
**CANADIAN BROADCAST STANDARDS COUNCIL
PRAIRIE REGIONAL PANEL**

CJAY-FM re a Sports Report

(CBSC Decision 02/03-0234)

Decided February 5, 2003

D. Ish (Chair), D. Braun (ad hoc), D. Dobbie, V. Dubois,
J. Fong and R. Gallagher

THE FACTS

On September 17, 2002 at approximately 7:20 am, CJAY-FM (Calgary) broadcast a sports report announced by on-air personality Dave Wicks (“Wicksie”). At one particular point in the report, Wicksie made the following statements:

It was a wipe out in Washington last night. Steve Spurrier’s Redskins got bent over and fisted by Philly 37-7. Can you feel that?! Can you, baby?! Donovan McNabb threw for two TDs and ran for one, but play was stopped for five minutes in the fourth quarter as police had to use pepper spray to break up some fights in the stands with a couple of fans.

On September 25, a listener complained to the CRTC, which forwarded the letter to the CBSC in due course (the full text of all correspondence can be found in the Appendix to this decision). The complainant indicated that he found the above reference to “fisting” to be “crude, obscene and disgusting” and was shocked that this type of comment was allowed on the public airwaves.

The Vice-President and General Manager of CJAY-FM responded to the complainant on October 18. He indicated that he understood the complainant’s concern, but that, due to the nature of the format and the station’s predominantly male audience of 25 to 54 year olds, “the sports announcers may tend to use untraditional analogies to describe wins, losses and extreme plays.” The Vice-President also suggested that “these types of analogies and expressions are only meant for entertainment value, similar to what can be heard on the Fox Sports TV Network or on most Monday Night Football broadcasts”. He added that the station tries to offer humour and innuendo similar to that found on popular

weekly television programs such as *The Simpsons* and *Saturday Night Live*. He apologized to the complainant for the offensive comment.

The complainant was unsatisfied with that response and wrote back to the broadcaster on October 31. He expressed his disagreement with the broadcaster's assertion that similar language can be found in other programs and wrote that "there is nothing humorous in such base and degrading language. Nor was the comment 'untraditional' as a sports analogy, it was simply guttural." The complainant informed CJAY-FM's Vice-President that he would no longer listen to the station and that he would pursue the complaint with the appropriate organization.

THE DECISION

The Prairie Regional Panel examined the broadcast under Clause 9 – Radio Broadcasting of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* (as amended in 2002):

Recognizing that radio is a local medium and, consequently, reflective of local community standards, programming broadcast on a local radio station shall take into consideration the generally recognized access to programming content available in the market, the demographic composition of the station's audience, and the station's format. Within this context, particular care shall be taken by radio broadcasters to ensure that programming on their stations does not contain:

- a) Gratuitous violence in any form, or otherwise sanction, promote or glamorize violence;
- b) Unduly sexually explicit material; and/or
- c) Unduly coarse and offensive language.

The Prairie Regional Panel listened to a tape of the sports report in question. It concludes that the use of the sexually violent term "fisting" in the sports report constitutes a breach of the above-cited clause.

Background Information: A New Code

The *CAB Code of Ethics* was published by the Canadian Association of Broadcasters in February 1988 and has been administered by the CBSC since the creation of the Council in 1990. In 2002, the CAB updated and revised the Code, which was implemented in Summer 2002 and applies to all programming aired on or after August 1, 2002. This is one of the first decisions to apply the revised Code.

Neither the current Clause 9 – Radio Broadcasting nor any other clause of similar import existed in the 1988 *CAB Code of Ethics*. In order to address issues of violence, sexual material and coarse language on radio under the 1988 Code, the CBSC applied one, or

some combination, of the *CAB Violence Code*, *CAB Sex-Role Portrayal Code* and Clause 6 of the *CAB Code of Ethics*, which broadly required the “proper presentation of news, opinion, comment and editorial.” As evidenced above, Clause 9 of the 2002 *CAB Code of Ethics* provides more precise guidelines with respect to the issues of violence, sexual content and coarse language. The Prairie Regional Panel observes that the comments in question made in Wicksie’s sports report touch on both the areas of violence and sexual material.

Sexual Explicit and Violent Commentary

The CBSC has encountered an untraditional sports analogy in one previous decision. In *CKVX-FM re morning show comments* (CBSC Decision 01/02-0059, January 23, 2002), the British Columbia Regional Panel was called upon to determine whether the use of the term “bitch-slapped” was in violation of any Code provisions. In describing a Seattle Mariners baseball team’s victory at the previous night’s game, the announcer stated that the team had “bitch-slapped” their opponents. A listener complained that the term in this context condoned violence against women. The Panel found the statement in breach of multiple Code provisions and made the following comments:

While the expression “bitch-slap” may have more than one meaning, the B.C. Panel understands its use here to have been that identified by both the complainant and the broadcaster in its replies; in that usage, the Panel finds a remarkable resemblance to the wording that was the subject of the CIOX decision [*CIOX-FM re the song entitled “Boyz in the Hood”* (CBSC Decision 99/00-0619, October 12, 2000)], namely, “I reached back like a pimp and I slapped the ho.” While not extreme, the violent domination which is of the essence of the term is unacceptable on the public airwaves. There is in its use an assumption that this is an appropriate way to express a significant victory by one team over another. While verbs like smear, whip, stun, beat, pound, even massacre, as well as others, indicate substantial dominance in sports events, *none* of these has a sexist connotation. The Panel finds it curious and particularly unacceptable that the verb “slap” would not likely even find its way onto the foregoing list of victorious verbs *except* in the circumstances in which it is attached to a feminine noun. There are many many ways to express sports dominance which are not attached to gender or other forms of submissiveness. There is a broad enough choice that no broadcaster can reasonably view itself as unduly limited by reason of the application of the industry’s own restriction on the airing of expressions of violence against women. The use of “bitch-slap” is not an option in such circumstances.

The Prairie Regional Panel recognizes that the element of gender is effectively absent from the CJAY-FM sports commentary under scrutiny here; as a result, the Code provisions relating to sex-role portrayal and violence against women are irrelevant in this case. The “other forms of submissiveness” anticipated in the CKVX-FM decision, however, are clearly present. The suggestion that one team “got bent over and fisted” by another is obviously metaphorical, but it nonetheless creates an image of sexual violence. While an intent to convey *dominance* in reporting a sports score is understandable, the linking of such dominance to a sexual scenario in this context is both unnecessary and unjustifiable. The sexual connotation of the statement was further emphasized and exacerbated by the

announcer's succeeding interjections "Can you feel that?! Can you, baby?!". The Prairie Panel thus considers the qualifying comments to be gratuitous.

Furthermore, the Panel is also of the view that the analogy is too sexually explicit for the time of day at which the report was broadcast, namely, 7:20 am. In another decision taken this same date, the Panel addressed a very different aspect of the issue of sexual content on morning radio. Citing a number of previous decisions relating to similar material, this Panel concluded that certain comments which could be considered sexually explicit were inappropriate during daytime radio in *CIRK-FM re K-Rock Morning Show* (CBSC Decision 01/02-0713 & -1113, February 5, 2003). In arriving at this determination, one segment considered was a comedic song entitled "Prison Bitch". Although the majority of the lyrics consisted of innuendo alluding to forced sexual activity, there were certain words in the song that made its meaning clear. In the CJAY-FM case, on the other hand, there was no attempt to mask the sexual meaning with double entendres or innuendo. The sexual reference was obvious and would likely have been widely understood by the majority of the station's listeners.

The CBSC acknowledges the desire of broadcasters to find creative, unique and entertaining phrases and analogies for use in their programming and the CBSC has consistently stated that the principle of freedom of expression will prevail in cases of merely unpleasant or distasteful content. The *CAB Code of Ethics*, however, sets limits concerning the nature of violent and sexually explicit content which will be considered acceptable on Canadian airwaves. The Prairie Regional Panel finds that the combined effect of the sex and violence in the CJAY-FM sports report, particularly for the time of day at which it was aired, amounts to a breach of Clause 9 of the *CAB Code of Ethics*.

Broadcaster Responsiveness

Since one of the responsibilities of membership in the CBSC Manual is to "co-operate fully with complainants by responding quickly and effectively to their concerns," CBSC Panels always take the time, in the course of their deliberations, to review the broadcaster's responsiveness to the complainant. Compliance with this undertaking is a matter required in all files under consideration by the CBSC's Panels. There is, however, no obligation on the part of the broadcaster to agree with the position taken by the complaining member of its audience. In this case, while the Vice-President and General Manager did not agree with the complainant, he provided a thoughtful reply to him, explaining the station's view of the comments in question. Nothing further is required of CJAY-FM in this respect in this instance.

ANNOUNCEMENT OF THE DECISION

CJAY-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 in the time period in which the sports report was broadcast; 2) within fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the announcements to the complainant who filed the Ruling Request; and 3) at that time, 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 CJAY-FM.

The Canadian Broadcast Standards Council has found that CJAY-FM has breached Clause 9 of the Canadian Association of Broadcasters' (CAB) *Code of Ethics*. On September 17, 2002, one of the station's morning show personalities used a phrase involving sexual violence to explain the outcome of a football game during the course of a sports report. The statement used on that occasion was gratuitous, violent and too sexually explicit for the time at which it was broadcast, contrary to the *Code of Ethics* provision on Radio Broadcasting.

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

APPENDIX

CBSC File 02/03-0234 CJAY-FM re a Sports Report

The Complaint

The following complaint dated September 25, 2002 was sent to the CRTC and forwarded to the CBSC in due course:

To Whom It May Concern:

I am writing to you because I am upset with what I heard on the radio, in Calgary, on September 17, 2002.

The radio station is CJAY-92. It is an FM channel in Calgary.

I am upset because on Tuesday, at approximately 20 minutes after seven, in the morning, the sports announcer (his name is Wicksie) made what I can only describe as a crude, obscene, and disgusting comment. In describing the previous night's Monday Night Football game, the announcer indicated that the winning team "had bent the losing team over and fisted them." I was shocked that he would make such a comment over the radio.

I telephoned the Vancouver office of the CRTC and they indicated that I am to write to your office in order to make a complaint. Please accept this correspondence as my complaint. How is it that public airwaves, over which radio is transmitted, is able to make such contemptible comments? I think that this is the type of comment that can best be left unsaid.

Should you require further information do not hesitate to contact the undersigned at your earliest opportunity.

Broadcaster Response

The broadcaster responded to the complainant on October 18 with the following:

The purpose of this letter is to respond to your letter to the CRTC of September 25th 2002, regarding comments made by CJAY sports announcer Wicksie.

I have now had a chance to listen to the material in question and understand your concern. CJAY FM is a male based (75%) Rock Radio Station targeting and attracting a core audience of adult listeners between the age of 25 to 54 years. Due to the nature of the format and our audience, the sports announcers may tend to use untraditional analogies to describe wins, losses and extreme plays. Such was the case on September 17th. These types of analogies and expressions are only meant for entertainment value, similar to what can be heard on the Fox Sports TV Network or on most Monday Night Football broadcasts. Just like other mainstream television programming aired weekly on our local networks, such as *Friends*, *Saturday Night Live*, *Sopranos*, *The Ozbornes* [sic] or *The Simpsons*, we too try to offer similar humour and innuendoes as part of our programming.

I am truly sorry if we have offended you with this sports analogy but I can assure you that the comment was not intended in that way.

If you would like to discuss this matter any further, please feel free to contact me directly at ###-####.

Additional Correspondence

The complainant responded to the above letter on October 31:

Thank you for your letter of October 18, 2002.

When I telephoned your office to speak to you, as offered in your correspondence, I was told, when I informed the receptionist of the nature of my call, "oh, and who is this complaint against." The receptionist made the comment with what I shall presume was meant to be humor, and with an intonation in her voice that indicated my complaint was not the only one that your radio station has received. You will understand that I shall refrain from attempting to contact your office again.

Your correspondence states that your programming is "meant for entertainment value, similar to what can be heard on the Fox Sports TV network or on most Monday Night Football broadcasts." With all due respect, [Vice-President & General Manager], your comment is nonsense. I have never heard anyone on Monday Night Football utter a statement about "fisting" someone. The comment of your announcer, concerning "fisting", was offensive. There is nothing humorous in such base and degrading language. Nor was the comment "untraditional" as a sports analogy, it was simply guttural.

Your radio station is not one that I would normally listen to while at home or in my automobile. I can assure you that after hearing the comment that provoked my complaint to the CRTC that I shall endeavour to never listen to your station again.

I made my complaint to the CRTC because I think that any radio station that is willing to allow its announcers to make such offensive comments needs to be taken to task. I certainly hope that the CRTC has some ability to monitor your station, or to levy some sort of fine, if only to prove to you that not everyone in our society has sunk to the level of crudeness to which your station seeks to entertain.

Please note that I am copying this correspondence to Mr. [S] at the CRTC, Client Services.