nobody." Are you really the messiah? Yes I am. Believe it. So we opted to kill ourselves, as I said, but had one rifle and one bullet, so I told her to put her head down close to the barrel and I put the barrel sort of into her mouth and I'd be right behind it with my head right behind hers and I said her life would end instantly; mine might have a few extra minutes of agony and suffering.

She couldn't pull the trigger, so we attached a string to it around the lamp and to the door knob. The first person to come into her cheap fucking apartment would blow both our heads off.

We got, we got to thinking; we changed our minds. You know, I mean, we got scared. And, ah, and, and kind of chickened out [unintelligible] and we'd laugh, you know, we'd laugh together. What were we thinking? We're not, together we're not that bad. We don't need to kill ourselves. We don't need to kill ourselves. And then the D-train rattled overhead and knocked the door ajar, the door ajar, the door ajar, the door ajar, the door ajar. And then the faulty lock, the door swung open. And killed her. That's my story and I'm stickin' to it.

The full lyrics of the song and the live "rant" are included in the Appendix.

The complainant contacted the station's Program Director the following day and then filed a complaint with the CBSC on April 5. He wrote in part (the full text of this and all other correspondence is included in the Appendix):

On Monday April 2 while listening to Power 97 CKJR [sic] FM radio in Winnipeg Manitoba at approximately 11:02 or so I was outraged to hear a song about a couple that wanted to shoot themselves and then in clear language an F- - - sharp that's it. As a tax paying Canadian citizen I demand that legal action be taken re this disgusting language on public radio.

I spoke to [...] the program director on Tuesday April 3 regarding this situation. He told the name of the song which I forgot and the group "The Hip".

He also told me that it's the most requested song on their list. I demand as a tax payer (a rather ticked off one right now) that something be done about this.

The Program Director responded to the complainant on May 14, saying in part:

We believe that your complaint related to the song, *Highway Girl (Live)*, by Tragically Hip aired on the Power 97. Power 97 is a mainstream rock station targeted toward 18-34 year olds, in particular males. Audience testing conducted by an independent research firm suggests that Tragically Hip is the most popular band on Power 97. Tragically Hip is also regarded as Canada's favourite rock band. In fact, this past summer, the Tragically Hip played a free concert in front of 80,000 fans at "The Forks" in support of War Child Canada.

Power 97, in support of that concert, aired a "Hip Pay to Play Weekend" which did as the name suggests: enabled the listener to, by offering a donation to War Child Canada, request

the Hip song of their choice. The Tragically Hip's *Highway Girl (Live)*, the song named in your complaint, was the most requested song that weekend by a margin of more than two to one, raising over \$4,000 for War Child Canada.

We believe that Power 97's listenership is well versed in what to expect from a Tragically Hip live track. Lead singer Gord Downie is celebrated for his "rants" that often take place during their live performances. We regret that these "rants" in the Song offended you. Many of Power 97's listeners find the Program humorous. Humour and taste are extremely subjective elements and relative to the point of view of an individual. We appreciate that the Hip songs, like many contemporary rock hits can sometimes be controversial in nature and not for everyone's taste.

The complainant was not satisfied by the station's response and filed his Ruling Request on November 16. He added the following comment to that Request: "I want that song in question off the air as it is absolutely disgusting."

THE DECISION

The CBSC's Prairie Regional Panel considered the complaint under the Canadian Association of Broadcasters (CAB) *Code of Ethics* and the *CAB Violence 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 Violence Code, Article 1.0 (Content)

1.1 Canadian broadcasters shall not air programming which:

- contains gratuitous violence in any form*
- sanctions, promotes or glamorizes violence

(*"Gratuitous" means material which does not play an integral role in developing the plot, character or theme of the material as a whole).

The Regional Panel Adjudicators listened to a tape of the song in question and reviewed all of the correspondence. It is the Panel's view that the broadcast of "Highway Girl (Live)" in unedited form at times of day when children could reasonably be expected to be listening constitutes a breach of the *CAB Code of Ethics*.

Offensive Language

The first CBSC decision in which a Panel ruled against a broadcaster for the use of coarse or offensive language was *CIOX-FM re the songs “Livin’ It Up” by Limp Bizkit and “Outside” by Aaron Lewis and Fred Durst* (CBSC Decision 00/01-0670, June 28, 2001) and, in that instance, it related to song lyrics. In that matter, the Ontario Panel dealt with one song in which there was repeated use of the word “fuck” and its derivatives and another song in which a derivative word was used once. The Panel concluded:

In the case of the song lyrics in “Livin’ It Up”, the Panel finds that the *repeated* use of the coarse and offensive language “fucker”, “fuck” and “motherfucker” constitutes a breach of the *CAB Code of Ethics* when broadcast at hours when children could reasonably be expected to be listening. In the event that an edited version of the song was unavailable, CIOX-FM had the choice of delaying the airplay until a later hour or not playing the unedited song at all. The choice made constitutes a breach of Clause 6, Paragraph 3, of the *CAB Code of Ethics*.

While, in the song “Outside”, the inappropriate word, “motherfuckin’”, was used only once, as a live interjection by the singer at the time of the Biloxi concert, the Panel considers that its use was utterly gratuitous and broadcast at an hour when children could reasonably have been expected to be listening. Moreover, given its placement in the song, it could very easily have been excised without effect by the broadcaster. The broadcast of the song without editing when children could be expected to be listening constitutes a breach of Clause 6, Paragraph 3, of the *CAB Code of Ethics*.

In the present matter, the word “fucking” was part of a song played at 11:02 am, namely at an hour when younger people could reasonably be expected to be listening to the radio. The Panel sees nothing in these circumstances that would lead it to distinguish the song “Highway Girl (Live)” from the other songs dealt with in the CIOX-FM decision. Here, too, the broadcaster had the option of playing a version of the song that did not include the “rant” with the offending words or of playing *that* version at an hour when younger people would not have been expected to be listening.

Violence in the Song Lyrics

It is the “rant” portion of the song lyrics that raises concerns in the area of violence. It is there that the proposal of suicide is suggested and a veritable “how-to” section provided for the audience. The details of the aborted plan and the final result of the mini-story, while manifesting an element of sadness and despair, on the one hand, are gruesome and leave little to the imagination of the listener, on the other hand.

The Panel has not, however, concluded that the violent content is either gratuitous or glamorized. It is, after all, a part of a story. A brief story, it is true, but a story nonetheless.

By way of example, the Ontario Regional Panel held in *CIGL-FM re a song entitled “The Bad Touch”* (CBSC Decision 99/00-0654, October 12, 2000), that

it 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.

In a corresponding sense, song lyrics may as much constitute a dramatic story as a feature film or television program. The story will, as a result of the medium, be shorter but it may contain the essential structure of a dramatic tale. The Panel finds that the story told in the “rant” accompanying “Highway Girl (Live)” has such attributes and that its violent component is a part of that story, advancing the dramatic through-line, if not also the characters. It is not, in the view of the Panel, gratuitous. Nor does the Panel find that the violence is in any way glamorized by the broadcast of the song. The brief tale is, if anything, a sad one. There is a sense of regret in lead singer Gord Downie’s words, although also a messianic overtone. What is, however, clear is that there is no glorification or glamorization of the actual violence.

This does not put an end to the question of violence in the song for there is an important concern relating to the broadcast of such material at a time of the day when children could be expected to be listening. In this respect, the Panel does consider that the broadcaster has gone too far. Both the violent component and its incidental (if not intended) “how-to” aspect, and the suicidal theme are, in the view of the Panel, inappropriate for broadcast at a time when children could be expected to be listening. In this respect, the Panel finds a breach of Clause 6, Paragraph 3, of the *CAB Code of Ethics*.

The Defences of Popularity and Noble Purpose

It is understandable that a broadcaster will raise various defences to a challenge to its programming decisions, particularly where it considers that its choices have been correct. Where, however, these defences are not related to the standards established in the Codes, they may not easily take root. In the matter at hand, the broadcaster defined the Tragically Hip “as Canada’s favourite rock band” and emphasized the fact that they “played a free concert in front of 80,000 fans at ‘The Forks’ in support of War Child Canada.” The Program Director explained further that

Power 97, in support of that concert, aired a “Hip Pay to Play Weekend” which did as the name suggests: enabled the listener to, by offering a donation to War Child Canada, request the Hip song of their choice. The Tragically Hip’s *Highway Girl (Live)*, the song named in your complaint, was the most requested song that weekend by a margin of more than two to one, raising over \$4,000 for War Child Canada.

While the Panel readily acknowledges the noble purpose served in the raising of money for an important charitable cause, it must make clear that this does not respond to the need to respect the standards established in the *CAB Code of Ethics*. With respect to the issue of popularity, the Prairie Regional Panel has previously ruled, in *CKMM-FM re a song entitled “The Bad Touch”* (CBSC Decision 99/00-0521, February 21, 2001), as follows:

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 the present circumstances, while applauding the purpose of the broadcast, the Panel can only conclude that the goal would have better matched Canada’s private broadcaster standards had the song been played at an hour when children would have been less likely to be listening.

Broadcaster Responsiveness

Broadcaster responsiveness is always an issue considered in CBSC adjudications. The CBSC considers that the dialogue between broadcasters and complainants is an extremely positive component of the self-regulatory process, to the point that it is in fact a membership responsibility of all CBSC broadcaster members. In this case, the broadcaster’s response was thorough. While it did not satisfy the complainant, it constituted a full and fair reply. Nothing more is required.

CONTENT OF THE ANNOUNCEMENT OF THE DECISION

CJKR-FM is required to: 1) announce this decision, in the following terms, once during peak listening hours within three days following the release of this decision and once more within seven days following the release of this decision during the time period in which the song “Highway Girl (Live)” had been broadcast; 2) within the fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the announcements to the representative of the complainants who filed the Ruling Request; and 3) to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by CJKR-FM.

The Canadian Broadcast Standards Council has found that CJKR-FM has breached provisions of the Canadian Association of Broadcasters' *Code of Ethics* in its broadcast of the song "Highway Girl (Live)" in April 2001. By broadcasting that song, which contained coarse and offensive language, violent content, and a suicidal theme, CJKR-FM violated the provision of the *CAB Code of Ethics* which prohibits the broadcast of improper comment, particularly during hours of the day when children could reasonably be expected to be listening.

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

APPENDIX

Complaint File 00/01-0832 CJKR-FM re the song “Highway Girl (Live)” by The Tragically Hip

I. The Complaint

The following complaint dated April 5, 2001 was sent to the CBSC:

Dear Canadian Broadcast Standards Council;

On Monday April 2 while listening to Power 97 CKJR [*sic*] FM radio in Winnipeg Manitoba at approximately 11:02 or so I was outraged to hear a song about a couple that wanted to shoot themselves and then in clear language an F- - sharp that's it. As a tax paying Canadian citizen I demand that legal action be taken re this disgusting language on public radio.

I spoke to [...] the program director on Tuesday April 3 regarding this situation. He told the name of the song which I forgot and the group “The Hip”.

He also told me that it's the most requested song on their list. I demand as a tax payer (a rather ticked off one right now) that something be done about this.

II. The Broadcaster's Response

The Program Director of CJKR-FM responded to the complainant's letter on May 14, 2001 with the following:

The Canadian Broadcast Standards Council (“CBSC”) has asked us to respond to your letter of April 5, 2001. In your letter, you raised concerns regarding a song that was aired on CJKR-FM (“Power 97”) on April 2, 2001.

We believe that your complaint related to the song, *Highway Girl (Live)*, by Tragically Hip aired on the Power 97. Power 97 is a mainstream rock station targeted toward 18-34 year olds, in particular males. Audience testing conducted by an independent research firm suggests that Tragically Hip is the most popular band on Power 97. Tragically Hip is also regarded as Canada's favourite rock band. In fact, this past summer, the Tragically Hip played a free concert in front of 80,000 fans at “The Forks” in support of War Child Canada.

Power 97, in support of that concert, aired a “Hip Pay to Play Weekend” which did as the name suggests: enabled the listener to, by offering a donation to War Child Canada, request the Hip song of their choice. The Tragically Hip's *Highway Girl (Live)*, the song named in your complaint, was the most requested song that weekend by a margin of more than two to one, raising over \$4,000 for War Child Canada.

We believe that Power 97's listenership is well versed in what to expect from a Tragically Hip live track. Lead singer Gord Downie is celebrated for his “rants” that often take place during their live performances. We regret that these “rants” in the Song offended you. Many of Power 97's listeners find the Program humorous. Humour and taste are extremely subjective elements and relative to the point of view of an individual. We appreciate that the Hip songs, like many contemporary rock hits can sometimes be controversial in nature and not for everyone's taste.

As a member of the CBSC, we take all steps to abide by their Codes. We regret that the Song has offended you for that was not our intent.

We trust that the foregoing responds to the concerns raised in your letter regarding the Program. At Power 97, we recognize the importance of listener feedback and appreciate all comments. We thank you for taking the time to share your concerns with us and hope that you will continue to enjoy the vast array of programming we offer on Power 97.

III. Additional Correspondence

The complainant attached the following letter to his Ruling Request dated May 16, 2001:

Dear CBSC:

I find CKJR's [*sic*] response inadequate.

I want that song in question off the air as it is absolutely disgusting.

IV. Notes and Transcripts of the Broadcast in Question

The song "Highway Girl (Live)" by The Tragically Hip played at approximately 11:02 am on April 2, 2001.

The lyrics of the song are as follows (as taken from The Tragically Hip's website <www.thehip.com>):

Highway Girl

I'm going down to see my highway girl
She just got back from around the world
I'm gonna get me a gun, I'm gonna stand on guard
In a little white booth in her front yard.

Throwing rocks at her window what could she do
If you throw enough rocks one might break through
Well she looked out her window when the police came
To see a big tin man dancing in the rain.

Oh my little highway girl
Oh my little highway girl

She said, Don't you think babe you push a bit too fast
I said, Slowing down don't make it last
And a memory's never gonna set you free
Go out and see that world and bring it home to me

Oh my little highway girl
Oh my little highway girl
Oh my little highway girl
Oh my little highway girl

In the middle of the song, after the first chorus, the lead singer performs one of his signature ‘rants’; that is, he tells a story or recites a poem in a stream-of-consciousness style.

He begins this particular rant by talking about the girl’s apartment. He then paraphrases lyrics from another Tragically Hip song (“Locked in the Trunk of a Car”):

We were dumping the body and we’d laugh. We found a place that was dark and rotten, a place where the police helicopters would never spot us. I destroyed the map that we’d so carefully dotted. Every day we’re dumping a body. [unintelligible].

The story then continues as follows:

Every single day. And we’d laugh about it. That’s when I knew it was time that we both killed ourselves together. Together we were nothing but a menace. Apart we were nothing but lonely. I read too much. I thought we should kill ourselves. She doesn’t read a thing. She believed me. Are you really the messiah? Yes I am. She was younger than me too, she was younger than me. And I said to her, I said, “You know Pauline, no one stamps on a burning bag of shit anymore. Nobody.” Are you really the messiah? Yes I am. Believe it. So we opted to kill ourselves, as I said, but had one rifle and one bullet, so I told her to put her head down close to the barrel and I put the barrel sort of into her mouth and I’d be right behind it with my head right behind hers and I said her life would end instantly; mine might have a few extra minutes of agony and suffering.

She couldn’t pull the trigger, so we attached a string to it around the lamp and to the door knob. The first person to come into her cheap fucking apartment would blow both our heads off.

We got, we got to thinking; we changed our minds. You know, I mean, we got scared. And, ah, and, and kind of chickened out [unintelligible] and we’d laugh, you know, we’d laugh together. What were we thinking? We’re not, together we’re not that bad. We don’t need to kill ourselves. We don’t need to kill ourselves. And then the D-train rattled overhead and knocked the door ajar, the joor adar, the door ajar, the door ajar, the jar adoor. And then the faulty lock, the door swung open. And killed her. That’s my story and I’m stickin’ to it.

After more of the actual song, towards the end, the singer paraphrases another one of his own songs (“At the Hundredth Meridian”) with the line

And get Ry Cooder to sing my eulogy, all right?