

**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CILQ-FM re the Howard Stern Show

(CBSC Decision 97/98-0487, 488, 504 and 535)

Decided February 20, 1998

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THE FACTS

Since the matters dealt with in this decision are directly connected with the first CBSC decision relating to the CHOM-FM and CILQ-FM broadcast of the Howard Stern Show (CBSC Decision 97/98-0001+ and 0015+, decided on October 17-18, 1997 and released on November 11), the Council provides herewith the details relating to the events intervening between November and the date of this decision. Since the date of that first decision, no complaints were received regarding the CHOM-FM edited version of the show; consequently, *this* decision relates only to the broadcast of the Howard Stern Show *on CILQ-FM* (more popularly known as Q107) during certain days in December 1997 and January 1998.

The Requirements of the First CILQ-FM Decision

While the Ontario Regional Council does not wish to review each substantive point dealt with in the initial combined decision of the Quebec and Ontario Regional Councils in *CHOM-FM and CILQ-FM re the Howard Stern Show* (CBSC Decisions 97/98-0001+ and 0015+, October 17 and 18, 1997), it does consider it essential to refer to and review the conclusions of that decision.

There were two. The first was the requirement that the broadcasters announce the CBSC decision forthwith during prime time. The second was, in essence, that the broadcasters determine and explain, within 30 days of November 11, how they proposed to avoid the repetition of the breaches of the *Code of Ethics* and the *Sex-Role Portrayal Code*. The Quebec and Ontario Regional Councils declared that

while the subject matter of the daily Howard Stern Show episodes of course varies from day to day, the presentation of the content which is the principal subject matter of this

decision remains systematically *similar* in approach from one day to the next and that, as in the case of *CIII-TV re Mighty Morphin Power Rangers* (CBSC Decision 93/94-0270 and 0277, October 24, 1994), the two weeks of episodes reviewed will be a fair reflection of the type of approach and attitude which the show could be expected to reflect on an ongoing basis. In the *Power Rangers* case, the Ontario Regional Council concluded

that their observations entitle them to take the generalized position that the approach of the entire series is such that it would likely be in breach of those articles of the *Violence Code* in the same manner as the episodes which the Council members viewed in order to render this decision.

The Quebec and Ontario Regional Councils consider that those remarks apply by analogy, with respect to the *Code of Ethics* and the *Sex-Role Portrayal Code*, to the Howard Stern Show.

It is, of course, clear that the first Stern decision could do no more than *anticipate* that the Show would continue to violate the *Code of Ethics* and the *Sex-Role Portrayal Code*. It could not *conclude* that such breaches would occur. By anticipating, however, that the Stern Show would do so, the Regional Councils were putting the broadcasters on notice that the continued airing of the Show in that form would likely place them in ongoing violation of the Codes, a situation which would be incompatible with their continued membership in the Canadian Broadcast Standards Council.

CBSC Membership Requirements

As the CBSC Members Manual provides, under the heading "Criteria of Membership", "To become a member of the Council, a broadcaster ... must agree to carry out the responsibilities of membership outlined in the following" and, under the immediately following heading "Responsibilities of Membership", it is provided:

Stations voluntarily becoming members of the Council agree to:

- (a) Abide by, and agree to be judged by, the broadcasting codes of the CAB administered by the Council.
- (b) Encourage, educate and assist managers, programmers, producers, journalists and performers to understand, and conduct themselves in accordance with these standards.

Thereafter, as a part of "Compliance", the rules of membership provide:

If a member broadcaster fails to comply with a decision of the Council, by not broadcasting a Council decision in favour of the complainant or by refusing to adhere to an approved standard, the broadcaster's membership in the Council will be revoked.

The consequence of not adhering to the "approved standards", which were the creation of the private broadcasters themselves, would be the removal of the member from the *voluntary* authority of the CBSC. While, ultimately, all CBSC members are subject to the *regulatory* authority of the CRTC, any broadcasters who might cease to be members would be more immediately involved with the formal regulatory regime.

It should not be forgotten that the standards were instituted by Canada's private broadcasters to ensure that the acceptable content criteria of broadcast material would be the same for all listeners and viewers and, moreover, that no individual stations would be able to steal a competitive march on other broadcasters in their market by breaching those standards.

It is an extremely positive endorsement of the self-regulatory process that, hitherto, the CBSC has never invoked the above-noted provisions relating to adherence to standards to remove a member from its midst. It is equally significant that no member has ever resigned by reason of its refusal to adhere to industry Codes.

The Broadcasters' Proposed Solutions Following the First Stern Decision

Both stations began announcing the CBSC decision forthwith, as required, and did so on a reasonably frequent basis for several days, above and beyond the minimum requirements of the decision.

Then, on December 10, both CHOM-FM in Montreal and WIC Radio Ltd., on behalf of its station CILQ-FM, issued news releases announcing their intentions regarding future compliance. While CHOM-FM is not involved in the present matter, what it had to say on December 10 and what measures they put into place to deal with the compliance requirement are relevant to CILQ-FM's course of action and are quoted here for that reason. Their release said, in part, that the station had sent letters to each of the complainants which included the following language:

We support the Canadian Association of Broadcasters and the voluntary broadcasting codes it has developed, which are administered by the CBSC. CHOM-FM will continue to co-operate fully with the CBSC whenever complaints are lodged against our radio station in respect of these codes.

The news release went on to say that

CHOM-FM intends to monitor closely The Howard Stern Show as it is broadcast each weekday morning and to take appropriate measures, if necessary, to ensure that it remains in compliance with Canadian broadcast standards.

Moreover, CHOM-FM representatives advised the CBSC in a private meeting that they were acquiring sophisticated digital equipment which would enable the station to build a time-bank of pre-delivered material from the Stern Show, which could then be reviewed and edited digitally prior to actual broadcast. The new equipment would permit more effortless editing than the customary analog equipment previously in use by CHOM-FM, CILQ-FM and most, if not all, other stations in Canada. It would also permit essentially seamless editing from the listener's point of view, a matter of more obvious concern to the station than to the Council, whose goals relate principally to the broadcast of material which does not offend Canadian broadcaster codes.

WIC, on the other hand, initially made no commitment with respect to the Codes. Their news release announced a four point plan, only two of which were at all related to the program and neither of which was related to CAB standards:

1. Q107 will immediately hire an additional producer whose function will be the monitoring of The Howard Stern Show with a view to ensuring sensitivity and continuing compliance with *Broadcasting Act* requirements.
2. Q107 will further discuss with the producers of The Howard Stern Show the implications of certain methods of production which differ from those currently in place.

The CBSC issued its own news release in which it reacted to the two public statements. It said:

CHOM-FM has indicated that it “intends to monitor The Howard Stern Show as it is broadcast each weekday morning and to take appropriate measures, if necessary, to ensure that it remains in compliance with Canadian broadcast standards.” The Council has been contacted by CHOM-FM representatives and has been assured that the station has taken steps to guarantee: 1) that station personnel are aware of the sensitivities reflected in the broadcast Codes; 2) that the appropriate technological steps will be taken to *carefully* monitor the Show and respect the CBSC’s stated concerns; and 3) that portions of the program may be edited to conform to Canadian broadcast standards so as to ensure that the version of the Show available to CHOM’s audience will be in compliance with the Codes on an ongoing basis.

The CBSC’s reaction to the CILQ-FM proposal was less positive since the broadcaster had made no commitment relating to the various CAB Codes.

CILQ-FM announced a “4 Point Plan” regarding the Howard Stern Show. Half of the points relate to issues which bear no direct relationship to the Howard Stern Show and the decision of the CBSC. Of the two remaining, only one appears to bear even an oblique reference to the concerns of the Council as expressed in the decision of November 11.

Although, regarding that one point, the CILQ-FM news release declared that “Q107 will immediately hire an additional producer whose function will be the monitoring of The Howard Stern Show with a view to ensuring sensitivity and continuing compliance with *Broadcasting Act* requirements,” there was no mention of any of the private broadcasters’ Codes or the intention of the station to comply with the Canadian broadcast standards found in them.

In the absence of such a commitment, the Council has begun its investigation to determine whether the Stern Show has been in compliance with the Canadian broadcast Codes since the date of the decision. In the event that its investigation reveals that the post-November 11 episodes of the Show examined have been in breach, the Council will take the next step of exploring its options regarding the possible severance of the relationship between the Council and CILQ-FM for its failure to “agree to adhere to the Council’s standards” as required by the Council’s Manual for Members.

WIC (CILQ-FM)’s Subsequent Proposals

The next day, John Lacey, the President and C.E.O. of WIC Radio's parent company, WIC Western International Communications Ltd., left a message for the CBSC's National Chair in which he stated: “My understanding is we're going to do exactly the same as CHUM; we're going to be in compliance with the Codes of the Council. That's why we're a member of the Council.” The company followed that message with a letter from its Vice President, Corporate and Regulatory Affairs, in which a “clarification” was made to the news release of the following day:

With respect to the Press Release that Q107 issued yesterday, this letter will confirm that the words "*Broadcasting Act*" should be interpreted to have incorporated in them any and all legal requirements affecting Q107's licence which might flow from that *Act*, including the *Radio Regulations* and any applicable Codes, and Q107 will take whatever steps are necessary in this regard to remain in compliance.

We trust this clarifies Q107's intentions.

In fact, it did not fully achieve the desired result since the technical legalistic approach to the issue only confirmed the broadcaster's intention of complying with the "legal requirements which flow from that *Act*, including ... any applicable Codes", which would, in fact, include the *Sex-Role Portrayal Code* but not the *Code of Ethics*. Ultimately, representatives of WIC's radio arm made their compliance intentions unequivocal.

The detailed explanation of the measures taken by CILQ-FM was provided to the National Chair of the CBSC in a letter of February 16, 1998 from the President and C.E.O. of WIC Radio. Other aspects of this letter which are more pertinent to the substance of the complaints dealt with herein will be referred to below; however, certain portions of the letter are relevant to this part of the decision. That letter, then, states in part:

I believe it is important that the Council know that WIC continues to be a strong supporter of the self-regulatory process and its administration by the CBSC.

...

The traditional method of dealing with talk content programs is to utilize a seven second delay and a technical operator/producer to monitor the content. The new system we now have in place for the Stern Show is as follows:

1. New Producer

As of December 29th, 1997 we added a second producer whose sole function is to monitor/edit the show to ensure compliance with Canadian broadcast codes and regulations. This producer has been fully versed in these issues by our legal counsel and provides a daily log of edits to our management and legal counsel. This log consists of the number of edits made, the time of the edits and the content removed. The technical producer also monitors the original feed as a back up and double check on content. The average number of edits to the show have been about 15 per week.

2. Digital Equipment

We have also installed a digital time shift recorder that enables us to expand the original time delay period from two minutes to eight minutes. This unit is not only state of the art, but needed to be custom built to meet our needs which also added to our delay in implementation. The original unit was ordered in December, but delayed because of the holidays and did not arrive in our studios from the manufacturer until late January, 1998. At that [time] it was not complete, as it would only accommodate up to the original two minute time delay. The final piece of software was only received the week of February 9th. It is now installed and allows us the full buffer period of eight minutes. This new equipment allows us the opportunity to seamlessly remove any offending material in its entirety without interrupting the show for our audiences.

3. Announcements

We have also heeded the suggestion of CBSC and now insert into the Stern Show, an announcement which runs a minimum of three times each morning and states as follows:

"this program is being monitored to ensure compliance with Canadian broadcast codes and regulations".

From the point of view of the CBSC, CILQ-FM had clearly taken major infrastructural steps in recognition of its responsibility to adhere to the Codes.

Editing the Howard Stern Show

Both broadcasters had acknowledged that the Howard Stern Show contained content which would be likely to be in violation of the Codes to which they had themselves subscribed. By adding to their infrastructure in both sophisticated digital equipment and personnel, they further acknowledged that special steps would be required to ensure that *Canadian* standards would be respected in the broadcasting of the Stern Show. This was, in the view of the Council, a significant acknowledgment since the Stern Show had had a "take it or leave it" reputation; it was indicated that it could *not* be tampered with, revised, edited or altered in any way. As Stern himself described the situation in the first show broadcast in Canada on September 2, 1997:

Caller Darrell: Howard, let me tell you, I've been listening to Toronto morning radio all my life and all these just suck. Finally we have something we can enjoy and wake up in the morning and listen to, but I got to put a little damper...I don't know if Gary has the clippings, but what they're doing here in Toronto is putting you on a sixty second delay.

Howard Stern: That's all right.

Caller Darrell: Is that okay?

Howard Stern: I don't care.

Robin Quivers: Usually it's a seventy.

Howard Stern: Yeah, usually seventy. They're actually daredevils out in Toronto. The reason they do that, by the way let me clear that up, is not for censorship reasons.

Caller Darrell: Well, that's what they're saying here, though.

Howard Stern: The reason they do that is they need time to in our commercial breaks link up with us to know when our last commercial is. That's all that is.

...

Howard Stern: Yeah, we control the sixty second delay in Toronto which would allow us to block content should we deem - you know what this is for, the sixty second delay, by the way, they're not contractually not even allowed to hit it, the only time they use it is so that they can -

Robin Quivers: Link up with commercials.

Howard Stern: Yes. Don't worry about that. They had to put that out so the press wouldn't be all over their ass.

The Quebec and Ontario Councils' conclusion was that the Stern Show broadcasters could not flout the Code provisions with impunity. Nor was it their expectation that they would choose to do so. *How* the broadcasters would choose to solve their dilemma was their responsibility, not that of the Council. It seemed that they could either pull the show or modify it. These, though, were their options to select, not the Council's to suggest. In the end, the Canadian broadcasters clearly chose to modify the show by editing out those parts which might offend the Codes, thereby being the only broadcasters, to the knowledge of the CBSC, which have ever made that choice with respect to the Stern Show.

In general, the Stern Show has the reputation of pushing the envelope; it is, however, to be remembered that the nature of the Canadian and American envelopes differ. The Ontario Regional Council considers that the broadcasting of the Stern Show has brought the differences between Canadian and American broadcasting and free speech rules into sharp focus. The Quebec and Ontario Councils, in the previous Stern decision, reviewed some of the differences in the constitutional, broadcasting and private approaches to the free speech issue and pointed out that, even in the more free-wheeling American system, the FCC had proceeded against some of the Stern Show broadcasters. In any event, as the Councils noted there,

the Canadian approach to broadcast speech is far more cautious and reflective of the need to respect *other* Canadian values.

Even Stern appears to have recognized the entitlement of Canada to deal with his Show differently. The following brief exchange took place on the January 28, 1998 show:

Toronto Caller: I got another point for you, you know the station in Toronto, I'm in Canada right now, that, uh, your affiliate station, Q107, they've actually hired a guy to monitor your show.

Howard Stern: Good.

Toronto Caller: His whole job is to sit there and listen to your show.

Howard Stern: Well, yeah, because otherwise we would have been off the air. They did the smart thing.

The bottom line is this. Canadian stations which choose to air this show know that it cannot be broadcast unedited without being in breach of one or another of the CAB Codes. The two stations which were the subject of the initial decision have taken *significant* technological and personnel strides to attempt to tailor the program to meet Canadian standards. These improvements have included the building of at least an eight-minute delay in the transmission to enable the cutting of material in a seamless fashion (seamlessness being a broadcaster production value goal which is not a matter of concern to the CBSC). As already discussed, the digital editing techniques were not incorporated by both stations into their systems as of the same date (which has an effect on the outcome of this decision, as will appear from the balance of this text).

It should also be noted that CILQ-FM has provided the CBSC with editing logs for the Stern Show since the acquisition of the digital time shift recorder. These indicate that the station has implemented approximately 77 individual edits between February 23 and March 20, 1998 (on 17 of the 20 shows in that time period). The cuts have been from a few words in length to entire segments of the show, two of these edits running as long as 20 minutes. (While the show can build a delay of as long as 8 minutes in the *stored* material, the use of stop-sets can extend the

length of a cut almost indefinitely. Stop-sets, which consist of other station-generated content such as news, information, commercials and so on, can be introduced until the point when one begins to *use* the stored digitized program content.)

While the CBSC applauds the efforts and financial commitment of the broadcasters to respect the Codes, it remains the broadcasters' obligation to *succeed* in their attempts. It is the measure of that success which is the subject of the remainder of this decision.

THE CONTENT OF THE PROGRAMS

The Stern episodes involved in the complaints at hand were those of December 15, 16, 17, 18 and 24, 1997 and January 15, 1998. As in the previous decision, it is the view of the Council that the bulk of the allegedly offending material should be left to Appendices with more limited quotation from the shows in this part of the text.

In the view of the Council, many of the same issues arising in these shows were considered in the earlier decision. There is, however, no need to repeat at any length the Council's previously made points on procedural questions, listener advisories and the difference between the Canadian and American approaches to the issue of freedom of expression. The matters dealt with here will be limited to those arising in the programs noted above, which, as in the last decision, will be dealt with under generic headings.

The Question of Taste

Since there were fewer general complaints than had provoked the previous decision, the generic question of bad taste has not been as central. In any event, the CBSC does not deal with such questions. As was said in the previous decision,

This is the time when the on/off switch is the listener's coping mechanism. Unless comments made by a broadcaster are of a nature to breach provisions of one or more of the Codes, the CBSC will not judge them one way or the other.

There is, however, one matter which was dealt with in the previous decision which the Regional Council believes it must address again, namely, the justification of the host's or others' comments or statements on the basis that the Howard Stern Show is comedy.

The Comedic Defence

It has, from the date of the first episode of the Stern Show broadcast in Canada, been the position of Stern and defenders of the show, including its audience, that it is comedy and not intended to be taken seriously. It is their further contention that people critical of the material broadcast on the Howard Stern Show just "don't get it". The President and General Manager of CILQ-FM has characterized the Howard Stern Show as

comedy - distasteful to some, we understand, but not meant to be taken as serious social commentary, as Stern himself has made clear on numerous occasions. The situations that arise on the show are so obviously contrived and meant to be humorous that we find it

very difficult to understand how the comments complained about can be said to promote hatred, violence or degradation.

The Ontario Regional Council acknowledges that the show *purports* to be comedy. It also acknowledges that there are listeners who view what Stern says as funny, if not hilarious. That, however, is not the point. There are comments which, whether *intended* or not to be funny, are in breach of the broadcasters' own Codes of conduct. What can be said in one's living room or in the locker room does not automatically become eligible for over-the-air consumption. Sexist, abusive and racist comments, and commentary advocating violence against identifiable groups may well be amusing to some people but, in violating the CAB Codes or the *Radio Regulations, 1986*, they do not pass the test of broadcast acceptability.

The difficulty with the position of those who would excuse comments on the basis of comedic intent is that the extension of the principle to its logical extreme would lead to a conclusion which the Council finds untenable. It would ultimately justify *any* comment which a host or broadcaster said was intended to be humorous. This could not possibly have been the intention of the creators of the broadcast Codes. Had it been, they would have included an explicit exemption for comedy or humour. They did not. Despite that fact, the CBSC has, in numerous decisions dealing with Clause 2 of the *Code of Ethics*, created an exception for "innocent" or *non-abusive* jokes which may have had a relationship to an identifiable group.

The Council has, however, drawn the line at so-called "humorous" comments whenever they have been found to be abusively discriminatory. Thus, in *CHUM-AM re Brian Henderson Commentary* (CBSC Decision 95/96-0008, 0060 and 0061, March 26, 1996), Brian Henderson took aim at the legal community and legal aid problems in Ontario. In so doing, he used terms referring to Jewish mothers which several complainants found offensive.

In the case at hand, the newscaster and editorial commentator, Brian Henderson, was attempting to address a valid, indeed important, public concern, namely, the state of the legal aid system in the Province of Ontario. As the announcer himself admitted, his choice of example was a "clearly poorly conceived" attempt at "ethnic humour", which had the effect of undermining the legitimacy of his commentary and, further, violated clauses 2 and 6(3) of the *CAB Code of Ethics*. ... His original commentary was incorrect and inappropriate, a textbook case of what Canada's private broadcasters sought to avoid when they mandated in the *Code of Ethics* which they created *for themselves* that "their programming contain no abusive or discriminatory material ... based on matters of race, national or ethnic origin [or] religion".

The wording chosen by the private broadcasters parallels, not inadvertently, the Council believes, that used in the *Radio Regulations, 1986*. Whether intended to be humorous or serious in tone, programming, whether live or pre-recorded, which "tends or is likely to expose an individual or class of individuals to hatred or contempt on the basis of [their] race, national or ethnic origin, colour [or] religion" is not tolerable on Canadian airwaves. While each individual must determine his or her limits of tolerance *at home*, the manifestation of such intolerance on the *publicly-owned* airwaves is unacceptable. The freedom to speak or express does not include the freedom to defame.

In an era when the airwaves are transformed more readily and frequently from music and drama to talk and comment, there are, as a matter of fact, more talk and comment and more *words* on the air. Consequently, on a simple proportionate basis, there are more opportunities to err regarding the social responsibilities and community values ensconced

in the *Code of Ethics*. More care is, therefore, required by broadcasters to ensure that the Code provisions are respected.

In *CKTF-FM re Voix d'Accès* (CBSC Decision 93/94-0213, December 6, 1995), the on-air host told a "Newfie" joke in which Newfoundlanders were described as "trous de cul" ("assholes" in English), which the Council found totally unacceptable.

The question, of course, is to determine which "ethnic" [or gender-related or comparable] jokes or comments will be understood as crossing the boundary of acceptability. There are those which are sanctionable and those which, even if tasteless or painful to some, are not. It would be unreasonable to expect that the airwaves be pure, antiseptic and flawless. Society is not. Nor are individuals in their dealings with one another. Nonetheless, the airwaves are a special and privileged place and those who occupy that territory are expected to play a more restrained and respectful social role.

What may constitute the limits of acceptability in each challenged case will need to be appreciated in its context. Certain cases will clearly fall on one side or the other of the boundary. Others will lie uncomfortably on the line. The matter at hand was, however, free of doubt; the depiction of "Newfies" as "assholes" was clearly unacceptable. Whether intended seriously or in jocular fashion, the use of that term in reference to this or any ethnic, racial, national or other discernible group was derogatory, abusive and discriminatory and in violation of clause 2 of the *CAB Code of Ethics*.

In *CHUM-FM re Sunday Funnies* (CBSC Decision 95/96-0064, March 26, 1996), the Ontario Regional Council acknowledged that there is a distinction to be made between "acceptable" and unacceptable forms of ethnic humour. The Council pointed out that humour has "its content limitations but *what* those limitations are will vary according to the *nature* of the broadcast in question." As the members acknowledged,

humour is commonly based on national, ethnic, racial or gender traits, as often as not related to background matters best-known to the comedian. Even stereotypes are not unknown in such a context. Such issues cannot *alone* be the cause of a broadcast sanction. They must be *coupled* with another defining criterion; namely, they must be abusive or discriminatory.

...

The issue, ultimately, is to decide *when* a humorously intended comment may *reasonably* be viewed as having gone too far.

The point of the foregoing decisions is that comedy is not *automatically* exempt from sanction by the Councils called upon to evaluate radio or television programming, as the Stern defenders argue. The circumstances in which it is *not* will vary from matter to matter and will be based upon the appreciation of the Council members. Where the material is abusive, it will always fail a justification test and where the barrage is constant rather than occasional, a fusillade rather than a single shot, it is likelier to be seen as abusive.

1. Sex-Role Portrayal Issues: Sexist and Abusive Comments

The CBSC had predicted in the last decision that the problems which it had found with the Stern Show would recur. One of the most prevalent of these relates to the fundamentally sexist disposition of the show, which, on a continuing basis, objectifies women on the basis of their genital organs and their sexual proclivities. This objectification extends into abusive comments and associations between sex and violence. Examples follow.

Discussing women in a bar with Robin Quivers on the December 16th show, Stern said:

Howard Stern: But everyone just drinks and hooks up and there's just tons of good-looking chicks at Bar Fly. Like one after another, like all of them look like models.

Robin Quivers: Wow!

Howard Stern: Even the pigs are good-looking.

And later in the same show:

Howard Stern: And the girl who seats you at a restaurant is always good-looking. I mean, they're always hot. I've never seen an ugly girl who worked at a restaurant.

Robin Quivers: They don't get pigs to seat you at the restaurant.

Howard Stern: No, no pigs allowed.

And dealing with a woman who called with a sexual problem:

Howard Stern: All right, what can I do for you?

Madeline: Well, I heard people calling up about their problems and stuff and I'm basically a woman who has a problem.

Howard Stern: Well, what is your problem?

Madeline: I haven't had sex for ten years.

Howard Stern: Oh, you must be some pig.

On another of the shows complained of, Stern had the following dialogue concerning world-renowned chef Julia Child:

Howard Stern: No. I could starve to death but I couldn't make love to Julia Child. Please! That's a nasty looking broad. That is a real nasty looking broad. And they even show like pictures of Julia Child as a young woman. [Man heard screaming.] They said that she was a sex symbol at an early...

Robin Quivers: Where? What country was that?

Howard Stern: I mean, she doesn't look as awful as she does now. I mean, she's a real slob!

The show of December 17th included the "intern beauty pageant", which provided some of the following dialogue:

Howard Stern: You know, any of the girls want to step forward right now in front of the microphone and say anything on behalf... or is there anything that you want to just blurt out? Marla, I understood you were going to take off your top.

...

Marla: I want to show you my pierced nipples.

...

Marla: Could that change your opinion of me?

...

Howard Stern: Congratulations, girls. I'll be groping the winners later.

The following extracts are from the dialogue with Michelle Yeo, co-star of the latest James Bond film, on the December 18th show:

Michelle Yeo: About 98 pounds.

Howard Stern: Perfect. How tall are you?

Michelle Yeo: 5'4".

Howard Stern: That's what I like. 98 pounds, 5'4". Girls at home, that's what you should weigh when you're 5'4". Trust me.

...

Howard Stern: You know what? She's a girl. You're supposed to be small. Right, you're supposed to look nice. May I say you have beautiful breasts?

...

Howard Stern: I would like to have sex with you and your mom.

Michelle Yeo: Why is it in America that whenever you go on a date, you must have sex?

Howard Stern: You better.

Robin Quivers: Ah ah ah.

Michelle Yeo: I would really like to know that.

Howard Stern: You better, or else we'll throw you right out of a moving car.

A similar dialogue took place later on the same show when rock star Bryan Adams was invited to sing a few songs while strippers performed in the studio:

Bryan Adams: I love her voice.

Howard Stern: Yeah, it's very, very cute.

Gary Garver: Imagine her voice on an ugly chick?

Howard Stern: I would throw her out through a window.

The preponderance of the January 15, 1998 show related to a free breast implant operation which Stern was offering to the caller with the saddest or most "deserving" tale of woe. The following are but a sampling of the dialogues with many women:

Howard Stern: All right, let me tell you, here's another woman. She sent me naked pictures of herself.

Robin Quivers: Okay.

Howard Stern: And she already has breast implants.

Robin Quivers: Oh!

Howard Stern: That's right. She says she has... breast implants but she made them too small. She wants to be in *Playboy Magazine*.

Robin Quivers: Is she *Playboy* calibre?

Howard Stern: If you chop her head off.

...

Tom: Can I put my wife in the water and let the sharks eat half of her?

Howard Stern: Which half?

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: All I need of my wife is the bottom half.

...

Robin Quivers: What happened to your husband?

Unidentified caller: He got hit by a train, actually.

Robin Quivers: Really? How did that happen?

Howard Stern: You're a mess.

Unidentified caller: Tell me about it.

Howard Stern: She's the saddest case we've had yet.

Robin Quivers: So far. But how did your husband get hit by a train?

Howard Stern: He looked at her breasts and he said, what am I doing?

[Train noises.]

Stern then discussed his entitlement to a reward in return for his offer of a free breast implant operation.

Howard Stern: A full "C"? We can make that happen. Imagine I gave you your dream?

Unidentified caller: That would be wonderful.

Howard Stern: Are you going to let me feel those things?

Unidentified caller: Well, I had actually considered calling you guys up and suggesting a fundraiser, like a Jerry Lewis telethon type of thing.

Howard Stern: All I want is... are you going to let me feel them when you get them?

Unidentified caller: Yeah.

Howard Stern: You will?

Unidentified caller: [Inaudible...].

Howard Stern: You'll allow me to fondle you?

Robin Quivers: Oh, dear! I didn't know that was part of it.

Howard Stern: There's no rules. I'm making up the rules.

Robin Quivers: I thought you just maybe would ask to see them after.

Howard Stern: I think whoever wins should owe me some gratitude, man, and let me fondle her.

In one of the December shows, there was also a lengthy dialogue with G. Gordon Liddy about his "Stacked and Packed" calendar, which features women posing with guns. Brief excerpts only are cited in this part of the decision (the lengthier transcription being found in Appendix A):

Howard Stern: This is so wrong, this calendar, that it's funny. It's G. Gordon Liddy's "Stacked and Packed" calendar. He went and got women from his audience, good-looking women who listen to him, and they are nice-looking women. They really are.

G. Gordon Liddy: They are.

Howard Stern: And they're in like bra and panties. Some of them are like topless. Some of them are topless, right?

...

Howard Stern: I must be getting old because it's weird. Like these are good looking girls, and they all have big cans and everything, but when you put girls with guns, I find myself, I go, Wow, look at that gun! It's like a .357 Magnum with two raucy side clips .357 Magnum. Look at those guns, Robin. I'm ignoring this beautiful woman. Look at the size of those guns, Robin. You can kill like 50 guys with them.

G. Gordon Liddy: Oh, absolutely. These girls, Robin, are prepared to defend their virtue.

Decision Regarding the Sexist and Abusive Comments

There is a preliminary point to make regarding this issue, which flows, to some extent, from a defence raised by Stern himself and others that he does not *espouse* positions attributed to him by the Council. For example, the President and General Manager of CILQ-FM has, in one or more of his letters, stated:

Stern is as apt to make jokes about his own lack of sexual prowess, his physical features and the "frailties" of male sexuality in general. This is hardly the talk of someone who "hates" women. Further the locker room talk that occasionally characterizes the show, is balanced by other factors, making it abundantly clear that the discussions about sex are all in jest. For example, Mr. Stern has been married for 20 years to the same woman (which he refers to frequently on the air). ... Most importantly, day in and day out he shares the

spotlight with his on-air partner, Robin, a black woman, treating her as an equal and with respect.

It is important to understand that the observations of the Regional Council in this case, as in the last, do not relate to the *personal* attitudes of the on-air host. Council members do not have any way of knowing the personal beliefs of this or any other on-air host. Nor is that the issue. Decisions of the CBSC are made as a function of what is *said* by the host over the airwaves. These comments and these alone are the issue for the CBSC.

The previous decision dealt with the question of sexist comments as these are treated in both the *Code of Ethics* and the *Sex-Role Portrayal Code*. The Council here wishes to underscore the background principles relating to the importance of equitable sex-role portrayal in Canadian broadcasting.

The tone of, and rationale for, the *Sex-Role Portrayal Code* are established in its introduction, where the first two paragraphs provide:

This Code reflects the responsibility of licensees, under the *Broadcasting Act*, to assure that their programming and broadcast services achieve the highest professional standards and demonstrates the *broadcasters' commitment to the fair and equitable portrayal of all persons* in television and radio programming.

Negative or inequitable portrayal and representation of women or men can be expressed explicitly in programs and commercial messages, as well as *implicitly* through images, *dialogue* and character portrayal. Canadian broadcasters recognize the *cumulative effect of negative and inequitable sex-role portrayal*, and seek to address this issue effectively and responsibly with this Code. ... [Emphasis added.]

There are also several sections of the General Principles which extend the general provisions of the Introduction. These include:

(a) The objective of equal representation is recognized and the portrayal of women and men shall be *comparable to, and reflective of, their actual social and professional achievements, contributions, interests and activities*.

...

(c) Nothing in this Code should be interpreted as censoring the depiction of healthy sexuality. However, broadcasters shall *avoid and eliminate ... the promotion of sexual hatred and degradation*.

(d) Broadcasters shall be sensitive to the sex-role models provided to children by television and radio programming. In this context, *programmers shall make every effort to continue to eliminate negative sex-role portrayals*, thereby encouraging the further development of positive and progressive sex-role models. The *"sexualization" of children in programming is not acceptable*, unless in the context of a dramatic or information program dealing with the issue.

...

(h) No Code can reasonably anticipate every circumstance of negative sex-role portrayal. Therefore, *the CAB expects such circumstances to be dealt with in the spirit and intent of this Code*. [Emphasis added.]

The definition sections of this Code include the following interpretation of “Negative or Inequitable Sex-Role Portrayal”:

Negative or Inequitable Sex-Role Portrayal refers to language, attitudes or representations which tend to associate particular roles, modes of behaviour, characteristics, attributes or products to people on the basis of gender, without taking them into consideration as individuals. Negative or inequitable portrayal of women and men can be both explicit and implied.

Provisions of the *Sex-Role Portrayal Code* which were cited in the previous *CHOM-FM and CILQ-FM* decision include the following:

Section 2 (Diversity) (c)

Television and radio programming shall respect the principles of intellectual and emotional equality of both sexes and the dignity of all individuals. Television and radio programming should portray women and men as equal beneficiaries of the positive attributes of family or single-person life. Women and men should perform in a range of occupations and function as *intellectual and emotional equals* in all types of thematic circumstances. This should be the case for both work and leisure activities requiring varying degrees of intellectual competence. [Emphasis added.]

Section 4 (Exploitation)

Television and radio programming shall refrain from the exploitation of women, men and children. Negative or degrading comments on the role and nature of women, men or children in society shall be avoided. Modes of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex. The sexualization of children through dress or behaviour is not acceptable.

And finally, it should be noted that the responsibilities of broadcasters regarding sex-role portrayal issues extend equally to programs which they acquire from whatever source.

Section 8 (Program Development and Acquisition)

Broadcasters shall exercise sensitivity to and awareness of the problems associated with sex-role portrayal in the development of domestic programming, and in the acquisition of non-Canadian programming for broadcast.

Guidance: ...

In the development, financing or acquisition of domestic programs produced by other than station or network staff, broadcasters shall ensure that participating independent producers and syndicators are aware of the Code.

Stern's use of abusive or degrading comments in dealing with women continued in the broadcasts reviewed by the Council in this decision. As the Council held in the previous decision

Stern *consistently* uses degrading and irrelevant commentary in dealing either with guests or callers. ... It may well be the case that many in his audience find such comments entertaining. This sort of adolescent humour may work for some in private venues but it is

thoroughly in breach of Canadian codified standards. Women in this country are entitled to the respect which their intellectual, emotional, personal and artistic qualities merit. No more than men. No less than men. But every bit as much as men.

The use of the term “pigs” to deal with women is in breach of the provisions of Clauses 2(c) and 4 of the *Sex Role Portrayal Code* as is measuring Julia Child as a function of some scale of physical appearance.

Moreover, there is a more generalized and pervasive presentation of women which manifests itself from show to show, which is at least as offensive to the requirement that “radio programming shall respect the principles of intellectual and emotional equality of both sexes and the dignity of all individuals.” The portrayal of women as objects or meat, the emphasis on their height, weight and bust size are issues disparaging to women’s self-image. This view of women is inherent in the “intern beauty pageant” and in the January 15 show about breast implants. Both segments or shows were nothing more or less than an opportunity for Stern to deal with women as physical objects devoid of intellectual and emotional qualities. In the case of the intern beauty pageant, there is not even a pretence that beauty was an issue; the pageant appeared to the Council to be an excuse to have one of the contestants take off her top to reveal her pierced nipples and, at the end of the day, for Stern to conclude that he will be “groping the winners.” Similarly, in the program dealing with the breast implants, which elicited particularly sad, if not tragic, stories, Stern was apparently “trading” the awarding of the prize, namely, the operation, against his entitlement to fondle the breasts of the winner.

All in all, the Ontario Regional Council considers that the foregoing series of shows manifested a degrading approach to women. If the characterization of women as physical objects was not sufficiently inappropriate, the conversion of their misfortune into sexual playthings for the host is grossly demeaning. The continued expression of that view of women on Canadian airwaves carries with it a cost to all Canadians. At the very least, it contributes to a desensitization of the public to the wrongness of such views. At worst, it *encourages* the legitimacy of them. In dealing with the changes in attitudes which exposure to hate propaganda can bring about, the Supreme Court held in *Nova Scotia Board of Censors v. McNeil*, [1978] 2 S.C.R. 662,

... the alteration of views held by the recipients of hate propaganda may occur subtly, and is not always attendant upon conscious acceptance of the communicated ideas. Even if the message of hate propaganda is outwardly rejected, there is evidence that its premise of racial or religious inferiority may persist in a recipient's mind as an idea that holds some truth, an incipient effect not to be entirely discounted ...

The threat to the self-dignity of target group members is thus matched by the possibility that prejudiced messages will gain some credence, with the attendant result of discrimination ... against minority groups in Canadian society.

The Ontario Regional Council is of the view that the demeaning approach to women taken in most, if not all, of the Stern Shows reviewed for this decision violates both the underlying spirit and express provisions of the *Sex-Role Portrayal Code*. The broadcasting of such retrograde attitudes, which so clearly violate the Code, risks the desensitization of the public to the invalidity of the unequal treatment of women and the validation of the unacceptable view of women as sexual objects, purely and simply. Nor is it merely the target group which suffers that indignity; all Canadians are the less for the proliferation of such messages over the publicly owned airwaves.

While it is not the CBSC which is responsible for the definition of the content of such terms as “high standard” in the *Broadcasting Act*, the Ontario Regional Council does not easily imagine that the Commission's observations in its *Policy Regarding Open-Line Programming* (Public Notice CRTC 1988-213, at p. 6) are not pertinent.

The Commission considers gratuitous personal attacks on individuals or groups, unresearched or inaccurate reporting and unprofessional on-air behaviour as examples of failure to meet the high programming standards required of each licensee.

The Ontario Regional Council concludes that the sexist comments, dialogue and situations objectifying women as physical or sexual beings devoid of intellectual and emotional qualities, which occurs in the episodes on a sustained basis, are in breach of Clauses 2(c) and 4 of the *Sex-Role Portrayal Code*.

2. Advocating Violence against Women

The declarations of the host and others on the Stern Show regarding women go further. Whether in apparent jest or otherwise, the use of language such as “chop her head off”, sharks eating half of a woman and the like lead readily to the conclusion that aggressive non-consensual sex may be acceptable. In dealing with Mary Hart of *Entertainment Tonight*, whom he had met on a flight from Los Angeles, Stern said:

Howard Stern: I should have just ripped her top off, you know. I should have just ripped her top and her bra off and start having sex with her on the plane. And she was like, “Yes, I’m going back to Los Angeles and my son’s birthday party”. And I mean so happy about life’s trivial garbage. I mean, she’s so happy.

That passage is not dissimilar from that of the show of September 4, discussed in the previous decision. In referring to Kim Basinger, Stern said:

Howard Stern: But now she wants to shut up. Oh, I just wanna take that piece of ass body, put tape over her mouth, and do things to her. [Playing sound effects of a woman in a sexual encounter throughout the following passage.] And have her lay by my pool in a bikini and have her come out and service me. And I’m laying by my pool, in comes that nude with just a pair of heels. And then like, I reach in, I yank out her vocal chords and then she just orally satisfies me by the pool. Oh, she’s totally a mute Kim. And she’s totally nude.

Robin Quivers: That’s a perfect world.

Howard Stern: Oh. And then I break her legs and position them in the back of her head so that she’s sitting, and they’re permanently fixed like that. We let them knit and mend.

The comments counselling the rape of Mary Hart, which were followed by the lengthy discussion with G. Gordon Liddy regarding his calendar and the combination of nude or semi-nude women and guns, fall, broadly speaking, into the area of concerns expressed by the Supreme Court of Canada in its landmark decision in *Butler v. R.*, [1992] 1 S.C.R. 452. In that case, the Court stated that

if true equality between male and female persons is to be achieved, we cannot ignore the threat to equality resulting from exposure to audiences of certain types of violent and

degrading material. Materials portraying women as a class as objects for sexual exploitation and abuse have a negative impact on “the individual's sense of self-worth and acceptance”.

In a previous CRTC Public Notice *Concerning a Complaint against CKVU Television, Vancouver, British Columbia, by Media Watch* (P.N. CRTC 1983-187), an editorialist delivered a commentary, which included the following:

If there is ever another conventional war, it's my hope that Media Watch and its army of snoops will be found in the front line where they can be raped by the Russians.

In that matter, which was decided long before the CBSC existed, the CRTC referred to Clause 2 of the *Code of Ethics*. It concluded, among other things, that

broadcasters fall short of discharging their responsibilities and of attaining the high standard of programming required when the frequency entrusted to them is used, not to criticize the activities of a particular group but to advocate sexual violence against its members. The broadcasting industry itself has recognized that principle by inserting in its Code of Ethics the clause respecting human rights referred to above.

... The Commission agrees with the complainant that the issue of whether or not women should be raped is not debatable. ...

... [T]he right of freedom of expression on the public airwaves cannot supersede the public's right to receive programming of high standard, free of demeaning comments or incitement to violence toward any identifiable group.

The Ontario Regional Council considers that the above comments regarding Mary Hart and other comments associating naked women or sexually objectified women and violence to be in violation of Clause 2 of the *Code of Ethics*.

3. Racist and Abusive Comments

The December shows included numerous examples of racist comments directed at blacks and Jews, among others, details of which can be found in Appendix B below. They include the following dialogue:

Bruce: I moved to a town that has no blacks and no Jews, believe it or not.

Howard Stern: What's the name of that town? Utopia?

[Laughter]

Bruce: No, I wish it was. It's Mortimer, man, up in the mountains of North Carolina.

Robin Quivers: How did you get rid of everybody?

Howard Stern: How did you get rid of your blacks and Jews?

Bruce: Ah ah. They weren't here when I got here, and when I asked them, I said, “Hey man, there ain't no blacks up here.” They said, “Well, we know how to keep them in their place.”

Howard Stern: Wow!

Bruce: But anyway...

Howard Stern: How do you keep the Jews in their place?

On the December 18th show, Stern played and talked about a song called "Nigger Claus". Among other things, he said:

Howard Stern: So black Santa Claus tried to rape his wife and steals toys instead of gives toys to the kids.

The CBSC's position on such abusively discriminatory language has been stated on many occasions, some of which are referred to in the previous decision. The Ontario Regional Council considers that the descriptions used on the occasions referred to in this decision constitute abusively discriminatory comment on the basis of race, national or ethnic origin, colour and religion in violation of Clause 2 of the *Code of Ethics*.

4. Sexual Acts Involving Children

The Ontario Regional Council considers the participation of children in sexual acts as particularly unacceptable. The programs reviewed for the current decision involved considerably more references to such acts than the Council had heard in the September programs reviewed for the first Stern Show decision. In the first of the current examples, Stern was describing a party which he had attended on a recent trip to Los Angeles.

Howard Stern: After I peed, I kind of forgot how to get downstairs and I open up the... I see two people in bed and I went, "Oh, my God, they're having sex", and I realized it was Lindell's kids asleep in the bed. They passed out on a bed.

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: I tried to get it on with them, but I couldn't. They couldn't be woken up.

The following dialogue took place during the show of December 18. It was triggered by a discussion of estimates made by the National Centre for Lesbian Rights that 8 to 13 million children are being raised by gay and lesbian parents in the United States; and the recounting of the story of a man who had been arraigned on charges of rape and sodomy with an 11 year-old girl he met during trysts with her hooker aunt.

Howard Stern: And the little girl was performing what? Oral sex on this gentleman?

Robin Quivers: I would imagine at that particular time, but it has been a nine-month relationship.

Howard Stern: Can an 11 year-old really know how to do that well? I mean, you're a grown woman and you just learned how to do it. I can't imagine...

Robin Quivers: I was never given instruction. Obviously, she was being schooled.

Howard Stern: You were deprived.

During the show of December 24, there were other sexual associations made regarding children.

Robin Quivers: In the State of New York, there's an alarming rate of syphilis among babies, Howard.

Howard Stern: Who are they getting it on with?

Robin Quivers: Ah, ah, ah, ah, ah! I don't know. Ah, ah, ah, ah, ah! Could you imagine?

Howard Stern: Yeah, nothing better than a good baby!

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: Yeah, I mean, I don't like to talk about it that much on the air because people think I'm sick. You know what the worst thing about having sex with your sister is?

Robin Quivers: Oh, please!

Howard Stern: Breaking the crib.

The Decision Regarding Sexual Acts Involving Children

The Regional Council has not previously been called upon to assess the content of talk radio programming of a more serious nature than that involving the participation, real or imagined, of children in sexual acts. However permissive the view of society may be toward consensual sex among adults, there is *no* tolerance in civilized societies for child pornography in any form. As the Supreme Court put this point in defining the three categories of pornography in *Butler v. R.*, it explained that "explicit sex that is not violent and neither degrading nor dehumanizing is generally tolerated in our society and will not qualify as the undue exploitation of sex *unless it employs children in its production.* [Emphasis added.]" In this area, the station has itself acknowledged "that extra vigilance is required where children and sexuality are linked, even if in jest."

In the view of the Ontario Regional Council, the program segments quoted above constitute violations of Clause 4 of the *Sex-Role Portrayal Code* which provides very clearly that "The sexualization of children through dress or behaviour is not acceptable."

5. Suitability of Subject Matter for Children

In the shows reviewed on this occasion, the Ontario Regional Council considers that Howard Stern has exposed new types of programming which are unsuitable for children during the early hours of the day when they are aired. There is, as in the case of the September programs dealt with in the previous decision, the question of explicit sexual material. Some of these examples are as follows (fuller transcripts are found in Appendix C). In the first, Stern was discussing an S & M restaurant in New York.

Howard Stern: And so she lifted up your dress in front of the whole restaurant and showed your naked ass and started whipping you?

Robin Razinski: Ah, ah, ah, ah, ah!

Robin Quivers: Yeah, how do you enjoy that? What do you enjoy about that?

Howard Stern: I could dig that. I could dig watching that. You know, a girl with a nice ass.

Robin Quivers: But what did Robin enjoy about that is what I'm asking?

Howard Stern: It's erotic.

On another occasion, Stern discussed Robin Quivers' own sexual interests on a hypothetical basis. That explicit dialogue was as follows:

Howard Stern: Where do you see yourself? On your knees in front of him?

Robin Quivers: No, I don't. I don't see myself in that position at all.

Howard Stern: Or do you see yourself laying in bed with him, and then leaning over and doing it?

Robin Quivers: I haven't done all of that.

Howard Stern: Gripping the headboard and him taking you from behind?

Robin Quivers: Ah, ah, ah, ah, ah!

Gary Garver: Whenever she says she likes somebody, I just see her over a sink.

Stern was also explicit about violence during another conversation with G. Gordon Liddy. He first expressed his own fascination with killing in the following terms:

Howard Stern: I should have asked G. what it feels like to put a bullet in a guy. Hey, Gary, get him back on the line. I really want to know.

Robin Quivers: You've asked him that before, haven't you?

Howard Stern: No, I don't think I ever. Did he ever put a bullet through a guy's brain?

Robin Quivers: Like at close range?

Howard Stern: Yes. Like what does it look like? Does the blood splatter all over the place?

Robin Quivers: Is it like in the movies?

Howard Stern: Yeah. I think guns are cool, but if you don't ever get to kill anybody, what fun is it? You know what I mean? He's gotten to kill. [sounds of gun fire]

Robin Quivers: Stop it. Why do you have them?

Howard Stern: I'm waiting for somebody to break in. I'm hoping someone will break in the house so I could kill him. [sounds of gun fire]

When he got Liddy back on the line, the how-to conversation became more explicit.

G. Gordon Liddy: Now, your typical mafia hit type deal...

Howard Stern: Right.

G. Gordon Liddy: ... that you get up close to the guy, you stick it in his ear, pull.

Howard Stern: Right.

G. Gordon Liddy: Pow!

Howard Stern: What is your favourite way to kill a man with a gun?

G. Gordon Liddy: With a gun?

Howard Stern: Yeah, up close or...?

G. Gordon Liddy: Yes, I would be up close and probably put it right through the head.

Howard Stern: And when you go through the head, does the blood get all over you?

G. Gordon Liddy: Not unless you're standing behind it and the bullet gets you and you can sort of commit suicide.

Robin Quivers: Ah, ah, ah, ah!

Howard Stern: No, you know what I mean. If you get too close, you're up close to the guy, you put the gun to his head and you blow his head off, doesn't the head shatter?

G. Gordon Liddy: No, no, the entry hole is small.

Decision Relating to the Suitability of Subject Matter for Children

Unlike the other breaches found in this matter, which would remain breaches of the Codes involved at *any* time of the day or night, the suitability of subject matter for children is a time-related issue. The aspects of the Stern Shows treated under this heading are unsuitable by reason of their ready accessibility by children rather than by reason of their nature. While perhaps not either pleasant or of broad social value at a late evening hour, their broadcast would not be challenged at that hour. When, however, they are aired between 6:00 and 10:00 a.m., they fall into another category. As the CBSC emphasized in the previous Stern decision,

Children represent an important value to Canadian society. This is reflected in Section 3(c)(iii) of the *Broadcasting Act*, which states that the Canadian broadcasting system should "serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children..."

The Council will not repeat in detail here what it has said on the subject of appropriate or suitable programming in that earlier decision. The *Code of Ethics* provides, in Clause 6(3), the language which is the provision always used by the CBSC to deal with open-line or talk radio, namely:

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 CBSC considers that the "proper presentation of ... opinion [or] comment", in the case of children is a function of what is *suitable* for them and it remains the Council's view that the description of explicit sexual acts, abetted in these December and January episodes by explicit discussions of violent acts, constitutes *improper* comment and is in breach of Clause 6(3) of the *Code of Ethics*.

Consequences of the CILQ-FM Code Breaches

In other circumstances, the CBSC could well decide that CILQ-FM or any other broadcaster in a continuing breach of the Codes be asked to leave the Council. This is not the case in the present circumstances for *one* reason only. The member has explicitly and unequivocally declared its support of the self-regulatory process and its intention of complying with Canadian broadcast codes and regulations. Furthermore, Ted Smith, WIC Radio's President and C.E.O. has explained in detail the infrastructural changes which the company has introduced to deal with the "challenges [of] the Howard Stern Show". While the CBSC believes that CILQ-FM has utterly failed in its obligation to put a solution in place within 30 days of the announcement of the November 11, 1997 CBSC decision, Ted Smith did acknowledge, in his letter of February 16, 1998 quoted above, that

In hindsight, I believe we were too slow off the mark in getting the new systems fully operational and I apologize for our tardiness. That lateness I'm sure, contributed to some of the complaints that were received following the CBSC's November decision.

Given this sequence of events, the Council does not believe that the membership of CILQ-FM in the CBSC should be revoked because of the question of a timing failure. The Council does consider that it is only reasonable to provide CILQ with the opportunity to demonstrate, with its additional personnel and new digital technology, that it can in fact edit the Stern Show to ensure its compliance with industry Codes.

While it remains to be proven to the CBSC that this new infrastructure can, in fact, succeed, the Council believes that it has a responsibility to provide this member station with the chance to make these new processes work. If the station can achieve Code compliance, so much the better. If, however, it cannot, then it will ultimately have to deal with these issues in another forum.

It is a fundamental tenet of the CBSC that freedom of expression must be given every opportunity. It is neither the role nor duty of the Canadian Broadcast Standards Council to tell Canadians what they can or cannot see and hear on their radios and television sets. In the aftermath of the first Stern decision, those who have in various fora accused the Council of attempting to act as a censor, have missed the point of the Council's *raison d'être*.

The CBSC has been assigned the responsibility to assess, on the basis of complaints by the public, whether its member radio and television stations have in fact adhered to the standards and practices which the broadcasters themselves have adopted as acceptable codes of conduct. Whether or not CBSC decisions, either in favour of, or against its broadcast members, are unpopular with the industry or the general public is not at issue. As the late Supreme Court Justice John Sopinka stated, in an address in Kyiv on October 2, 1997, speaking about analogous issues, in the context of a speech on the independence of the judiciary,

There is a difference between politics and law. There is a difference between making decisions according to how popular they are, how many people will support them, how organized the opposition might be, or whether people are willing to pay for them — these are political calculations — and making decisions according to whether a particular result is rational, logical, consistent with past practice, appropriate in light of liberal democratic principles, and morally defensible.

...

The paradox created by the Charter is that it was adopted ... to protect the individual against an abuse of power by the majority, but many feel that it is undemocratic for unelected judges to overrule the majority. The majority does not like to be told it is wrong. The unfortunate fact is that the Charter has turned the court into the messenger who is likely to get shot for bringing bad news. By enacting the Charter, the legislative branch of government enacted a permanent invitation to the judiciary to tell the majority that it is wrong — that it cannot do what it wants to do, or at least that it cannot do it in a way it wants to do it. If the majority is in a particularly surly mood, bringing this kind of bad news can be a singularly unpleasant business.

The Council no more reviews or evaluates the standards which it is called upon to apply than, as Mr. Justice Sopinka explained, any interpretive body second-guesses the creations of the statutes, rules or standards it applies. In the broadcast code area, the CBSC merely interprets adherence to these standards in as fair-minded and impartial manner as possible. Decisions from the CBSC are not challenges to freedom of speech and expression, but rather a judgment of how successfully its members have addressed their responsibilities to their communities, in meeting standards which have been agreed upon by the broadcast industry and endorsed, in some cases, by the federal regulator.

The Broadcaster's Responses

It was unquestionably easier for CILQ-FM to deal with the lesser number of complaints in the time period covered by this decision than it was in the months of September to November 1997. In the circumstances, CILQ-FM's President and General Manager was able to deal in a more pointedly responsive manner with the precise issues raised by each of the complainants. In this respect, the lengthy replies were thoughtful and pertinent. They also detailed the specific steps taken to respond to the CBSC's expectation that the Show could not continue to breach the broadcaster Codes. In terms of the station's responsiveness to the complaints, nothing more could have been expected of the broadcaster.

This was not, however, the end of the matter. The CBSC expected that the broadcaster would not only take steps to deal with future breaches of the Code but that it would *succeed* in its efforts. By its own admission, it did not take the necessary steps on a timely basis.

In normal circumstances, this could well result in severance of the member from the Council but these are not normal circumstances. This is the only situation in which the CBSC has *twice* been required to review the same radio show as a *series*. Consequently, while the CBSC considers that the steps taken by CILQ-FM to attempt in future to make the Stern Show comply with the broadcast Codes should be given a reasonable chance to succeed, the Council reserves the right to initiate its own determination within 30 days of this decision to assess whether the station has succeeded in making this series Code-compliant.

If CILQ-FM is able to air the Stern Show sufficiently edited to comply with the Codes to which it adheres, it will, of course, be able to continue as a member of the Council. If it cannot, the ongoing broadcast of the Stern Show and all other matters which may be the subject of complaints will be dealt with in another forum.

Content of Broadcaster Announcement of the Decision

CILQ-FM is required to announce this decision, in the following terms, during peak listening hours forthwith and to provide confirmation of the airing of the statement to the CBSC and to each of the complainants who filed a Ruling Request.

The Canadian Broadcast Standards Council has found that CILQ-FM has breached provisions of the industry's *Code of Ethics* and *Sex-Role Portrayal Code*. The Council found that the Howard Stern Shows of December 15th to 18th and 24th and that of January 15th contained abusive or discriminatory comments directed at identifiable groups, made sexist remarks or observations, included descriptions of sexual activity of young children, or contained improper language or descriptions of sexual activity during a pre-school broadcast period.

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

CILQ-FM re Howard Stern Show

Appendices

Appendices A through D contain lengthier excerpts from various Howard Stern Shows of December 15, 16, 17, 18 and 24, 1997 and January 15, 1998. They are representative of material broadcast but do not purport to include every example of offensive speech in that period.

Appendix E contains excerpts from the various complaints and the broadcaster's responses.

Appendix A

(Stern's Sexist Remarks)

The following extracts are from the Howard Stern Show of December 15, 1997:

[On the subject of meeting Mary Hart from *Entertainment Tonight* on the plane to L.A.]

Stern: "And I always heard you were a nice guy, and you are!" I was like, "Yeah?"

Quivers: So you didn't rip up the plane so she finally could come back to taunt you?

Stern: I should have just ripped her top off, you know. I should have just ripped her top and her bra off and start having sex with her on the plane. And she was like, "Yes, I'm going back to Los Angeles and my son's birthday party". And I mean so happy about life's trivial garbage. I mean, she's so happy.

There was a lengthy dialogue with G. Gordon Liddy, creator of the "Stacked and Packed" calendar:

Liddy: This is the most politically incorrect calendar.

Stern: This is so wrong, this calendar, that it's funny. It's G. Gordon Liddy's "Stacked and Packed" calendar. He went and got women from his audience, good-looking women who listen to him, and they are nice-looking women. They really are.

Liddy: They are.

Stern: And they're in like bra and panties. Some of them are like topless. Some of them are topless, right?

Liddy: Oh, yeah.

Quivers: Woow! Topless?

Stern: Yeah. Some of them pose, but they all have to pose with guns, all of G. Gordon Liddy's favourite guns.

Liddy: That's right. You know what my favourite here is, and I shouldn't have favourites, but my favourite is Miss May, Diane. This is the woman, she's got a Thompson submachine gun and she's giving the old [inaudible] pose and she's had four kids and you'd never know it.

Quivers: Let me see this.

Stern: Let me see May. Is that Diane?

Liddy: [inaudible...] May.

Stern: That's Diane?

Quivers: Yes.

Liddy: That's Diane. Four children.

Quivers: Oh, my God!

Liddy: And she's in a pose like here comes the fifth, but she looks like she's [inaudible].

Stern: Yeah, she's got her legs spread and... The one I liked was I like Paula and I like her gun. I'm partial to this gun. I'm into guns. I love guns, too, like G. Gordon Liddy. I think guns are the greatest.

Quivers: And these are his favourite guns.

Stern: These are his favourite guns. Like you see, here's Paula. Like she's sexy and she's like a woman from your audience, right?

Liddy: Yes, every one of them are women from the audience.

Stern: She wrote in to you and said, I'm a good-looking woman, and sent you a picture?

Quivers: And she likes guns, too?

Liddy: Well, what I do is we put out the calls...

Stern: Look at the cans on her, man.

Liddy: ... and we got like 300, 400 women who had like their boyfriends or

somebody take pictures with a 35 millimetre, and then we picked... there's 13 of them, as you know. We give you January 1999, too, just to show I'm not cheap. So we got about 13 girls and then we arranged to have them all photographed professionally with the large format camera and all of that because with the 35 millimetre, you can't blow it up like this.

Stern: I must be getting old because it's weird. Like these are good looking girls, and they all have big cans and everything, but when you put girls with guns, I find myself, I go, Wow, look at that gun! It's like a .357 Magnum with two raucy side clips .357 Magnum. Look at those guns, Robin. I'm ignoring this beautiful woman. Look at the size of those guns, Robin. You can kill like 50 guys with them.

Liddy: Oh, absolutely. These girls, Robin, are prepared to defend their virtue.

...

Quivers: And did they just want to be in the calendar or were they really gun enthusiasts?

Liddy: Uh, well, some of them are really gun enthusiasts because when they send you the picture, for the entry, they are posing with the head of the animal they just killed.

Quivers: Oh geez.

Stern: You're saying Ms. December is a model?

Liddy: Ms. September.

Stern: Oh, September

Liddy: Ms. September. The one that is sitting on a Harley Davidson.

Stern: Yeah, boy some of these girls are really good looking but... oh her, really? I don't think she is that great looking.

Liddy: Well, she's a model, out there in Los Angeles.

Stern: Yeah, I like the gun she's got. She's got a semi-automatic pistol caliber fifth [inaudible]. Look at...

Quivers: And do they write up the gun?

Stern: Oh yeah, the gun has more write up than each girl.

Liddy: Oh yeah, absolutely.

...

Howard Stern: Anyway, G. Gordon Liddy has made a calendar that I think combines two great elements: guns and girls.

Liddy: That's right.

Howard Stern: There is nothing sexier.

At a later point in the program, Stern talks about a photo shoot he was on, which was done to Prodigy's new song.

Robin Quivers: What did you shoot to?

Howard Stern: I had Prodigy on and they were playing "Smack my bitch up" and E!, where we were shooting, is a building filled with women, all politically correct women and all the women are like I don't like this. I think they were going to file a suit, you know, against Prodigy right there. I should have smacked my bitch up. I go, girls, would you mellow out? The bitch could be the guy's penis.

Robin Quivers: But it doesn't mean anything, anyway.

Howard Stern: I know. Hey, play "Smack my bitch up", will you? [Sings "Smack my bitch up"]

Robin Quivers: Smack my bitch up. What does that mean?

Later in the show, he and Robin Quivers discussed the women in a particular bar:

Howard Stern: But everyone just drinks and hooks up and there's just tons of good-looking chicks at Bar Fly. Like one after another, like all of them look like models.

Robin Quivers: Wow!

Howard Stern: Even the pigs are good-looking.

Robin Quivers: Ah, ah, ah, ah, ah! The pigs would be 10 in any other place.

At another moment, Stern discusses meeting Ellen Barkin in the following terms:

Howard Stern: And she's wearing like a low cut top with her boobies hanging out, and they're nice boobies. And I'm like checking out the boobies. Yeah, baby. Ralph had told me she was smoking and she's wearing these tight pants like as tight as Mary Tyler Moore's Capri pants.

Robin Quivers: Ah-ha.

Howard Stern: And no way she could be wearing underwear. And the ass and the legs, and she's wearing stiletto heels so she's like nine feet tall.

Unidentified: I would do her.

Robin Quivers: And can't move very fast.

Howard Stern: Yeah, she can't run away from me, baby.

On the show of the 16th, Stern and Quivers got into a conversation about comedian Jerry Seinfeld:

Howard Stern: Well, he dumped a 22 year-old, but he picked up a 30 year-old hostess at a restaurant. You know, the girl who seats you.

Robin Quivers: Yes, I did see that.

Howard Stern: And the girl who seats you at a restaurant is always good-looking. I mean, they're always hot. I've never seen an ugly girl who worked at a restaurant.

Robin Quivers: They don't get pigs to seat you at the restaurant.

Howard Stern: No, no pigs allowed.

He later responded to a caller who said that she had a sexual problem.

Howard Stern: All right, what can I do for you?

Madeline: Well, I heard people calling up about their problems and stuff and I'm basically a woman who has a problem.

Howard Stern: Well, what is your problem?

Madeline: I haven't had sex for ten years.

Howard Stern: Oh, you must be some pig.

And he had the following comments to make about a survey he had seen regarding Pamela Lee and Julia Child:

Howard Stern: I read a thing in the *Enquirer* and I don't know whether to believe this [burps] but they claimed they surveyed men and asked them who would you

rather marry? Pamela Lee or Julia Child? And overwhelmingly, they said Julia Child. Now, who are these guys?

Robin Quivers: I was going to say where was this survey taken?

Howard Stern: I mean, it must have been gay guys who took the survey and just said, well, the one that looks most like a man. There was no explanation for this.

...

Howard Stern: No. I could starve to death but I couldn't make love to Julia Child. Please! That's a nasty looking broad. That is a real nasty looking broad. And they even show like pictures of Julia Child as a young woman. [Man heard screaming.] They said that she was a sex symbol at an early...

Robin Quivers: Where? What country was that?

Howard Stern: I mean, she doesn't look as awful as she does now. I mean, she's a real slob! I wish I could find this thing.

Robin Quivers: She had a husband.

Howard Stern: Yeah, where is he? Probably stalking Pamela Lee. Where is he? Is he dead?

Robin Quivers: I don't know. Is he dead?

Unidentified: Oh, he is dead. Of course, he was an ambassador, or something, believe it or not.

Howard Stern: Yeah, an ambassador would have to spend as much time away from home as possible.

On the show of December 17th, Stern conducted an intern beauty pageant. Some of the comments were as follows:

Howard Stern: You know, any of the girls want to step forward right now in front of the microphone and say anything on behalf... or is there anything that you want to just blurt out? Marla, I understood you were going to take off your top.

...

Marla: I want to show you my pierced nipples.

...

Marla: Could that change your opinion of me?

Howard Stern: I don't know. You know, your father's on the phone.

Marla: Ah, ah! Hi, Dad.

Howard Stern: Can we just ask him real quick... Marla's dad, is that you?

Marla's dad: That's me.

Howard Stern: Did you know your daughter had pierced nipples?

Marla's dad: I did not.

...

Howard Stern: Congratulations, girls. I'll be groping the winners later.

The following extracts are from the dialogue with Michelle Yeo, co-star of the latest James Bond film, on the December 18 show:

Michelle Yeo: About 98 pounds.

Howard Stern: Perfect. How tall are you?

Michelle Yeo: 5'4".

Howard Stern: That's what I like. 98 pounds, 5'4". Girls at home, that's what you should weigh when you're 5'4". Trust me. I'm looking over...

Robin Quivers: She's very small, Howard.

Howard Stern: Yeah.

Robin Quivers: I would give them some room for having...

Howard Stern: You know what? She's a girl. You're supposed to be small. Right, you're supposed to look nice. May I say you have beautiful breasts?

...

Howard Stern: I would like to have sex with you and your mom.

Michelle Yeo: Why is it in America that whenever you go on a date, you must have sex?

Howard Stern: You better.

Robin Quivers: Ah ah ah.

Michelle Yeo: I would really like to know that.

Howard Stern: You better, or else we'll throw you right out of a moving car.

The following extracts are from a dialogue with singer Bryan Adams on the show of the 18th:

Bryan Adams: I love her voice.

Howard Stern: Yeah, it's very, very cute.

Gary Garver: Imagine her voice on an ugly chick?

Howard Stern: I would throw her out through a window.

The preponderance of the January 15, 1998 show related to a free breast implant operation which Stern was offering to the caller with the saddest or most "deserving" tale of woe. The following are but a sampling of the dialogues with many women:

Howard Stern: All right, let me tell you, here's another woman. She sent me naked pictures of herself.

Robin Quivers: Okay.

Howard Stern: And she already has breast implants.

Robin Quivers: Oh!

Howard Stern: That's right. She says she has... breast implants but she made them too small. She wants to be in *Playboy Magazine*.

Robin Quivers: Is she *Playboy* calibre?

Howard Stern: If you chop her head off.

...

Howard Stern: Yeah, man, this is amazing. That makes it so good, you know. We were just talking about *Playboy* during the commercials, how to do a commercial for *Playboy Magazine*. The centerfold is 18 years old.

Robin Quivers: I can't believe you want to look at that.

Howard Stern: You know what? Like I have *Playboy* at home and I was reading

the interview with Conan O'Brien and I didn't really pay much attention to the centerfold because I was like, you know, who cares? Now that I know she's 18, I'm like totally into it.

Robin Quivers: That's horrible, Howard.

...

Robin Quivers: And so you think your husband's cheating on you because you don't have boobs?

Sharon: Yes.

Howard Stern: She's flat.

Robin Quivers: And you don't mind... I guess you mind him cheating, but you're not going to leave him. You're going to try to get boobs first.

Sharon: Yes.

Howard Stern: How do you look otherwise? Are you pretty?

Sharon: I guess.

Howard Stern: Because maybe it's more than just boobs. It might be your fat ass.

...

Howard Stern: Are you a hot 18 year-old?

Amy: I think I am.

Howard Stern: Really? I'd like to take advantage of that.

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: I forget what it's like to sleep with an 18 year-old.

Robin Quivers: How much does she weigh?

Howard Stern: How much do you weigh? I bet you weigh 90 lbs.

Amy: I don't weigh 90 lbs.

Howard Stern: What do you weigh?

Amy: I don't know. Maybe like 125.

Howard Stern: 125? How tall are you?

Amy: 5'4".

Howard Stern: Yeah? That's a little chubby.

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: That is a little chubby. 5'4"? 120 lbs?

Amy: Yes.

Howard Stern: That's chubby, right, Fred?

Fred: Yes. 18?

Howard Stern: 18? What, you got cellulite on your ass?

Amy: Oh, my God! Now, you're being mean to me.

Howard Stern: Do you have cellulite?

Amy: What?

Howard Stern: Do you have cellulite?

Amy: No. I have big boobs.

Howard Stern: What size?

Amy: 36.

Howard Stern: "D"?

Amy: Yeah.

Howard Stern: Imagine in high school having 36D.

Robin Quivers: You go to a co-ed high school?

Amy: Yes.

Howard Stern: Are you having sex with a lot of the guys there?

Amy: No.

Howard Stern: Have you had sex yet?

Amy: Yeah.

Howard Stern: Oh, you're not a virgin? Boy, I'd like to shag a virgin.

Robin Quivers: Ah, ah, ah, ah, ah! Yeah, babe!

Howard Stern: Yeah, man. I'm going to shag her rotten.

...

Tom: Can I put my wife in the water and let the sharks eat half of her?

Howard Stern: Which half?

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: All I need of my wife is the bottom half.

...

Robin Quivers: What happened to your husband?

Unidentified caller: He got hit by a train, actually.

Robin Quivers: Really? How did that happen?

Howard Stern: You're a mess.

Unidentified caller: Tell me about it.

Howard Stern: She's the saddest case we've had yet.

Robin Quivers: So far. But how did your husband get hit by a train?

Howard Stern: He looked at her breasts and he said, what am I doing?

[Train noises.]

...

Howard Stern: She wants to go topless and attract guys.

Unidentified caller: Yeah.

Howard Stern: Yeah.

Robin Quivers: All right, your name's in the bag.

Howard Stern: You're saying you'll be a really hot chick once you get breasts?

Unidentified caller: Exactly. I've got a 24-inch waist. I'm in shape.

Howard Stern: Yeah, you're a waste without those breasts.

The January 15th show led naturally, in some respects, to the following exchange:

Howard Stern: What do you want to go up to? A "D"?

Unidentified caller: A full "C".

Howard Stern: A full "C"? We can make that happen. Imagine I gave you your dream?

Unidentified caller: That would be wonderful.

Howard Stern: Are you going to let me feel those things?

Unidentified caller: Well, I had actually considered calling you guys up and suggesting a fund-raiser, like a Jerry Lewis telethon type of thing.

Howard Stern: All I want is... are you going to let me feel them when you get them?

Unidentified caller: Yeah.

Howard Stern: You will?

Unidentified caller: [Inaudible...].

Howard Stern: You'll allow me to fondle you?

Robin Quivers: Oh, dear! I didn't know that was part of it.

Howard Stern: There's no rules. I'm making up the rules.

Robin Quivers: I thought you just maybe would ask to see them after.

Howard Stern: I think whoever wins should owe me some gratitude, man, and let me fondle her.

Unidentified caller: [Inaudible...] for a good pair.

Robin Quivers: Before or after?

Howard Stern: Before and after.

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: Here's what I'm going to want to do is fondle you.

Robin Quivers: You're not the judge.

Howard Stern: Would that be okay?

Unidentified caller: For a perfect pair of breasts, that's worth it.

Howard Stern: Hold on. Hum! She's certainly up for that. And I'm up for it. I could fondle those.

Robin Quivers: You're pitiful!

Howard Stern: I'll fondle you.

Robin Quivers: Pi-ti-ful.

Howard Stern: All right. Give me plentiful, which is what her bra will be.

Robin Quivers: Her bra will be plentiful but you're pitiful.

Howard Stern: Her breasts are plentiful and I am pitiful.

Appendix B

(Stern's Racist and Abusive Comments)

Extracts from the show of December 15th:

Howard Stern: Yeah, it wasn't good. And all the guys looked strange to me. I didn't know why the guys looked so odd, and then everyone told me, oh, this is a place where Euro trash hangs out.

Robin Quivers: Ohhh!

Howard Stern: And all these guys looked like Euro trash. I didn't know what Euro...

Robin Quivers: They all talk with accents.

Howard Stern: Yeah, I didn't know what Euro trash was, but now I do.

Robin Quivers: Oh, yeah.

Howard Stern: Like good-looking American girls with Euro trash.

Robin Quivers: Yeah.

Howard Stern: And they all dress tacky. Like there was one guy in a booth. He was like laughing at me every minute, like trying to make himself feel good. He was surrounded by tons of good looking chicks...

Robin Quivers: Right.

Howard Stern: ... but he was Euro trash.

Robin Quivers: Yeah.

Howard Stern: You could tell. Like he was losing his hair but he had it all flopped over. He had like real, long hair.

Robin Quivers: Right, they usually have a little belly, the whole thing.

Howard Stern: Yeah. It was weird, but it was a whole scene going on, you know.

Robin Quivers: Yeah, because the Euro trash always hangs out together.

Then he spoke about being in Harlem with another white man:

Howard Stern: Yes, and I said, Fred, we're going to get our ass kicked. I don't know exactly in what way, but we're going to.

Robin Quivers: Nothing happened to you, did it?

Howard Stern: No, none of the black people beat us up. Black people were very...

Robin Quivers: And what did you learn from that?

Howard Stern: I learned as long as you have a really bad car and you look like you have zero money, which we did, black people will leave you alone. For the most part, they figure why waste their time?

A conversation about Robin's dating practices late in the show included the following remarks about black men:

Howard Stern: You're going after a lot of black guys lately.

Robin Quivers: What is this, I'm going after a lot of black guys?

Howard Stern: You're into the dark meat.

Robin Quivers: What are you talking about?

Howard Stern: Tony Dungee, dark meat. Oh, yes, I can see you with a successful coach.

On the show of December 16th, Stern made the following comments about blacks and Jews:

Bruce: Anyway, you know, you always tell everybody that you got your troubles with the FCC and all that man... I moved to a town that has no blacks and no Jews, believe it or not.

Howard Stern: What's the name of that town? Utopia?

[Laughter]

Bruce: No, I wish it was. It's Mortimer, man, up in the mountains of North Carolina.

Robin Quivers: How did you get rid of everybody?

Howard Stern: How did you get rid of your blacks and Jews?

Bruce: Ah ah. They weren't here when I got here, and when I asked them, I said, "Hey man, there ain't no blacks up here." They said, "Well, we know how to keep them in their place."

Howard Stern: Wow!

Bruce: But anyway...

Howard Stern: How do you keep the Jews in their place?

On the December 18 show, Stern played and talked about a song called "Nigger Claus". Among other things, he said:

Howard Stern: So black Santa Claus tried to rape his wife and steals toys instead of gives toys to the kids.

On the December 24 show, Stern referred to a woman as "a mental cripple". Later in that show, he spoke to Leonard Marshall, a black athletic coach, and then to his white wife. Some of the dialogue was as follows:

Howard Stern: Let me talk to her for a second. Lennie's beautiful white wife.

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: The ultimate prize.

Annette: Hello.

Howard Stern: Is that you, Annette?

Annette: Yes, it is.

Howard Stern: Hey, I know your father doesn't like Leonard all that much, being black and all.

Appendix C

(Stern's Improper Sexual Comments Made During Hours When Children Could Be Listening)

The following are excerpts from the show of December 15. They begin with the dialogue between Stern and G. Gordon Liddy, which follows the dialogue relating to the "Stacked and Packed" calendar, which is quoted in Appendix A above.

Howard Stern: I should have asked G. what it feels like to put a bullet in a guy. Hey, Gary, get him back on the line. I really want to know.

Robin Quivers: You've asked him that before, haven't you?

Howard Stern: No, I don't think I ever. Did he ever put a bullet through a guy's brain?

Robin Quivers: Like at close range?

Howard Stern: Yes. Like what does it look like? Does the blood splatter all over the place?

Robin Quivers: Is it like in the movies?

Howard Stern: Yeah. I think guns are cool, but if you don't ever get to kill anybody, what fun is it? You know what I mean? He's gotten to kill. [sounds of gun fire]

Robin Quivers: Stop it. Why do you have them?

Howard Stern: I'm waiting for somebody to break in. I'm hoping someone will break in the house so I could kill him. [sounds of gun fire]

Robin Quivers: Ah, ah, ah, ah!

Howard Stern: I go to the firing range sometimes with guns, and I got guns, you know. Like I got a .357. No, what is it called?

Robin Quivers: A Magnum?

Howard Stern: A Smith and Wesson 3... I don't even know the name. Something like that. I don't have that much of a hard on but then...

Gary Garver: Howard?

Howard Stern: Yeah?

Gary Garver: He's back on.

Howard Stern: Oh, thanks.

Gary Garver: Line 16.

Howard Stern: Hey, G.

Liddy: Yeah, listen, I want to thank you.

Howard Stern: Yeah, you're welcome. No, G., we're on the air.

Liddy: Oh, we're on the air. Well, I want to thank you on the air.

Howard Stern: Oh, you do? Okay.

Liddy: Yeah, you've got 90 gazillion listeners. I'll probably sell more calendars through your show than I do through my show.

Howard Stern: I know. Hey, listen, what's it like, because you've killed guys with your guns. I mean, officially, what's it like when you take the gun and I mean you fire it into a guy's head? Is it great?

Liddy: Well, I'll tell you, the... there's different ways of going about things. Now, you got snipers. They're a big, big long distance away, but for...

Howard Stern: Have you done that?

Liddy: But for a sniper... Yeah, when you're a sniper, it's kind of like the challenge. Can I hit this thing, and of course I'm only a modestly good sniper. The best sniper is a guy named Hackwood(ph). He actually got a Viet Cong sniper who was after him, he shot him right up through the glass of his telescope, right into his eye.

Howard Stern: Wow!

Liddy: This is really good.

Howard Stern: That was in 'Nam?

Liddy: Now, your typical mafia hit type deal...

Howard Stern: Right.

Liddy: ... that you get up close to the guy, you stick it in his ear, pull.

Howard Stern: Right.

Liddy: Oww!

Howard Stern: What is your favourite way to kill a man with a gun?

Liddy: With a gun?

Howard Stern: Yeah, up close or...?

Liddy: Yes, I would be up close and probably put it right through the head.

Howard Stern: And when you go through the head, does the blood get all over you?

Liddy: Not unless you're standing behind it and the bullet gets you and you can sort of commit suicide.

Robin Quivers: Ah, ah, ah, ah!

Howard Stern: No, you know what I mean. If you get too close, you're up close to the guy, you put the gun to his head and you blow his head off, doesn't the head shatter?

Liddy: No, no, the entry hole is small.

Howard Stern: Right.

Liddy: It's just like Kipling had a poem. He talked about the small bullet hole [inaudible] and the back blows out of his head, so what happens is you get a small hole in the [inaudible] let's say and the back blows out of the head, so there's [inaudible...].

Howard Stern: And the first time that you put the bullet in a guy's head, I mean, for the first time, what kind of gun did you use?

Liddy: I got to cop a plea on this because there's no statute of limitation.

Howard Stern: I see, so if you were to kill...

Liddy: Now, let me tell you about [inaudible] with a knife. Killing with a knife is...

Howard Stern: Yeah, but wait. If you talk to me about a gun for one more second...

Liddy: Okay.

Howard Stern: You get up close, you blow the guy's head off and the next morning, do you feel guilt?

Liddy: No, you see, there's two kinds of people in this world. The kind of people that you would feel guilt about, but you don't kill them.

Howard Stern: Right.

Liddy: The kind of people you kill you feel good about because they needed killing.

Howard Stern: Yeah.

Liddy: They needed it.

Howard Stern: And like what would their crimes be?

Liddy: You're doing God's work.

...

Robin Quivers: Did you kill any women?

Liddy: No, no, no. Women have said... have exclaimed that I'm going to die but it was in a completely different setting.

Howard Stern: I see. It was when you were giving them the love shaft.

Liddy: There you go.

Howard Stern: Right, Oh, I'm going to die from... All right, G., thank you.

Liddy: [Gives number], my friend.

Howard Stern: Stacked and Packed, G. Gordon Liddy. Stacked and Packed. It actually was funny and I thought that the calendar was kind of cute. I was particularly impressed that they were his listeners.

Stern's description of Robin's sexual activities late in the show was explicit:

Howard Stern: You're going after a lot of black guys lately.

Robin Quivers: What is this, I'm going after a lot of black guys?

Howard Stern: You're into the dark meat.

Robin Quivers: What are you talking about?

Howard Stern: Tony Dungee, dark meat. Oh, yes, I can see you with a successful coach.

Robin Quivers: [inaudible...] dark meat.

Howard Stern: You at his side during the game. Where do you see yourself? On your knees in front of him?

Robin Quivers: No, I don't. I don't see myself in that position at all.

Howard Stern: Or do you see yourself laying in bed with him, and then leaning over and doing it?

Robin Quivers: I haven't done all of that.

Howard Stern: Gripping the headboard and him taking you from behind?

Robin Quivers: Ah, ah, ah, ah, ah!

Gary Garver: Whenever she says she likes somebody, I just see her over a sink.

On December 16th, Stern got into a lengthy discussion about an S & M restaurant:

Howard Stern: While they were eating, some guy was beating the hell out of some girl, or some girl was beating the hell out of some guy. But beating the hell out of 'em, moaning and...

Robin Quivers: I can't imagine having dinner in a place like that.

Howard Stern: I think I'd rather stare at Sam Kennison's coat.

...

Gangi: That's Scott [inaudible] getting spanked.

Howard Stern: By a guy?

Gangi: By a guy.

Howard Stern: Oh, for crying out loud.

Robin Quivers: What is that all about?

Howard Stern: I would bust this guy in the face.

Robin Quivers: Scott wanted to be spanked?

Howard Stern: Is he the waiter?

Gangi: No, no, he obviously went and paid for... you can pay. It's like 20 bucks for...

Robin Quivers: To get spanked?

Gangi: Yeah, to get spanked.

Howard Stern: Wouldn't you want to get spanked by a girl?

...

Howard Stern: He's picking Scott up, bending him over his knee and spanking him. Homo!

Gangi: Faggot.

[Sounds of disgust]

Robin Quivers: And all his hairy chest hanging out over the food.

...

Gangi: There was a couple there that... this was just a couple dining and they would get up every like 15 minutes and there was a rack and she would tie this guy up, and he was really, really fat. She'd take his clothes off and he'd...

Howard Stern: He'd get naked?

Gangi: No, he'd be in his underwear, and she'd whip him for like a half hour, while everybody's eating.

One of the show's staffers who had been in such a restaurant talked about her experiences:

Robin Razinski: I had a blast. I thought it was great.

Howard Stern: You did? You thought it was okay to see people getting beaten while...

Robin Razinski: Well sure, I got to ride the fat black man while... the fat man

while the girl whipped me.

Howard Stern: The jolly fat black man?

Robin Razinski: No, actually he wasn't black. The girl that was whipping him was black.

Howard Stern: Oh, you got to ride a fat white man while a black woman whipped him?

Robin Razinski: Well, a black woman whipped me.

Howard Stern: Whipped you? What were you wearing?

...

Howard Stern: And so she lifted up your dress in front of the whole restaurant and your naked ass and started whipping you?

Robin Razinski: Ah, ah, ah, ah, ah!

Robin Quivers: Yeah, how do you enjoy that? What do you enjoy about that?

Howard Stern: I could dig that. I could dig watching that. You know, a girl with a nice ass.

Robin Quivers: But what did Robin enjoy about that is what I'm asking?

Howard Stern: It's erotic.

Appendix D

(Sexual Acts Involving Young Children)

Discussing a Los Angeles party he was at, Stern described the following encounter with the young children of the host:

Howard Stern: There was a lot of celebrity types there.

Robin Quivers: Wow!

Howard Stern: Yeah. Tons. But, man, I would have liked to have sex with a couple of the people there.

Robin Quivers: And nobody was taking up the bedrooms or anything like that? It wasn't wild, you know, you think of these sex orgies in Hollywood.

Howard Stern: After I peed, I kind of forgot how to get downstairs and I open up the... I see two people in bed and I went, "Oh, my God, they're having sex", and I realized it was Lindell's kids asleep in the bed. They passed out on a bed.

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: I tried to get it on with them, but I couldn't. They couldn't be woken up.

The following dialogue took place during the show of December 18. It was triggered by a discussion of estimates made by the National Centre for Lesbian Rights that 8 to 13 million children are being raised by gay and lesbian parents in the United States; and the recounting of the story of a man who had been arraigned on charges of rape and sodomy with an 11 year-old girl he met during trysts with her hooker aunt.

Howard Stern: And the little girl was performing what? Oral sex on this gentleman?

Robin Quivers: I would imagine at that particular time, but it has been a nine-month relationship.

Howard Stern: Can an 11 year-old really know how to do that that well? I mean, you're a grown woman and you just learned how to do it. I can't imagine...

Robin Quivers: I was never given instruction. Obviously, she was being schooled.

Howard Stern: You were deprived.

During the show of December 24, there were other sexual associations made regarding children.

Howard Stern: Wait, there's one more news story.

Robin Quivers: A couple more.

Howard Stern: A couple more.

Robin Quivers: In the State of New York, there's an alarming rate of syphilis among babies, Howard.

Howard Stern: Who are they getting it on with?

Robin Quivers: Ah, ah, ah, ah, ah! I don't know. Ah, ah, ah, ah, ah! Could you imagine?

Howard Stern: Yeah, nothing better than a good baby!

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: Yeah, I mean, I don't like to talk about it that much on the air because people think I'm sick. You know what the worst thing about having sex with your sister is?

Robin Quivers: Oh, please!

Howard Stern: Breaking the crib.

Robin Quivers: Ah, ah, ah, ah, ah!

Howard Stern: I swear to God. What is this? How do babies get syphilis, Robin? That's terrible!

Robin Quivers: Obviously...

Howard Stern: They should use condoms.

Jerry Seinfeld: When some babies are doing it, do they say "oh, baby!"

Howard Stern: Oh, baby!

Robin Quivers: Ah, ah, ah, ah, ah!

[sounds of a baby crying]

Howard Stern: Shut up, honey, I'm trying to get something going.

Robin Quivers: Oh, dear. Stop it! Stop it!

Howard Stern: Is that your reaction? Were we not that good?

[sounds of a baby crying]

Appendix E

(Complaint Letters and Broadcaster Responses)

Letter of December 18 from the Executive Director of MediaWatch

(CBSC File 97/98-0487)

In the CBSC's recent ruling on the Howard Stern show, there was a clear understanding that the program would likely, by its very nature, continue to breach both the CAB's *Code of Ethics* and the *Sex-Role Portrayal Code*. Early in December both broadcasters announced their intention to respect these self-regulatory codes. In the CBSC's press release of December 12th, it was stated that Q107 had "committed to take whatever steps are necessary ... to remain in compliance [with the Broadcasting] Act, including the *Radio Regulations* and any applicable Codes." Just a week after this announcement, MediaWatch has documented numerous flagrant violations of CAB Codes.

1) December 15, 1997 -- Stern described a Hollywood party he had attended and how he had met the actor Ellen Barkin. He said she wore a low-cut top and that her "boobies" were hanging out. He proceeded to describe his admiration for her "ass and legs" and said he would "do" her. Since she was wearing stiletto heels, she wouldn't be able to run away from him. One of Stern's male side-kicks then mentioned another actor and said, "You don't forget those tits — that's the best part of that movie." Stern described how, later in the party, he had entered a bedroom and found the host's two children (earlier in the show we were told one of them was about 9 years old and the other was still in diapers) asleep together in a bed. Stern said that he "tried to get it on with them" but he couldn't wake them up.

Later in the same program, Stern interviewed a woman who claimed to have two vaginas. Stern told her to come down to his program and show him her vaginas. He said he'd have to give her a full medical examination - a "double pap smear".

Again in the same broadcast, Stern was teasing his female colleague Robin about her attraction to a man of colour who Stern referred to as "black meat". Stern said Robin probably wanted the man to "take her from behind" and asked if she imagined herself down on her hands and knees in front of the man.

2) December 17, 1997 - Stern held a beauty contest for female interns who had been working on his show for the fall semester. Three women participated in the "intern beauty contest" in which one was told that by lifting her top to expose her breasts she could influence the "judges" and have a better chance of winning. When she complied,

Stern commented on her pierced nipples and described her breasts as pretty. Stern later engaged in a conversation with the woman's father who was on the phone-line throughout the whole episode. At another point during the broadcast, Stern asked one of the contestants if she was wearing underwear beneath her pants and asked her to turn around to show the judges her "ass".

3) December 18, 1997 - Two female strippers accompanied the Canadian performer Bryan Adams on Stern's program of that date. While Adams performed, the women were encouraged to dance for Stern's enjoyment and were described as "rubbing" themselves. At one point they put their breasts (which Stern described as "four silicone bags") in his and Adams' face. Stern asked, "You girls ever been molested" and when they replied in the negative, he said, "Wait till after the show". He invited one of the women to bend over his desk for him. During the interview, Stern accepted calls from the general public. When one female fan called in, Stern immediately asked her if she would give Bryan Adams anal sex. He then asked if she would let Adams tie her up while she was naked and hang her from the ceiling.

These examples clearly demonstrate that Q107 appears to have made absolutely no effort to comply with CAB Codes since the ruling. Instead, the station continues to give Stern the ability to broadcast his hateful comments condoning child sexual abuse and violence against women. Stern consistently treats women as nothing more than sex toys who exist for his sexual gratification.

The content of the Howard Stern show is very familiar to the CBSC. As this letter demonstrates, there is no evidence to suggest that Q107 has taken measures to comply with CAB Codes since the ruling. Instead, it seems that Q107 continues to openly flout the self-regulatory system despite their words. As the Council is keenly aware, there is nothing that can be practically done to the program to resolve the situation aside from removing it altogether.

Reply of January 9, 1998 from CILQ-FM's President and General Manager

(CBSC File 97/98-0487)

We have reviewed the tapes in connection with the matters complained about in the broadcasts noted above.

First, we would like to address your allegation that Q107 has made no effort to comply with the CAB Codes and *Radio Regulations*. Since the CBSC Ruling, we have taken the following steps:

We have retained a producer whose sole function is the monitoring of the Howard Stern

program. This person has and continues to undergo training to ensure familiarity with applicable Codes and laws.

2. We have ordered new state of the art digital equipment to facilitate our monitoring of the show and compliance with the law.

3. We have edited material that we deemed to be offside legal requirements.

We assure you that Q107 is taking its responsibilities in relation to this program very seriously. It appears, however, that we have a different interpretation than do you, as to what constitutes a violation of the Codes and the *Regulations*.

We disagree strongly with your contention that Stern broadcasts "hateful comments condoning child sexual abuse and violence against women." It is our opinion that none of the comments that you outlined in your letter violated any Codes or *Regulations*.

Section 3 of the *Radio Regulations* states in part that:

"A licensee shall not broadcast

...

(b) any abusive comment that, when taken in context, tends or is likely to expose an individual or group or class of individuals to hatred or contempt on the basis of sex..."

This requirement is also reflected in the Code of Ethics.

The Interpretation section of the Sex-Role Portrayal Code states as follows:

"...any interpretation of sex-role differentiation in television and radio programming is assessed in the dramatic or informational context of a program, feature character ... recognizing that balance in presentation within a specific or individual program is not always possible or desirable."

Sections (b) and (g) under the "General Principles" provide that:

"(b) Nothing in this Code should be interpreted as censoring the depiction of healthy sexuality. However, broadcasters shall avoid and eliminate the depiction of gratuitous harm toward individuals in a sexual context, as well as the promotion of sexual hatred and degradation.

(g) The Code is to be interpreted in a manner consistent with the Charter and the *Broadcasting Act*."

The context of this program is all important in assessing compliance with the Codes. The

Howard Stern Show is comedy—distasteful to some, we understand, but not meant to be taken as serious social commentary, as Stern himself has made clear on numerous occasions. The situations that arise on the show are so obviously contrived and meant to be humorous that we find it very difficult to understand how the comments complained about can be said to promote hatred, violence or degradation.

The strippers appeared with Bryan Adams voluntarily and were not subject to hatred or degradation. Similarly, the "female intern beauty contest" was clearly a "gag" and the women were willing participants who apparently did not feel any discomfort about being there. In fact, Mr. Stern did not ask one of the contestants to turn around and show the judges her "ass". Nor did he order one of them to lift her top. She volunteered to do it.

The Codes and the law do not prohibit anyone talking about sex, admiring the other sex or talking about a woman's (or a man's) physical features in these circumstances. Moreover, comments like these, while admittedly not everyone's cup of tea, are not, in and of themselves, abusive, degrading to women and certainly do not promote hatred or violence. Are Stern's blunt remarks about the physical features and desirability of a woman somehow "worse" than the fact that virtually no television show (even those purporting to be "serious" dramas) features an unattractive or even plain woman in a lead role or a magazine that routinely features only models on its front cover? We would submit that the context of Stern's show makes his brand of entertainment less insidious than perhaps other forms of media to which we are exposed.

Stern is as apt to make jokes about his own lack of sexual prowess, his physical features and the "frailties" of male sexuality in general. This is hardly the talk of someone who "hates" women. Further the locker room talk that occasionally characterizes the show, is balanced by other factors, making it abundantly clear that the discussions about sex are all in jest. For example, Mr. Stern has been married for 20 years to the same woman (which he refers to frequently on the air). In the December 18th broadcast (about 9:05 am) he commented with respect to the strippers that "Guys want to see nude women. It doesn't mean we're cheaters. It just gives us a little thrill." Most importantly, day in and day out he shares the spotlight with his on-air partner, Robin, a black woman, treating her as an equal and with respect.

We would like to point out a couple of other comments that were made by Mr. Stern but not referred to in your letter. In the December 15th broadcast (at about 10:08 am) Robin was discussing various news items, one of which was a story about a man who had cut off his own penis. Mr. Stern commented that the man had evidently abused and killed a woman and received only a three year jail sentence. He then went on to say that "perhaps all men who are abusive to women should cut off their penises and do the world a favour". In another broadcast, Howard and Robin were talking about a particular actor who had a new girlfriend and put a picture of her on his Christmas Cards. Howard commented "if I had a girlfriend I wouldn't put her on a card—it's like saying "look at my new possession."

There is one incident you related however, which we also feel was questionable. We are referring to the remark made in the December 15th broadcast about "getting it on" with the two children. It was an "off the cuff" remark that again, was not meant to be serious. However, we agree that extra vigilance is required where children and sexuality are linked, even if in jest. We are confident that the hiring of the producer and the new equipment referred to above, will remedy any such problems in future.

For your information, however, it is completely inaccurate to accuse Mr. Stern of condoning sexual abuse of children. Earlier in the December 15th broadcast (about 6:10 am), Mr. Stern indicated that a man had called in (but the call was not broadcast), saying he had sex with his 12 year old niece to which Robin groaned "Oh God I'm going to throw up" and Howard said "yeah I know, I'm going to throw up too". Later in that same broadcast (about 10:56 am), Robin played an excerpt of an interview Woody Allen gave about his new movie and how his films are more well received by audiences in Europe. Howard commented "As intellectual as he is and he has the gift to write and make movies-he's still a guy who went after this young girl who thought of him as a father figure-so who can take him seriously? He should move to Europe like Roman Polanski." In the broadcast of January 7, 1998, he expressed his surprise at the outpouring of sympathy for Michael Kennedy given his sexual escapades with a minor.

E-mail Complaint of December 17, 1997

(CBSC File 97/98-0488)

[Much of this e-mail complaint dealt with CILQ-FM web site-related issues, which do not fall within the purview of the CBSC. Those portions of the message are not included here.]

Last Friday, the CBSC issued a press release expressing confidence that Q107 would edit the show to conform to the standards expected of Canadian radio which include not broadcasting sexually explicit material in that time slot. The station also committed to conform to the Radio Regulations. In spite of that, yesterday, I heard Stern on Toronto's Q107 talking about using a vibrator on his wife, and he also used the word "goddam". Today, he used the words "prick" and "goddam" in the sort time period I was listening. This station is (a) continuing to broadcast sexually explicit and totally inappropriate topics for the time slot, and (b) contravening the Radio Regulations prohibition against the broadcast of profane language. So much for your confidence in their commitment to clean up their act.

Letter of December 24, 1997

(CBSC File 97/98-0504)

I am writing you today, on Christmas Eve, to complain about the terribly offensive nature of the Howard Stern show which I listened to on a Toronto radio station, Q107, this morning. Given all the hoopla about the show, I decided to give a listen and see what all the fuss was about.

To say that the critics of the show have been right on about how hateful and offensive the program was would be an understatement. I heard the show's female assistant discussing the increasing incidence of syphilis among babies, to which Mr. Stern wondered who they were getting it on with. The inference was that the babies were contracting the disease through sex.

This was bad enough, but it got worse. Mr. Stern said there was nothing better than a good baby. The inference to having sex with children was again apparent. Mr. Stern then asked what the worst thing about having sex with your sister was. His reply, breaking the crib. This is a terrible message and while I'm all for free speech, there must be something which can be done to counter the offensive nature of his remarks.

I understand that your organization has a code of ethics. Enforce it! I also understand that Q107 has already been admonished and that they say they have addressed your concerns. Rubbish! What I heard today proves that the station has no intention of dealing with the legitimate criticisms levelled at Howard Stern's show.

If your organization cannot do anything to address these concerns, some other body needs to intervene to pull the show off the air or take away Q107's ability to use public airwaves. I look forward to hearing your response to my complaint.

Reply of January 19, 1998 from CILQ-FM's President and General Manager

(CBSC File 97/98-0504)

The segment of the show you referred to on December 24, 1997 is a daily feature which deals exclusively with unique, odd or at least different items in the "news" of the day. The feature involves Robin, Stern's female colleague who deals with these issues as well as Howard and from time to time, guests or studio colleagues who together use these items primarily as the basis for their comedic routines. The show on the 24th of December was no exception, and following a piece on Steve Allen the story you referenced was raised by Robin. Stern did in fact attempt to generate a laugh with his one liners. Its line about having sex with one's sister is in fact a rather old joke.

When he did finish with his attempt at jocularity he did comment on how terrible the situation was that so many cases of syphilis in new born babies were being discovered and that the decision has now been made to test every pregnant woman in the State was automatic.

I should also point out that Howard Stern is a strong defender of children and their need to be protected. On December 15th he commented about being sick to his stomach about a man that reportedly had sex with his 12 year old niece. On that same day in dealing with the Woody Allen interview about his recent marriage ... he put him in the same category as Roman Polanski. In a broadcast on January 7th, Stern expressed his surprise at the outpouring of sympathy for Michael Kennedy given his sexual escapades with a minor.

E-mail of January 17, 1998

(CBSC File 97/98-0535)

It is with a sense of sadness, rather than anger, that I write this letter of complaint against the Howard Stern show, available to Toronto-area residents via the radio station Q107. Even though your Council has previously ruled that the show did indeed violate broadcast codes, particularly the gender portrayal codes, it appears that the show is still not being held accountable for its pervasive and-woman content. Under the guise of base humour, Stern continues to reduce women to sexualized body parts. As a case in point, the show is currently running a "free breast implant contest". Women are encouraged to call in and list their personal physical defects and state why they deserve to receive the free implants. The show in question was aired on January 15th.

The message being sent, loud and clear, is that women are valued only for their bodies, especially when they are highly desired by men. These attitudes contribute to the low self-esteem and life-threatening eating disorders of many girls and women, as well as violating one of the code's "general principles":

"[a] The objective of equal representation is recognized and the portrayal of women and men shall be comparable to, and reflective of, their actual social and professional achievements, contributions, interests and activities."

Again, continually reducing and belittling women to sexualized body parts can hardly be viewed as representing women in the whole and healthy light suggested above.

During the January 15th broadcast, there was a specific instance of code violation, where Stern cajoled and badgered a female caller to agree to have her breasts fondled if she won the contest. Among other harassing comments, he stated, "I'm going to want to fondle them [your breasts]." These types of comments by a high profile radio personality

are, at best, irresponsible, in that they encourage physical sexual harassment, and imply that such harassment of women by men is a perfectly normal social interaction. At worst, Stern's comments add to and foster a misogynistic climate where women are harassed and targeted for harassment, based on their gender. While the code protects against "censoring the depiction of healthy sexuality", these comments and suggestions of harassment and sexual assault can NEVER be seen as healthy sexuality, but instead represent "the promotion of sexual hatred and degradation." On an on-going basis, the Stern show cultivates a violent, denigrating, woman-negative atmosphere, wherein women are not viewed as whole beings, but as "meat", continually placed in the role of sexual object for Stern's (and his listeners'?) pleasure.

Reply of February 2 from CILQ-FM's President and General Manager

(CBSC File 97/98-0535)

I have had the opportunity to review the January 15, 1998 programme you referenced in your letter including the one call from a contestant that you described.

The context of this program is all important in assessing compliance with the Codes.

This call was one of a dozen taken during the show, they started about 6:20 am when he explained that a plastic surgeon had offered a free breast implant as a result of a bet he had made with Stem. Howard chose to offer the procedure as a prize and asked for calls. At no time were callers asked to list their personal physical defects. A number of women responded prior to the caller you identified, all of whom, willingly offered their reasons why they wanted to win. No one was cajoled or badgered during their conversations including the caller you identified. The tone of the conversations was very casual in every instance and one in particular that occurred just before 7:00 am, the woman was calmed by Howard, when he said "don't be nervous, we're not that important".

Specifically the call your letter is based on took place about 10:07 am in a very casual, calm, and light tone. The woman described her reasons for wanting this surgery was to help ease her state of depression. She was asked how she felt about appearing in the contest finals and quickly and clearly answered "no problem". The tone in which the question asked about fondling them if she won was clearly not to harass, cajole or badger. It was typical Howard Stem type humour ... distasteful to some, we understand, but not meant to be taken as serious social commentary.

Since the time of the CBSC ruling you referenced in your letter we have hired an additional producer whose role is to monitor the program to ensure compliance with the Broadcast Regulations and Codes. Our producers participates in training sessions with our legal council [*sic*] to ensure they are up to date on these Regulations and codes. We do not

believe that this program, when taken in context was offside with the Regulations and codes.