
APPENDIX B

CBSC Decision 06/07-1122 CILQ-FM re “Two Minutes Away” promos

The Complaint

The CBSC received the following complaint dated April 9, 2007 via the CRTC:

My complaint is with the radio station Q107 in Toronto. They have been advertising now for some time that "You're never more than two minutes away from great music" yet listening to their station, particularly in the morning, they don't come anywhere close to this advertised promise, with some stretches of talking going five or six minutes between songs. I feel this is a form of false advertising and I wonder how they are able to get away with this.

In response to that e-mail, the CBSC explained that it requires specific programming dates and times in order to pursue a complaint. The complainant wrote back on May 22:

I have attached a document showing a one-hour time-line of programming for Q107 radio station in Toronto for Friday, May 18, 2007 between 8:38 am and 9:38 am in regards to their constant advertising that “you’re never more than 2 minutes away from great classic rock”. You will see there are a few stretches of 12 and 14 minutes when NO music is played, and they even advertise this “never more than 2 minutes” during a 4-minute break!!! There were 2 minutes of music in the first half hour of this time frame!!!!

The attached document set out the following:

Q107 self promotion stating “you are never more than 2 minutes away from great classic rock” is aired constantly every day.

Q107 Friday May, 18, 2007 between 8:38 am and 9:38 am.

8:38 am to 8:50 am = 12 minutes. There was everything from traffic and weather reports, 6 to 8 commercials, and a conversation about how people from Whitby were better than the people from Ajax during this break, for a total of twelve minutes, coming nowhere near their above-mentioned self promotion.

8:50 am to 8:52 am = 2 minutes. They played one song.

8:52 am to 9:06 am = 14 minutes. There were more commercials, more self promotions, conversations about horse racing, grammar, the theatre and the like for a total of fourteen minutes, once again coming nowhere near this “never more than 2 minutes away from great classic rock” they constantly advertise.

2 minutes of music in half an hour????

9:06 am to 9:13 am = 19 minutes [*sic*, actually 7 minutes]. They played music.

9:13 am the self promotion “you’re never more than 2 minutes away from great classic rock” is aired.

9:13 am to 9:15 am = 2 minutes. There were commercials.

9:15 am to 9:24 am = 9 minutes. They played music.

9:24 am to 9:28 am = 4 minutes. There was more conversation re gas prices, concert cancellation etc.

At 9:26 am, in the middle of a 4 minute break, they air they advertisement “you’re never more than 2 minutes away from great classic rock”.

9:28 am to 9:37 am = 9 minutes. They played music.

Broadcaster’s Response

The broadcaster responded to the complainant on June 8, 2007:

The Canadian Broadcast Standards Council (the “CBSC”) has asked us to respond to your email of May 22, 2007 in which you raised concerns regarding the use of the promotion aired on CILQ-FM (the “Station”), which states “You’re never more than two minutes away from great classic rock” (the “Promotional Liner”). Specifically, you state that during the hour beginning at 8:38 am and ending at 9:38 am on May 18, 2007, the Station aired the Promotional Liner at a time when no music was played for several minutes. You also indicated that you heard the Promotional Liner in the middle of a 4-minute commercial break.

We have reviewed the logger tape from May 18, 2007, between the hours of 8:38 am and 9:38 am. At no point was the Promotional Liner aired. While it is true that 12 and 14 minute segments were aired without music, this is typical during the broadcast of our Morning Show. We did not find any instance in which the Promotional Liner was broadcast during a 4-minute commercial break.

As you know, the Station has a music format, and broadcasts mainly classic rock. Like most music stations, the Station does not *only* broadcast music; our Morning Show, which airs between 5:00 am and 9:00 am, Monday to Friday, consists of some music, some news and information, and some other ‘spoken word’ content.

Recently, the Station reduced its commercial inventory between the hours of 9:00 am and 5:00 am. During those hours, we only air commercials in two minute increments, or as we call them, 2 minute “stop-sets”. The Station now promotes the 2 minute stop-set by broadcasting the Promotional Liner during the hours in which the 2 minute stop-sets are aired, usually before a commercial break. The Promotional Liner is not broadcast between the hours of 5:00 am and 9:00 am, when our commercial breaks tend to be longer than 2 minutes, and when we broadcast more than just music.

In view of the foregoing, we do not believe that the Station’s broadcast of the Promotional Liner has been misleading in any way that would constitute a violation of the Canadian Association of Broadcasters’ *Code of Ethics* (the “Code”), which is administered by the CBSC and to which we adhere. We take our responsibilities as broadcasters very seriously, and work hard to make sure all of our programming complies with the *Broadcasting Act*, the *Radio Regulations* and the Code and standards required of us as a member of the CBSC.

We trust that this letter has addressed your concerns. We at the Station recognize the importance of listener feedback and appreciate all comments.

Additional Correspondence

The complainant filed his Ruling Request on June 20, 2007 with the following note:

This is in response to my complaint, CBSC File C06/07-1122, concerning radio station Q107 in Toronto and their continuing use of the promotional liner "You're NEVER MORE than 2 minutes away from great classic rock."

I have received and reviewed the letter from [the Program Director] from CILQ-FM dated June 8, 2007. I will include a copy at the end of my response, and their explanation of their use of the promotional liner mentioned above and I have the following comments and questions.

Let me state that my interpretation, and many others I have discussed this with, of the promotional liner above is this:

I will not have to wait MORE than 2 minutes, EVER, 24 hours a day, 7 days a week, 365 days a year from the time one song ends to when the next song begins. That is what that promotional liner implies! 2 minutes! No matter how you spin it. I think it is pretty clear. It doesn't say no more than two 2 minutes commercial stop-steps with spoken word thrown in-between.

In his letter, [the Program Director] said they had reviewed the tapes for the day and hour I logged and have made a written record of, Friday May 18, and said there was no airing of this promotional liner in that hour, but did acknowledge it is true that 12 and 14 minute segments were aired without music; this is typical of their morning show. Hello!!! How can I NEVER BE MORE THAN 2 MINUTES AWAY FROM GREAT CLASSIC ROCK when they acknowledge in their letter that they have no intentions of fulfilling this for at least 4 hours a day during their morning show as [the Program Director] says in his letter. I did not make an audio recording only hand notes but I do know what I heard! And that was the airing of this liner twice in the hour I carefully listened to and made detailed notes. Regardless of whether it was aired or not, they continue to air the liner immediately after the morning show and constantly throughout the day, between the hours of 9:00 am and 5:00 am.

I have made a second-by-second hand-written log for June 11, 2007 from 2:59:00 pm to 5:00:20 pm, where there were 6 breaks longer than 2 minutes with NO GREAT CLASSIC ROCK. I have also made an audio recording, for my reference and records. I have not included either of these in this correspondence, but will forward on should they be needed. In that 2-hour NON-morning show time-slot, there were breaks of 5 minutes 40 seconds, 4 minutes 45 seconds, 5 minutes, 6 minutes and 20 seconds (during this 6 minute plus break BETWEEN GREAT CLASSIC ROCK there was a 3 minute rant??? by their afternoon host about *American Idol*), 4 minutes, and 4 minutes and 30 seconds. How are any of these breaks, the shortest being 4 minutes, NEVER MORE THAN 2 MINUTES AWAY FROM GREAT CLASSIC ROCK???????????

I will acknowledge that since my initial complaint they have changed the wording to this liner during the hours of between 5:00 am and 9:00 am to "Coming up at 9 you're never more than" because, as he acknowledges in his letter, their commercial breaks tend to be longer

than 2 minutes and they broadcast more than just music during that time frame. But as you can see from a 2-hour snapshot of 1 day they have no intention of fulfilling this promotional liner morning or afternoon. Can someone please explain to me how I'm NEVER MORE THAN 2 MINUTES AWAY FROM GREAT CLASSIC ROCK when their afternoon host goes on a 3-minute rant on how bad *American Idol* is, then follow that up with 3 more minutes of traffic, ads and a promotional liner that says "you're only 2 minutes away from damn-I-wish-I-wrote-that." How can you use both liners? Either you're 2 minutes away from damn-I-wrote-that or 2 minutes away from great classic rock. Using both liners, are you not 4 minutes away from great classic rock?

In closing of his letter, [the Program Director] says "we do not believe that the station's broadcast of the Promotional Liner has been misleading in any way." I strongly disagree and I think the whole use of these promotional liners is seemingly intentionally misleading, and at times seem to be aired intentionally during breaks longer than 2 minutes, which is evident on the June 11 recording and log I have made. [The Program Director] only raises more questions in my mind which I would like some answers to such as:

How is this being presented to those who are being sold commercial time on the station? Are they under the same impression I am when they hear this promotional liner, thinking that there will be less time for competitive advertising during the airing of their respective commercial spots with only a 2-minute window?

Or are they aware of the station's seemingly obvious attempts to mislead the listeners with no intention of fulfilling this promise, thus complicit in this false or misleading advertising?

How is this setting a fair and competitive stage for those broadcasters and advertisers in the industry that do play by the rules?

I look forward to a response.