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**CANADIAN BROADCAST STANDARDS COUNCIL  
BRITISH COLUMBIA REGIONAL COUNCIL**

CKLZ-FM re Announcer Comments

(CBSC Decision 94/95-0113)

Decided December 18, 1996

E. Petrie (Chair), M. Becott (Vice-Chair), S. Brinton, R. Cohen (*ad hoc*),  
C. Murray, G. Vizzutti

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## **THE FACTS**

On Sunday, January 15, 1995, at about 1:15 p.m., the announcer was doing his customary patter between songs on CKLZ-FM, a rock music format station. During the course of his chat, he made the following comments about a police radar trap.

How ya doing, it's Elliott. Three in a row coming up as we continue on, on this Super Rock Sunday. And, as always, the Lizard listeners keeping us abreast on what's happening in the world, Harvey and Ellis, fuzz-trap, uh-huh...better watch it if you're cruising up the highway through town right now. They're busting people, centre, left and right...it doesn't really matter, they're running out in the middle of the road. So, what I suggest you do is drop by your favourite donut shop, pick them up a six pack of cruellers and some coffee and drop them off to the boys in blue who are out there doing their gig on a Sunday afternoon...and watch your speed, okay.

We'll check Kelowna weekend weather, and coming back, *Achtung Baby*.

The commercials were broadcast, followed by the playing of the song "Achtung, Baby".

## **The Initial Letter of Complaint**

A police officer heard the commentary and became "so infuriated that I dropped what I was doing, returned to my residence, phoned the radio station involved and voiced my displeasure. I was told the comments were made in the interest of humour. I failed to see any humour at the time, and it still eludes me a week later." In his letter of January 22 to the CRTC, he went on to describe his concerns further:

I did not record what was said, so I can only relate as best I can what I recall of the commentary. The announcer warned the motorists of Kelowna of the existence of a "fuzz-trap" ... He added that the best way to handle the situation would be to stop at a local donut shop and pick up half a dozen donuts and a coffee in case you were stopped. ... Finally, before the next song was played, an emphasized (I thought) Achtung was spoken.

Upon contacting the radio station, I was advised by the person answering the phone that the Achtung was a reference to the name of the album from which the following song was taken (U2, Achtung Baby). At the time though, it seemed to me to be a clear reference to the preceding conversation dealing with the police.

... I have no objection to the radio station broadcasting the location of the enforcement operation. The purpose of traffic law enforcement is to prevent accidents. If the radio station broadcasts our location and people drive in a more restrained manner as a result, then they are helping us achieve our goal. ...

My objection with the broadcast was with what seemed to me to be childish name calling, the insinuation that a donut and a coffee could buy a cop, and with all the negative connotations that accompany the word "Achtung".

I was angry that day, and I am still angry today. The remarks were insulting. They were made very publicly and the victims of these insults have no means of defending themselves. I am not perfect, nor is any police force. When we make mistakes, we deserve to be criticized. An unwarranted attack of this nature though, plain and simple, is not fair. It should not be permitted, be it against the police or any other group.

... I would hope though that somebody has the authority to protect the public (and peace officers qualify) from this type of broadcasting.

## **The CKLZ-FM Program Director's Response**

The letter was forwarded to the CBSC by the CRTC on February 20, after CKLZ-FM had replied to the listener and forwarded its own letter of response of February 14 to the CBSC. In that letter, CKLZ-FM's Program Director wrote:

After careful review of the logger tape, I came to the conclusion that what our announcer said, and how you perceived his comments, differ somewhat.

Yes, our announcer did warn the motorists of Kelowna of a "fuzz trap" at a specific location. He has since been reminded of our station policy not to reveal the exact locations of RCMP radar traps. Our policy is: if any mention of radar traps is made, not to state the exact location but, rather, to alert listeners that the local police are looking for speeders and that they should observe posted speed limits at all times.

Our announcer then suggested "...drop by your favourite donut shop, pick them up a six-pack of cruellers and some coffee and drop them off to the boys in blue who are out there doing their gig on a Sunday afternoon, and watch your speed, okay." Contrary to your letter, he in no way insinuated that a donut and coffee could buy a cop. Rather, he suggested that it might be a kind gesture to purchase a treat for the police who were out doing their job. ...

The mention of the words "Achtung, Baby", were simply in reference to the title of the album by the group U2, which our announcer was promoting. That music was played after the next set of commercials. I regret that it seemed to you that the mention of the word "Achtung" was a reference to the preceding conversation dealing with the police. It was not.

We are sorry that you feel the remarks made were insulting and an unwarranted attack against the police. I want to assure you that they were never intended to be. Our announcer's intent was to tell listeners to slow down, to drive carefully and perhaps to treat the local police. It is clear to me that there has been a misinterpretation of what was said that day by our announcer, and I hope that this letter helps to clarify any misunderstanding

### **The Complainant's Letters of March 25**

On March 25, the complainant responded to the CBSC. He noted that he was not satisfied with CKLZ-FM's response but that he "agree[d] with [the CBSC's] policy and would also like to resolve the dispute directly." On that date, the complainant wrote again to the station with details of his position as a result of the dialogue to that point. He first declared his dissatisfaction regarding CKLZ-FM's position that "referring to the police operation as a 'fuzz-trap' is of no consequence." Second, he saw no further need to make an issue of the question of announcing the location of police radar traps. On the question of the understanding of the announcer's statement as being a recommendation that "it would be a kind gesture to treat the police for doing their job," he needed to listen again to the program segment on tape. For the purpose of concluding re the use of "Achtung", he also needed to hear the tape.

### **The Program Director's Letter of April 12**

On April 12, the station replied to the complainant and sent him a copy of the logger tape to listen to. In the covering letter, the Program Director responded to the question of the use of the word "fuzz" in the following terms:

You mention in your latest letter that you are not satisfied that it appears that I agree that referring to a police operation as a "fuzz trap" is of no consequence. Frankly, No, I don't have a problem with this. "Fuzz" is defined in the dictionary as slang for policeman, or the police. I believe the term was even applied to a commercially available radar-detector called a "Fuzz-buster". Granted, it is not a term that is often used on the air. The R.C.M.P. are generally referred to as the police, or the cops.

### **The Complainant's Letter of May 17**

The complainant was now able to listen to the tape and sent a final letter to the station with his reaction to the issues on May 17. He admitted that he "did not find

the remarks as infuriating the second time around”; however, he still concluded that he was not satisfied.

I had three complaints with the broadcast. The reference to the police as "fuzz", the implication (I thought) that the police could be bribed with a donut and coffee, and the use of the word "Achtung" in apparent reference to the police.

Of the three, the use of the word "fuzz" was the least of my concerns. As I said before, it amounts to childish name-calling, and I just don't think that's proper. Using the reasoning that it is justified because it is in the dictionary still doesn't make it right. ... I am glad that I will never hear that word [the N-word] on a Canadian radio station, and I don't think any group of Canadians, whether separated by race, profession, age, or any other division of the population you can think of, should be subjected to public name-calling. Sure, "fuzz" isn't the worst name in the world. If that had been all that was said you never would have heard from me.

My second objection dealt with what I thought at the time was the apparent suggestion to bribe the police with donuts and coffee. I concede I was mistaken on this point. I still don't like the reference, but that is a personal pet peeve, and I am willing to accept your explanation "that he suggested it might be a kind gesture to purchase a treat for the police who were out there doing their job".

My final issue, and the one I felt strongest about, was the "achtung baby" at the end of the conversation dealing with the radar operation. You have advised me that this was a reference to music that would be upcoming following a commercial break. You must agree that anybody listening to the radio that day, unless possibly they were a diehard U2 fan, would never have made that connection. The announcer discussed the police radar operation, said "achtung baby", and then a commercial began. No reference was made to the music which would follow the commercials. Only one person can say whether a slight was intended, but even if none was intended, one was made. It was said. And I object.

## **THE DECISION**

The CBSC's B.C. Regional Council considered the complaint under the *CAB Code of Ethics*. Articles 2 and 6(3) of that Code read as follows:

### *CAB Code of Ethics*, Article 2 (Human Rights)

Recognizing that every person has a right to full and equal recognition and to enjoy certain fundamental rights and freedoms, broadcasters shall endeavour to ensure, to the best of their ability, that their programming contains no abusive or discriminatory material or comment which is based on matters of race, national or ethnic origin, colour, religion, age, sex, marital status or physical or mental handicap.

### *CAB Code of Ethics*, Article 6(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.

The Regional Council reviewed the considerable correspondence and listened to the tape of the program in question. The Regional Council does not consider that the broadcast breached the Code.

### **Summary of Issues**

In order to facilitate the understanding of the remaining matters, the Regional Council summarizes complainant's ultimate concerns here.

1. The use of the term "fuzz" in reference to the police; and
2. The use of the word "Achtung" so soon after referring to the police.

### **The Use of the Term "Fuzz"**

The CBSC has considered the import of Article 2 on many occasions. See, for example, the Council's decisions in *CFRB re Ed Needham (OWD Publication)* (CBSC Decision 92/93-0096, May 26, 1993), *CFOX-FM re the Larry and Willie Show* (CBSC Decision 92/93-0141, August 30, 1993), *CKTB-AM re the John Michael Show* (CBSC Decision 92/93-0170, February 15, 1994), *CITY-TV re Beavis and Butt-head* (CBSC Decision 93/94-0074, June 22, 1994), and *CKVR-TV re Just for Laughs* (CBSC Decision 94/95-0005, August 23, 1995). This is, however, the first occasion on which a listener has complained of language used with respect to an *occupation*. The only previous circumstance which has led the CBSC to broaden the interpretation of "matters of race, national or ethnic origin, colour, religion, age, sex, marital status or physical or mental handicap" arose in *CHQR-AM re Forbes and Friends* (CBSC Decision 92/93-0187, August 8, 1994), in which the Prairie Regional Council ruled:

Although Clause 2 does not contain a specific reference to "sexual orientation" the Regional Council considered that the term "sex" could reasonably be understood as being broad enough to include "sexual orientation".

It is not the view of the B.C. Regional Council that it would be possible by definition to extend "race, national or ethnic origin, colour, religion, age, sex, marital status or physical or mental handicap" to include occupation or profession. Such a change, were one merited, would require the intervention of the codifiers.

Although not *essential* to its determination in this matter, the Council believes that it is useful to observe that, in its view, "fuzz" is, in any case, a slang term but *not* a pejorative term. Its conclusion is not based on the *presence* of the word in the dictionary but rather its members' understanding of the use of the term. In this respect, although it does not share his conclusion, the Council does share the view of the complainant that words cannot become acceptable for on-air use merely

because of their presence in a dictionary. The Council further recognizes that individuals in society will occasionally be offended by the use of a term or a word which has come into general usage and is not offensive to society as a whole. The CBSC believes that the word “fuzz” is such a case although it understands and respects the sensitivities of the complainant.

### **The Use of the Word *Achtung***

In order to deal with this aspect of the complaint, it is the third paragraph of Article 6 of the *CAB Code of Ethics* which must be used. Although it is found in the *Code of Ethics* under the heading “News”, its terms make it clear that this paragraph of the article is intended to serve as the broadcast standard for the expression of “opinion, comment and editorial” as well as the unfair or improper presentation of opinion or comment. The CBSC has frequently applied paragraph 3 in the past to deal with open line shows as well as other broadcasts in which there may be unfair or improper expression of opinion or comment. In this case, the issue is whether the use of the expression “Achtung, baby” is or is not an unfair or improper expression of comment.

The word “Achtung”, German for “Attention”, is not *per se* offensive. It is in common usage as a warning in modern Germany, at crosswalks, in subways, meaning “Look out!”, “Take care!”, “Take heed!” or the like. It is only its military usage, “Attention!”, and its association in the Canadian experience with Nazi atrocities in the Second World War which may make it offensive and then depending on the context in which it is used. As the Ontario Regional Council concluded in *CITY-TV re Beavis and Butt-head* (CBSC Decision 93/94-0074, June 22, 1994),

Tone and context can be extremely material in any appreciation of comments made on air. A word or phrase which may be insulting or degrading when used in isolation may, when heard or read in context, may be interpreted otherwise.

In another case in which song lyrics were actually involved, namely, *CKNG-FM Re Madonna* (CBSC Decision 92/93-0139, July 6, 1993), the Prairie Regional Council concluded

that the announcer’s words, “bad girl, bad girl, spank her” would likely, if heard in isolation, be considered negative or degrading with respect to women. They were, however, spoken immediately following the playing of a Madonna song. Members of the Regional Council considered that the announcer’s tone and the combined context of the song aired and the artist’s own controversial attitudes meant that the use of the words on this occasion did not amount to a Code violation. The members further noted that the words “bad girl” were used in the song itself.

The case at hand is strikingly similar, except that the announcer’s comments were made *prior* to the playing of the song in question. The Council does recognize that the complainant was not familiar with the rock group U2’s song entitled “Achtung, Baby” at the time he heard the announcer’s comment. Had he been as aware as

CKLZ-FM's customary rock-oriented audience (demographically, males from 18 to 25) undoubtedly were with both the song and the immensely successful 1991 album of the same title, he might have thought the connection less intentional. The Regional Council does acknowledge the unfortunate juxtaposition of the forthcoming song and the speed-trap location item. Its members did, however, listen to the tape individually before their meeting and collectively several times during the meeting, paying particularly close attention to the words used, the announcer's tone and the placement of the item, the reference to the weather and the announced musical return following the commercial break. They readily conclude that the pre-commercial lead to the post-commercial song (the "hook" in broadcast jargon) used was absolutely normal, that there was no intention to cast any aspersion on the police by that juxtaposition, and that few other listeners would likely have been induced to arrive at any such negative conclusion.

Expectations of listeners are, moreover, a matter of substantial relevance to the Council. In a matter which involved a question of humour, namely, *CHUM-FM re Sunday Funnies* (CBSC Decision 95/96-0064, March 26, 1996), the Ontario Regional Council stated:

The Council believes that it is essential to draw a distinction between a broadcast which is *intended* to be serious or at least leaves the impression that it intends to be serious and one which *clearly* does not. It is not that the *standard* to be applied to the potentially offending statement will be different. It is rather the question of audience perception.

In the matter at hand, the Council considers that the station's rock music audience would have understood that the song in question would immediately follow the commercial break. They would have read nothing more into the comment; furthermore, as a result of the fact that the bulk of the CKLZ audience was born well after the Second World War, Council members are quite certain that most CKLZ listeners would not likely have understood or appreciated, at least on a personal basis, the possible connection between the song title and the Nazis.

### **An Aside**

Council members were interested to learn from complainant's letter that the police, or at least *some* police, are unperturbed by the announcement of radar locations and may view such announcements as something of a public service. In the complainant's words,

... I have no objection to the radio station broadcasting the location of the enforcement operation. The purpose of traffic law enforcement is to prevent accidents. If the radio station broadcasts our location and people drive in a more restrained manner as a result, then they are helping us achieve our goal. ...

## **The Broadcaster's Response**

In addition to assessing the complaint against the relevant Code, the CBSC Regional Council always evaluates the *responsiveness* of the broadcaster to the substance of the complaint since it is a responsibility of membership in the CBSC to be responsive to audience complaints. The Council notes the extensive written dialogue carried on between the complainant and the broadcaster. The CKLZ-FM Program Director understood the legitimate concerns of the listener and made every attempt to respond to them. By going as far as providing the tape and giving the complainant the possibility of re-hearing the context himself, the Program Director manifested a sensible and commendable level of concern for his audience.

It is equally to the credit of the complainant that he was willing to dedicate his time and energy to the resolution of his differences with the station in this way. The result of this lengthier than usual dialogue was that at least half of the issues raised were resolved to the satisfaction of the listener. The broadcaster's obligation to be responsive to complaints was met in this case.

*This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.*