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## APPENDIX

### CBSC Decision 04/05-0324 CHOM-FM re the song "Locked in the Trunk of a Car" by the Tragically Hip

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#### The Complaint

The CBSC received the following complaint via its on-line complaint form on October 9, 2004:

Station: CHOM-FM Radio

Program: Super Dave Reynolds

Date: Sept. 21

Time: 3:15 pm

Concern: Played a song containing the "F" word. I e-mailed the Program Director on Sept. 22. I have not heard back. Letter is attached below.

Dear Sir,

Yesterday, Tuesday, September 21, 2004, somewhere between 3:10 and 3:20 pm, your station played a song, perhaps by the Tragically Hip, that contained the "F" word. Your tapes will of course provide exact details. This occurred at a time of day when many parents could potentially have been driving their children home from school while listening to your station. I feel that your station has acted irresponsibly in this matter, especially considering that radio provides for no type of warning advisory similar to that on television. Even on television, however, programming involving use of the "F" word is aired only after the "watershed" hour of nine pm.

As you are no doubt aware, your station has voluntarily agreed to abide by certain codes and standards as overseen by the Canadian Broadcast Standards Council (CBSC). One of these codes stipulates that no member station will air material with "unduly coarse language". While what constitutes "unduly coarse" language has changed significantly over the last few years, the CBSC has consistently and without fail decided in all cases that use of the "F" word by a radio station, in any context, is in violation of the code you have agreed to follow.

I expect that I am the only one to complain about this aspect of your programming. However, a quick scan of the archives of the CBSC will show that a very high percentage of complaints handled by the CBSC were made by a single individual. Also, every station which has tried to justify the context that included the "F" word by stating that it was what their listeners wanted, or that it appealed to their particular share of the market, has lost in all decisions made by the CBSC. The "penalty" assigned by the CBSC has always been an on-air apology, issued at least twice over two days around the time of day that the offence occurred.

I am requesting a reply from you, as is my prerogative as stated in another part of the Broadcaster's code, explaining what you intend to do regarding future programming content of the above-mentioned nature.

## **Additional Correspondence**

The CBSC sent its standard response letter to the complainant on October 18 which states that “broadcasters who are members of the CBSC take their responsibility to respond to audience concerns very seriously. The dialogue between broadcasters and members of their audience is a cornerstone of the CBSC’s complaints resolution process. Concerns are often resolved satisfactorily through this dialogue phase.” The complainant responded to that letter on October 18 with the following:

If the members “take their responsibility to respond to audience concerns very seriously”, then why did CHOM not respond to the original complaint I made directly to them? It has been almost 21 days now. Since the CBSC has now intervened, I expect I will finally get a reply from CHOM, but only because of the influence of the CBSC, not because they took my complaint all that seriously.

If this case remains unresolved, and I file for arbitration by the CBSC, will your report state that the broadcaster responded responsibly? I think if they don’t respond to the original complaint within the 21 days, then they have not responded responsibly.

On November 9, the complainant filed his Ruling Request and sent the following e-mail to the CBSC:

On Sept. 21, I sent CHOM 97.7 a complaint regarding the use of the F-word in one of the songs they played. I waited two weeks for a response from them. I received no response. I then wrote the CBSC. [CBSC Correspondence Officer] responded, telling me that that CBSC had been in contact with CHOM-FM. I was told that I would receive a response from CHOM within 21 days, which brought us to yesterday. I have not received any correspondence from CHOM-FM in any form whatsoever. Therefore, I cannot comment on their response. As such, my original complaint has not been addressed, and so I am filing a ruling request.

## **Broadcaster Response**

On February 2 CHOM-FM sent the following reply to the complainant:

This letter is in response to your complaint from our September 21<sup>st</sup> broadcast that included the airing of the Tragically Hip’s “Locked in the Trunk of a Car”.

When the song arrived at CHOM in 1993, it was decided that the use of word in question was appropriate in relation to the song’s content. More importantly, it was not used disparagingly; therefore the song was played as received. Upon receiving your letter, we reviewed the song again and feel that CHOM made the right decision at that time.

Given the song’s consistent and continued request for airplay since 1993 on CHOM, I expect that our listeners have accepted the song’s presentation in its current form.

Thanks for your letter and if you need clarification on this or any programming decision, you may reach us at ###-###-####.

### **Additional Correspondence**

The complainant responded to the broadcaster's letter on February 3:

I received your letter. What you do not address is the fact that your radio station is a member station of the CBSC, and as such, has agreed to follow certain broadcaster codes. One of these codes is that member stations agree not to broadcast material with unduly coarse language. In many rulings, the CBSC's panel of judges have consistently ruled that use of material containing the F word is not acceptable material. All this I stated in my original complaint to you of more than four months ago.

So despite your internal review, you are still contravening the agreement your station made when your station joined the CBSC.

Also, your response time to my complaint is well past the guidelines as established by the CBSC. Since I did not receive a response from you until now, I have long since filed a formal complaint with the CBSC, and expect a ruling soon.