
APPENDIX B

CBSC Decision 04/05-1911 & -1915 CILQ-FM re a Rolling Stones concert

The Complaints

The CBSC received nine complaints about this broadcast. Two of those complainants filed Ruling Requests. Their complaints are reproduced below.

Complaint File 04/05-1911, received August 12, 2005:

I wish to make the following complaint:

Radio Station: Q107 Toronto

Name of Program: Not Applicable. The complaint covers a time period, but [the] Program Director Q107, has accepted responsibility for the issues.

Date: 10th August 2005

Time: Much of day, but climaxing at about 21:30 local Toronto time.

Specific Concern:

During the 9th of August 2005 it became known in Toronto, and then worldwide, that the Rolling Stones would be giving a special end-of-tour rehearsals show at the Phoenix Theatre in Toronto. Q107 then let it be known that they would be broadcasting during the show.

During 10th August the many program trailers, and the introduction to the "broadcast" were all intended to leave the impression that the broadcast was of the actual show taking place at that time in Toronto. It was a clear intention to deceive the listeners. The word "live" was constantly emphasised. There was constant emphasis about the concurrency of the actual show that evening in Toronto.

Instead of broadcasting the actual show, they broadcast a recording (eh??) of the equivalent event prior to the Rolling Stones' previous tour in 2002.

My complaint therefore is one of deliberate deception of their audience.

Complaint File 04/05-1915, received by the CRTC August 11 and forwarded to CBSC in due course:

Radio Station Q107 in Toronto heavily advertised and actively promoted a special broadcast of "The Rolling Stones Live from the Phoenix Club" in Toronto at 9:30 pm on 8/10/05 and then they aired a tape of a performance by The Stones from three years ago, also in Toronto, at the Palais Club. This was a deliberately misleading, disingenuous and unscrupulous

usage of the airwaves by Q107. They knew exactly what they were doing and they did it anyway. They should have their licence revoked forthwith.

Broadcaster's Response

The broadcaster responded to the complaints on September 7 with the following:

The Canadian Broadcast Standards Council ("CBSC") has asked us to respond to your email of August 11, 2005 where you raised concerns regarding the broadcast of a Rolling Stones concert that was aired on Q107 on August 10, 2005.

As you know, Q107 is a music radio station that provides its listeners with a classic rock format. The station airs a variety of entertainment via music and narrative content and through that has achieved massive acceptance among Toronto and area listeners.

We always strive to find the best mix of programming that our listeners will appreciate and enjoy. During the week of August 08, 2005 we learned that the Rolling Stones would be playing a rare small-venue gig in Toronto. News of this performance spread quickly in Toronto and among fans of the Rolling Stones around the world. Knowing that only a small number of lucky fans would gain access to this concert we wanted to provide our listeners with a similar experience to seeing and hearing the Rolling Stones live in concert. For this reason we played a recording of the Rolling Stones live in concert in a similar-sized venue in Toronto from three years earlier.

Your email states that Q107 promoted that we would be broadcasting the concert live on our station and that our broadcast intended to leave the impression that the broadcast was of the actual show and a clear intention to deceive listeners. We certainly did not intend to deceive any of our listeners, but after evaluating the recording of the program, we do recognize that we could have more clearly explained that the concert we played was indeed a live recording of an earlier concert performance. In our haste to provide the live concert experience to our listeners we were remiss and should have made it clear that it was pre-recorded on air at the time. We see how this was confusing and regret that some listeners thought that we were actually broadcasting the live concert from the venue.

As Program Director for Q107 I take responsibility for the broadcast of the concert and the way it was presented. Please be assured that at Q107 we take our responsibilities as a broadcaster seriously. We work to ensure all our programming on Q107 complies with the *Broadcasting Act*, the *Radio Regulations* and the Canadian Association of Broadcasters *Code of Ethics*, standards required of us as a member of the CBSC. While we don't believe we contravened the Code in any way with this broadcast we regret that you felt misled [*sic*]. It certainly was not our intention.

Q107 listeners are extremely loyal to both the station and to the musical format. We think we have the best listeners in the world and are very sorry that we have disappointed you with this broadcast. We wish to extend our apology for a broadcast that should have been clearer about what it was playing.

We trust the foregoing responds to the concerns you raised in your email regarding the Program. At Q107, we recognize the importance of listener feedback and appreciate all comments. We thank you for taking the time and initiative to share your concerns with us.

Additional Correspondence

The first complainant filed his Ruling Request on September 12 with the following note:

It is clear that the perceptions of the event differ hugely.

It is unlikely that there would be very much of a point in counting the number of times the definite article was used, or implied, and/or how many times the indefinite article was used, or implied. Listening for subtle nuances of meaning and emphasis will not help.

It may be better to step back and consider the listeners' perception of the advertised event and what conditioned it.

It was heavily promoted, and gained (as [the Program Director] notes) a huge amount of publicity around the world. Such is the impact of the Internet. When considering the event, Rolling Stones fans such as myself necessarily took into account the likelihood of it being a truly live broadcast of that evening's concert in Toronto.

The alternative to consider was that it was a recording of some sort.

As [the Program Director] writes "we wanted to provide our listeners with a similar experience". A totally appropriate way would have been to have found released live tracks that matched the songs being performed in the theatre and to have broadcast them in the same sequence as the show, or to create/re-create a 'live' event from existing released 'small club' performances.

The Rolling Stones are very careful about their released recordings – after more than 40 years they feel that they have a major portfolio of recorded work that they do not want compromised by releasing low quality material.

The ONLY 'small club' shows that have yielded released recordings were the 'El Mocambo' show in March 1977 (only 4 tracks), plus some tracks from The Paradiso Club (Amsterdam) and The Olympia Theatre (Paris) making up part of the 1995 *Stripped* album.

As the promotion, and indeed the start of the broadcast ("the Club Gig live tonight right now in Toronto at the Phoenix Concert Theatre. As promised all day – the Stones live in Toronto – enjoy everybody"?), proceeded it seemed that the balance of probability was that Q107 would really be playing a real-time as-it-happened broadcast. The alternative was that they were playing an unreleased recording.

Since (in their own words) Q107 write "We work to ensure all our programming on Q107 complies with the *Broadcasting Act*, the *Radio Regulations* and the Canadian Association of Broadcasters' *Code of Ethics*, standards required of us as a member of the CBSC." If those compliances are met, then an unreleased recording could not be expected.

It seems that somehow the unexpected happened – hence my assertion that there was major deception against the listening public. I find it hard to conceive that this was accidental.

Q107's representative admits "we played a recording of the Rolling Stones live in concert in a similar-sized venue in Toronto from three years earlier." No such recording has been released by the Rolling Stones.

The second complainant sent an e-mail to the CBSC expressing his dissatisfaction on September 14:

I am in receipt of an e-mailed document of explanation/apology from Program Director [B. B.] of Q107 Radio, Toronto, in response to my complaint, referenced above, pursuant to their disingenuous broadcast of "Live Rolling Stones" at 9:30 pm EST on 8/10/05.

I'm sorry, but [the Program Director]'s sheepish explanation/apology on behalf of Q107 doesn't even begin to address the deliberate pattern of deception, obfuscation and misrepresentation foisted upon Rolling Stones fans on that evening.

As [the Program Director] points out in paragraph three of his response, "Only a small number of lucky fans would be able to gain access to (the actual concert on 8/10/05 at the Phoenix Club in Toronto)." For at least 36 hours before the Stones hit the stage at the Phoenix Club, Q107 encouraged listeners to "keep it right here on Q107 for Live Stones at 9:30 Wednesday night." At NO TIME ---- repeat NO TIME ---- did anyone from Q107 make an honest announcement that the "Live Stones" they would be presenting would actually be a recording of a previous live performance.

That wouldn't have suited Q107's, or parent company Corus Entertainment's agenda to inveigle as many listeners as possible to listen to their station for -- ostensibly -- the Phoenix Club show -- and what the Stones sounded like THAT NIGHT -- not three years ago.

[The Program Director] not only portrays Q107 as an industry leader of rock music programming in his e-mail of 9/7/05 of which you have a copy, but he makes sure to carbon-copy four prominent executives of Corus Entertainment with the status of this matter.

The message is clear -- Q107 is no 1,000-watt college radio station that just got carried away with some over-zealous student announcers. They are a bonafide presence in the Toronto radio market, in brisk competition for listeners and advertising dollars, and they piggybacked the Stones show at the Phoenix to exact whatever monetary advantage they could glean from their actions with a fully pre-meditated strategy and malice aforethought.

I am writing on behalf of an ad-hoc Rolling Stones message board/blog site known as Stonesdoug.com and I can't tell you the number of members all over the world who were duped by Q107's "LIVE STONES" exhortations for 8/10/05. Nobody can rightly believe that any radio station would pull such a deceptive stunt as Q107 shamelessly carried out.

What LIVE STONES did Q107 think Stones fans were expecting to receive over their airwaves?

If they just wanted to play an old tape, why do it exactly at showtime at the Phoenix Club -- 9:30 pm EST -- except to deceive their audience?

In his document -- paragraph 4, line 6 -- [the Program Director] speaks of Q107's "haste" to provide a live concert experience for the station's listeners as if this was an instantaneous decision.

As cited earlier, Q107 was promoting this subterfuge for a full 36 hours before the broadcast. How hasty was that? This was an absolutely fully plotted and planned, deliberate shell game perpetrated against a countless number of music fans eager to hear songs from their new studio album and the 2005 version of the irrepressible and irresistible Rolling Stones.

Sadly, [B. B.], Program Director at Q107 for less than two weeks before this incident occurred, used the allure of The World's Greatest Rock 'n' Roll Band to serve his own interests and that of his employer, a division of Corus Entertainment.

His mealymouthed, legal-speak response to my complaint is parenthetically unacceptable and I respectfully request that this matter be scheduled for a formal panel review by the Canadian Broadcast Standards Council (CBSC).

At that time, I suggest that you review a tape of Q107's broadcast that evening and ask yourselves what concert you're listening to – the Phoenix Club on 8/10/05 or a show from three years beforehand?

Q107 didn't want anybody to know ... that's why they kept referring to their broadcast as "The Phoenix Club."

This simply cannot be allowed to stand without a monetary fine against Corus Entertainment or a formal censure.

Thank you for your consideration in this matter on behalf of all Rolling Stones fans, many of whom travel great distances to see them perform. The prospect of an actual live broadcast of the virtually-impossible-to-get-a-ticket-to Phoenix Club show which was generously bandied forth to Q107's listenership -- only to be exposed as lies, lies, lies, lies and more lies, simply cannot be allowed to stand.