
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL PANEL**

CFYI-AM re Scruff Connors and John Derringer Morning Show
(CBSC Decision 01/02-0279)

Decided June 7, 2002

M. Ziniak (Vice-Chair), R. Cohen (*ad hoc*), M. Oldfield, J. Pungente and C. Reyes

THE FACTS

On November 16, 2001 at approximately 8:15 am, a discussion took place on CFYI-AM (Mojo Radio, Toronto) between the morning show's hosts, Scruff Connors and John Derringer. The two hosts were jokingly suggesting that they were going to leave their jobs at Mojo to work at a foreign language radio station. In furtherance of their jocular scheme, they telephoned a third language station in Toronto, namely, Fairchild Radio, and encountered the station's voice mail recorded message, part of which was in Cantonese. The relevant portion of the dialogue between Connors and Derringer (and the voice on the answering service) went as follows (the full text of the discussion can be found in Appendix A):

Derringer: What were they saying in Chinese?

Connors: Oh, they were saying "the lunch special today" [all laugh]. [Continues in mock Chinese accent] "Chicken ball, chicken fried rice, uh, snow pea and noodoo."

[...]

Connors: [Interspersed between the voice message, as if he is translating] three ninety-nine ... all you can eat ... and a fortune cookie. [Laughter]

Voice: If you'd like to leave a message, record it now.

Connors: Good. [In mock Chinese accent] Uh, I will speak English

'cause I know you can; I don't speak very good Chinese. [Laughter] My name is Scruff Connor and I work with John Derringer. And we do morning show on Mojo [laughter]. We are interested in doing morning show for Afghanistani, Afghanistan radio. We have lot to offer and we can speak many many languages, as you can tell. Uh, I know Swedish: Hida hoodi, heeda, hyda hooni, heeni. I know German: Achtung. Uh, I know French: Bon soir. [He stops doing Chinese accent and makes it sound like a voice-over for a commercial] Yes and many many more. All this, twenty-five original languages, original people, John Derringer, Scruff Connors on one colossal tape. Only nine ninety-nine; tape or cassette eight ninety-nine available now at 1-800-267-3000 [laughter]. Thank you.

The Complaint and the Broadcaster's Reply

The CBSC received a complaint about the broadcast from the Chinese Canadian National Council Toronto Chapter (CCNC Toronto Chapter) dated November 22. While the full text of that letter (and all other related correspondence) can be found in Appendix B, the thrust of the Executive Director's letter is that the morning show dialogue was racist and negatively stereotypical. He argued that the hosts "began disseminating a series of derogatory sentiments directed against the Chinese-Canadian community." Although the hosts clearly understood no Cantonese, they were, he continued, "arrogant enough" to air a "translation" of the recorded voice message:

Using a bad imitation of a Chinese accent, Scruff Connors said on air: "The lunch special today? ... is chicken ball, chicken fried rice, snow pea, and noodle!" Both the malicious manner and sarcastically stereotypical content of Mr. Connors' segment indicate an obvious disrespect for Chinese-Canadian citizens.

According to the complainant, the host Connors then proceeded "to further insult Chinese speakers, as well as to befoul the Swedish, German and French languages." The complainant accused them of showing no sensitivity to the recent anti-Afghan political climate in mockingly indicating their intentions of producing a radio show for the Afghan community. The Executive Director supported his concern by referring to the fact that the Chinese Canadian community is one of the largest ethnic groups in the country with over two thirds of their population in Toronto and Vancouver:

We are Canadian citizens from all walks of life who have contributed generously to the social, cultural, economic and political fabric of our society. Contrary to the racist perceptions of individuals such as Mr. Connors, we are not people who warrant being reduced to stereotypical accents and cuisine.

In CFYI's response of January 8, 2002, the station argued that Mojo Radio's demographics target a male audience between 25 and 54 years of age and that they

achieve this by covering “topics that range from health and fitness, sex, sports, computers, career, business, law, money, gadgets, cars, and beer, all presented in a comedic style.” Their programming is oriented toward “current pop-culture subjects, issues and current affairs” which is, they believe, “an intelligent yet sometimes irreverent alternative to much of the mainstream talk shows available in this market, as they offer frank and open debate on diverse and often controversial issues.” In defending the challenged program, they cited previous CBSC jurisprudence, some of which has established that “it is not *any* reference to ‘race, national or ethnic origin, religion, age, sex, marital status or physical or mental handicap’ but rather those which contain ‘abusive or discriminatory material or comment’ based on the foregoing which will be sanctioned.” They also quoted the introductory language in the *CAB Code of Ethics* which provides that “the broadcaster’s programming responsibility does not extend to questions of good taste.” Finally, and fundamentally, the station argued that,

while the Segment may not have been in good taste, in the comedic context that it was presented, it was not an abusive comment that was racist or discriminatory. Please be assured that we do not condone racism of any sort on Mojo Radio. The host was utilizing “impressionism”, a comedic tool, not unlike many skits that have been performed by casts of NBC’s “*Saturday Night Live*” or the CBC’s “*This Hour Has 22 Minutes*”. In addition, the humour in the Segment was not intended to position any ethnic, cultural or religious group as inherently predispositioned [*sic*] or prone to a particular type of behaviour or stereotype. In fact, and as noted in your letter, the humorous portrayal was also directed at the Swedish, German and French languages.

The complainant was not satisfied with the station’s response and requested on February 22 that the matter be adjudicated by a CBSC Regional Panel. The CBSC also received correspondence from the Center for Research-Action on Race Relations (CRARR) indicating their awareness of and support for the CCNC Toronto Chapter’s complaint, although it was acknowledged that no one from the Center had actually heard the broadcast. When the CBSC informed CRARR of that prerequisite eligibility criterion, they did submit a complaint on behalf of an individual in Toronto. That complaint raised no additional substantive issues and, in the end, added no further information to the thorough letter of complaint filed by the CCNC Toronto Chapter.

THE DECISION

The CBSC Ontario Regional Panel examined the complaint under Clause 2 (Human Rights) of the Canadian Association of Broadcasters’ (*CAB Code of Ethics*) which reads

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

The Panel listened to a tape of the segment from the *Scruff Connors and John Derringer Morning Show* and reviewed all of the correspondence. It concludes that the segment in question, however tasteless, does not violate the above Code provision.

The Essence of the Human Rights Clause

Due to the scope of Clause 2 and its frequent application in many contexts, the Human Rights provision of the *CAB Code of Ethics* is one of the most interpreted components of all the Codes administered by the CBSC. As a result, the CBSC's understanding of the clause has become quite fine-tuned. This being said, the broadcast issues considered under it are sufficiently varied that the application of the provision is frequently trying for the CBSC Panels called upon to apply it. In all circumstances, though, the Panels rely upon the fundamental principle that a breach of this clause will not be found in the case of a discriminatory comment but only in circumstances in which that comment is either abusive or unduly discriminatory. While that is, in and of itself, a challenge to determine in each instance, it is essential to find that point up to which the principle of freedom of expression will prevail and beyond which that freedom must give way to the rights of identifiable groups, which are entitled not to be the subject of such comment on the airwaves.

Humorous Comment: A Special Circumstance?

The line to be drawn in determining whether or not there has been a breach is, as might be expected in circumstances such as these, a fine one. It is also, not surprisingly, made most difficult for Adjudicators when there is an attempt by a broadcaster to be "funny" at the expense of an identifiable group. This results from the apparent intention of the broadcaster *not* to be taken literally in those circumstances.

The CBSC has previously distinguished between serious and humorous dialogue and this is clearly a moment at which that clarification can usefully be summarized and updated. It is, as this Panel has said, "essential to draw a distinction between a broadcast which is *intended* to be serious and one which *clearly* does not." In the case of the former, the broadcaster is entitled to anticipate that members of the audience can reasonably be expected to take a given comment more literally than in the case of the latter. It follows that an attempt at humour or a literary device such as sarcasm, satire or even hyperbole by a program host may be likelier in a *non*-humorous context to be understood by a listener as "the real thing" when that is not what the host may intend. Thus, in *CHUM-AM re Brian Henderson Commentary* (CBSC Decision 95/96-0008, 0060 and 0061, March 26, 1996), this Panel noted, with respect to a "humorous" comment in the body of a serious commentary:

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*. To illustrate his point, he had reached for an unrelated, irrelevant and factually unsupportable claim. 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, nation or ethnic origin [or] religion”.

There was a similar finding in *CFRA-AM re The Lowell Green Show (“Somalia Commission Report”)* (CBSC Decision 96/97-0238, February 20, 1998), a matter in which this Panel clearly understood the sarcastic intent of the host in dealing with a serious political issue. In that decision, despite its clear understanding of the host’s intention, this Panel ruled that the use of the non-serious device to illustrate the serious point at issue was, if unmitigated in that particular instance, offside:

The Ontario Regional Council understands perfectly well that Lowell Green was trying to ridicule the decision of the Federal Government to disband the Somalia Inquiry. It is apparent that he was trying to achieve this result by being sarcastic and facetious. The Council does not consider that his attempt to achieve his goal was poorly conceived but it does consider that it was poorly executed. Careful thought before the fact would have led the host to understand that his comments would likely offend not only the brunt of his barbs, namely, the Federal Government, but also persons of Somali origin, as well as those right-minded Canadians who are sensitive to racial slurs. The Council has no quarrel with the offence that might have been taken on the political side of the issue but it does consider that Lowell Green’s failure to defuse at any point the racially offensive component of his remarks put him in the same situation as Brian Henderson in the *CHUM-AM* case.

The Council has also pointed out that different considerations may well be at play when the broadcast commentary is *clearly intended* to be humorous. In such circumstances, there will be a different level of audience expectation and it is entirely fair for the broadcaster to expect that it should have *some* leeway. The question is, “How much is some?” or, correspondingly put, “How much is too much?” While fraught with difficulty, *this* is the question which the CBSC Panels must put and to which they must, from case to case, find a reply. Moreover, the problem is exacerbated by the likelihood, if not the certainty, that some one or more members of the affected identifiable group will be offended by the type of ethnically-pointed “humour” as is present in the case at hand.

It has been the oft-stated position of the CBSC that ethnic jokes will not, on the simple basis of their ethnicity, or the pointedness noted immediately above, be found to be in breach of the *CAB Code of Ethics*. As this Panel said in *CHFI-FM re the Don Daynard Show* (CBSC Decision 94/95-0145, March 26, 1996), “The CBSC does not expect that the airwaves will be pure, antiseptic and flawless when society is not.” This observation should not be misunderstood as any form of CBSC endorsement of ethnic humour. As the CBSC Panels frequently find in their deliberations, “humorous” ethnic comments are

childish, ignorant, bullying, appallingly tasteless, and, in the Canadian broadcasting environment, regrettable examples of what may result from, but is defensible under, the principle of freedom of expression. It does not follow that *all* examples of such humour will be safeguarded under that principle; there will be, and have already been, those which have exceeded even that flexible standard. In general, to exceed that norm, there will need to be evidence of harsh language or imagery, nastiness (even if thoughtless or inadvertent), utter insensitivity or the like.

In the matter before the Panel on this occasion, there are, to be sure, poor taste and that puerile elitism that finds foreign accents, particularly those coupled with halting English, invariably funny. The comments are mocking and jeering but silly; they reflect far worse on the persons who uttered them than those who are their brunt. They are, in the view of the Panel, unpleasant, desensitizing and unreflective of the public responsibility that those seated at the microphone ought to carry but not so hateful, demeaning or degrading as to be considered to be abusive or unduly discriminatory. In short, they do not amount to a breach of the Code.

Previous CBSC Decisions on this Point

It should be noted that the CBSC has established a line of decisions on which the foregoing principles are based. Regrettably, in other words, the circumstances of the present concerns of the complainant are not new. As far back as *CFOX-FM re The Larry and Willy Show* (CBSC Decision 92/93-0141, August 30, 1993), the British Columbia Regional Panel concluded that, in the alleged telling of Irish jokes during St. Patrick's Day week, "there was neither in implicit nor explicit terms any labelling of the Irish people as 'stupid' or as 'Paddies'; the Irish people were not referred to derogatorily; and the hosts had used no 'abusive or discriminatory material or comment' in relation to Irish people."

In *CHFI-FM re The Don Daynard Show* (CBSC Decision 94/95-0145, March 26, 1996), the hosts told a series of "light bulb" jokes, including one which asked, "How many Jewish mothers does it take to change a light bulb?" A viewer did not take this "joke" as lightly as the host had suggested, feeling that it was anti-Semitic and offensive. This Panel concluded that there had been no violation of the Code, and stated that

the Jewish mothers light bulb joke, while ethnically pointed, was neither demeaning nor abusive. It was told in the context of a series of light bulb jokes aimed at feminists, Marxists, surrealists, accountants, etc. It poked fun but did not bludgeon. It tickled but was not nasty. It touched on what some might view as stereotypical characteristics as did the Polish humour in the *CHUM-FM* case and perhaps the Irish humour in the *CFOX-FM* case [...]. The CBSC does not expect that the airwaves will be pure, antiseptic and flawless when society is not.

The Council's duty is to put a potentially offensive ethnic joke on its societal scale and determine whether it could *reasonably* be viewed as having gone too far.

In *The Comedy Network re "Comedy Club 54"* (CBSC Decision 97/98-1242, February 3, 1999), a pair of stand-up comedians recounted jokes about both "Newfies" and Orientals. In the segment involving Orientals, one of the comedians explained how Oriental people name their children after the sound cutlery makes as it drops on the floor while the other comedian pretended to speak Chinese as a "translation". This Panel found no breach of the *CAB Code of Ethics*:

In the Council's view, while the ethnic humour contained in the "Comedy Club 54" episode in question poked fun at specific groups on the basis of their national, provincial or ethnic origin, and in this sense was *discriminatory*, none of what was said was so hateful, demeaning or degrading as to be considered to be *abusively* discriminatory.

More recently, in *CFMI-FM re the Brother Jake Morning Show* (CBSC Decision 00/01-0688, January 23, 2002), the B.C. Panel faced a recurring segment of the morning show featuring "Olaf" from "Humpmeanddumpmestein" who had a Scandinavian accent and frequently mispronounced words, resulting in double-entendres. The Panel determined that, in that case, the sketches could "be fairly understood as being a light-handed, non-malicious bit of humour" and stated

no negative comments are made about Olaf. Whatever humour there may be appears to be intended to flow from Olaf's exaggerated lexical and syntactical errors rather than from any characteristics of the individual or his presumed national or ethnic background. Indeed, the hosts converse in an amicable way with the character and nothing in the episodes aims to generalize negatively about people from Olaf's presumed ethnic origin.

[...]

Correspondingly, the Panel does not find that this representation of Olaf as a foreigner (or other segments featuring characters with Mexican, Spanish and other accents) was in breach of the Human Rights Clause of the *CAB Code of Ethics*.

While the foregoing decisions do not constitute the full list of adjudications on this point, they are representative of the Council's pertinent jurisprudence.

Stereotypes: A Special Problem?

The other significant concern of the complainant Association was the stereotyping of the Chinese community. The Panel does not dispute the Association's view that the hosts *stereotyped* the Chinese community by their use of a (bad) Chinese accent and by referring to Chinese restaurants, a component of most towns and cities, if not also villages, in this country. As in the case of discriminatory comment, however, the Panel does not consider that it is simply *any* stereotyping that will be in breach of the Human Rights Clause of the *CAB Code of Ethics*. It is only such stereotyping as can be reasonably viewed as abusive or unduly discriminatory. It is consequently difficult to

envisage circumstances in which the use of an accent will *on its own* be in breach of the Code. The use of an alien accent will require ancillary demeaning, degrading, harsh, nasty or negative commentary or association in order to be found in breach of the Code.

In the case under consideration by the Panel, none of that is present. At worst, the hosts have associated the Chinese community with a very successful offshoot of their tradition and culture, namely, their culinary expertise. While it is true that this is the only aspect of the immense and rich Chinese history that is emphasized, it is not a negative, demeaning or degrading aspect; in fact, some may view it positively. What the Panel finds most bothersome about the challenged broadcast is the mocking tone of the hosts, their “aren’t we superior?” attitude, their tastelessness. In the end, though, while the Panel finds nothing redeeming or amusing about the dialogue cited above, it finds nothing demeaning, degrading, harsh, nasty or remotely negative about the stereotyping and no breach of the Code in this case.

Broadcaster Responsiveness

In all CBSC decisions, the Regional Panels assess the broadcaster’s responsiveness to the complainant. Although the broadcaster need not agree with the complainant, it is expected that its representatives charged with replying to complaints will address the complainant’s concerns in a thorough and respectful manner. In this case, the Panel finds that the broadcaster’s response was, in this regard, entirely appropriate in that it addressed the specific points brought up by the complainant. The Panel considers that CFYI has met its responsiveness responsibilities of CBSC membership.

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

APPENDIX A**CBSC File 01/02-0279
CFYI-AM re *Scruff Connors and John Derringer Morning Show***

The following segment was broadcast by CFYI (Mojo, Toronto) on November 16, 2001 at approximately 8:15 am:

Derringer: [...] Now Scruff, we got a couple more things we want to do between now and nine o'clock including –

Connors: Calling the Afghanistani radio station.

Derringer: Yeah, it's Radio Afghanistan at thirteen-forty on your AM dial.

Connors: And basically this can serve as our audition for them. I mean, I'm sure they would have to like what we've done this morning.

Derringer: How could they not?

Connors: Yeah. Yeah. We have shown respect to the various ethnic communities.

Derringer: Yep [laughs]. You wanna give them a call?

Connors: Yeah, sure let's give them a call. 905?

[Person in background: 905-7]

Derringer: All right, let's call them right now.

Connors: Okay we'll give 'em a shout.

[Sound of dialling a touch-tone telephone.]

Derringer: I want this gig. I'm sick of this place.

Connors: Yeah.

Derringer: As much as I like Stew Meyers our boss.

Connors: Oh you, of course.

Derringer: No, I just can't work for him anymore. I'm ready to branch out.

[Sound of telephone ringing.]

Connors: Well, a new John Derringer? [laughter]

Derringer: No, it's time for me to expand my horizons.

Connors: Yeah, I wouldn't mind too. The two of us will do mornings over there.

Derringer: Mm hm. That'd be fine.

Connors: We can still do our afternoon stuff over here.

Derringer: I don't see why not. We'd just take the bus back and forth.

Connors: Sure.

Derringer: We could get Lobster Boy to drive us.

Lobster Boy: [in background] Sure.

Connors: That's what he's here for.

Derringer: Yep [laughter].

Connors: I guess they must be busy on the phone.

Derringer: What, did they buy their phones somewhere like Bulgaria?

Connors: Oh, sounds like we're going to get a machine.

Derringer: Yep.

Voice on answering machine: [female with Chinese accent] Thank you for calling the Fairchild Radio. [switches to Chinese]. For information in English, press 2. [switches to Chinese again].

[Sound of button being pressed; the message continues in Chinese.]

Derringer: Did you press the wrong one?

Connors: Oh. This is Chinese. I don't speak Chinese. I pressed the wrong one. [message continues in Chinese] Sure. Absolutely. Okay.

Voice: If you'd like to leave a message [Derringer hangs up].

Connors: Well I wanted to leave a message.

Derringer: Oh I'm sorry, do you want to leave a message?

Connors: Yeah. Absolutely.

Derringer: Okay. We'll leave a message.

Connors: How are they gonna know we want to do the show if you don't leave a message? [sound of re-dialling; laughter]. What, are they mind-readers? [laughs]

Derringer: Okay, we'll try it again.

Connors: Yes please. Geez John.

Derringer: Now do you want the English this time or do you want the –?

Connors: Well sure, let's find out what they were saying.

Derringer: What were they saying in Chinese?

Connors: Oh, they were saying "the lunch special today" [all laugh]. [continues in mock Chinese accent] "Chicken ball, chicken fried rice, uh, snow pea and noodle."

[Sound of dial tone]

Derringer: Oh yeah, they've had enough of us. We're just gonna try one more time here. [he re-dials again] Yeah okay, this is good.

Connors: Well, it's a great way to kill a couple of minutes. The listenership, I should tell ya, it's going to be a great day out there. Uh, slightly overcast, a mixture of sun and clouds today, highs of, uh, twenty-one, nice day to go to the horse track and see John's date. She's going to be running around four o'clock. Her name is Thunder Thighs.

Derringer: Twenty-one? What are you new? It's eight for today's high. [laughter]

Connors: Why, why do you always have to be negative? Make it positive.

[The answering machine at Fairchild Radio picks up again; one of the hosts presses the button for the language choice.]

Derringer: Okay, here we go. [message starts in Chinese again] Oh no, we did it again. Hold on. Hold on.

Connors: [interspersed between the message, as if he is translating] three ninety-nine ... all you can eat ... and a fortune cookie. [laughter]

Voice: If you'd like to leave a message, record it now.

Connors: Good. [in mock Chinese accent] Uh, I will speak English 'cause I know you can; I don't speak very good Chinese. [laughter] My name is Scruff Connor [sic] and I work with John Derringer. And we do morning show on Mojo [laughter]. We are interested in doing morning show for Afghanistani, Afghanistan radio. We have lot [sic] to offer and we can speak many many languages, as you can tell. Uh, I know Swedish: Hida hoodi, heeda, hyda hooni, heeni. I know German: Achtung. Uh, I know French: Bon soir. [he stops doing Chinese accent and makes it sound like a voice-over for a commercial] Yes and many many more. All this, twenty-five original languages, original people, John Derringer, Scruff Connors on one colossal tape. Only nine ninety-nine; tape or cassette eight ninety-nine available now at 1-800-267-3000 [laughter]. Thank you.

Voice: Thank you.

Connors: She liked it.

Derringer: I think she did.

Connors: If we don't get the job with that.

Derringer: We're shoo-ins. We've gotta be shoo-ins.

Connors: We can blow this place off.

Derringer: Oh yeah. Tweak, tweak, tweak.

Connors: I don't know, should we go there or should we stay here?

Derringer: I don't know.

APPENDIX B

CBSC File 01/02-0279 CFYI-AM re *Scruff Connors and John Derringer Morning Show*

I. The Complaint

The following complaint dated November 22, 2001 was sent to the CRTC and forwarded to the CBSC in due course:

RE: Racist Programming on MOJO Radio AM 640

As the Executive Director of the Chinese Canadian National Council (CCNC), Toronto Chapter I felt it my responsibility to call to your attention the damaging racist content aired on November 16th, 2001 between 8:15 am to 9:00 am from Toronto based radio station AM640.

MOJO Radio on AM640 has a regular morning show hosted by Scruff Connors and John Derringer. Apparently, as part of a hoax, the two hosts were attempting to phone an Afghan radio station while on air. Instead they reached the Fairchild Radio, a station that serves the Cantonese speaking communities in the Greater Toronto Area. Upon hearing the recorded voice of a woman speaking in Cantonese for the station's outgoing message, Scruff Connors and John Derringer began disseminating a series of derogatory sentiments directed against the Chinese-Canadian community.

Although not understanding a single word of Cantonese, he was arrogant enough to translate the woman's message. Using a bad imitation of a Chinese accent, Scruff Connors said on air: "The lunch special today? ... is chicken ball, chicken fried rice, snow pea, and noodle!" Both the malicious manner and sarcastically stereotypical content of Mr. Connors' segment indicate an obvious disrespect for Chinese-Canadian citizens. There is absolutely no explanations or excuses [*sic*] that could justify the denigration of an ethnic group to such slander.

After Fairchild Radio's telephone greeting ended, Mr. Connors proceeded to call the station back, as he felt the need to further insult Chinese speakers, as well as to befool the Swedish, German and French languages. Without any regard to the recent anti-Afghan political climate, Mr. Connors mockingly indicated to listeners and to Fairchild Radio his intentions of producing a radio show for the Afghan community, of whom he has displayed no consideration towards in this particular segment.

The Chinese Canadian community is one of the largest ethnic groups in the country (Statistics Canada, 1994:22), with over two thirds of the population in Toronto and Vancouver. We are Canadian citizens from all walks of life who have contributed generously to the social, cultural, economic and political fabric of our society. Contrary to the racist perceptions of individuals such as Mr. Connors, we are not people who warrant being reduced to stereotypical accents and cuisine.

Toronto Chapter of the CCNC is part of a national organization with the mandate of promoting the rights of all individuals and respect for diversity by conducting activities in the areas of public education, advocacy, community development and anti-racism and

anti-discrimination. The CCNC has thirty chapters across the country, including eleven in Ontario. We are deeply concerned about this abusive attack on the community we represent, and demand that MOJO Radio AM640 station be held accountable for their blatantly racist programming. Since CRTC has been mandated to maintaining the highest levels of radio and television broadcasting throughout this country, it is therefore your responsibility to act promptly on this serious matter. To begin with, we require Scruff Connors and John Derringer to publicly apologize to the ethnic communities denigrated during their on-air racial attack. We implore the CRTC to apply and enforce its anti-racist, anti-discriminatory code of programming towards AM640.

We trust that the CRTC will investigate this issue promptly and effectively, and we request that you do not simply divert this matter to the Canadian Broadcast Standards Council. In the meantime we will continue to monitor this station and anticipate your response.

II. Broadcaster Response

The Operations Manager of CFYI-AM responded to the complainant's letter on January 8, 2002 with the following:

The Canadian Broadcast Standards Council ("CBSC") has asked us to respond to your letter dated November 22, 2001. In your letter, you expressed concern regarding some of the content ("Segment") aired on MOJO Radio, AM 640 ("Mojo Radio") on the morning of November 16, 2001.

As you know, Mojo Radio is a talk radio station that directs its programming fare to a male audience between the ages of twenty-five to fifty-four years. Its programming format is diverse and covers topics that range from health and fitness, sex, sports, computers, career, business, law, money, gadgets, cars, and beer, all presented in a comedic style. Our daily programming consists of current pop-culture subjects, issues and current affairs phone-in shows. We believe our programming is an intelligent yet, sometimes irreverent alternative to much of the mainstream talk shows available in this market, as they offer frank and open debate on diverse and often controversial issues.

Our producers and hosts are extremely sensitive to the substance of the various topics presented on the Station, at the same time ensuring the comedic presentation is not compromised. In your e-mail, you stated that the exchange between hosts John Derringer and Scruff Connors [*sic*] in relation to a Chinese radio station was racist and that they disseminated a "series of derogatory sentiments directed against the Chinese Canadian community", and "utilized stereotypical accents".

The CBSC, in previous decisions, has clarified that "it is not *any* reference to "race, national or ethnic origin, religion, age, sex, marital status or physical or mental handicap" but rather those which contain "abusive or discriminatory material or comment based on the foregoing which will be sanctioned."¹

In a subsequent decision, the CBSC noted that "the question, of course, is to determine which 'ethnic' 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 ... What may constitute the limits of acceptability in each challenged case will need to be appreciated in its context.”²

The CBSC “believes that it is essential to draw a distinction between a broadcast which is *intended* to be serious or at least leaves the impression that it intends to be serious and one which *clearly* does not. It is not that the *standard* to be applied to the potentially offending statement will be different. It is rather the question of audience perception ... The situation is different where the context is clearly comedic. After all, where the audience is given reason to expect that the substance of the comments made is serious, their attitude could *reasonably* be expected to be different. A remark which might reasonably be assessed as abusive in a serious context and thus in breach of the *Code of Ethics* may not be so viewed in the comedic environment. Furthermore, 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.”³

We regret that you found the Segment disturbing or in poor taste. However, the Canadian Association of Broadcasters codes (“Codes”) clarify that “the broadcaster’s programming responsibility does not extend to questions of good taste.”⁴ The CBSC applies current social norms in its interpretation of the Codes and has noted that where the programming is directed to an adult audience, “there is no overriding societal interest in curtailing the broadcaster’s right to freedom of expression” and that in those circumstances, “crude and vulgar language” should be “regulated in the same way as other matters of taste, i.e. via the on/off or dial button.”⁵

In this instance, we believe that while the Segment may not have been in good taste, in the comedic context that it was presented, it was not an abusive comment that was racist or discriminatory. Please be assured that we do not condone racism of any sort on Mojo Radio. The host was utilizing “impressionism”, a comedic tool, not unlike many skits that have been performed by casts of NBC’s “*Saturday Night Live*” or the CBC’s “*This Hour Has 22 Minutes*”. In addition, the humour in the Segment was not intended to position any ethnic, cultural or religious group as inherently predispositioned or prone to a particular type of behaviour or stereotype. In fact, and as noted in your letter, the humorous portrayal was also directed at the Swedish, German and French languages.

Please be assured that we take our responsibilities as a broadcaster very seriously. At Mojo Radio, we work to ensure all our programming complies with the Broadcasting Act, the Radio Regulations and the Codes and standards expected of us as a member of the CBSC.

We trust that the foregoing responds to the concerns raised in your letter regarding the Program and the Station. At Mojo Radio, we recognize the importance of listener feedback and appreciate all comments. We appreciate the time and effort you have taken to listen to our programming and to provide your comments and concerns.

¹CKVR-TV re Just for Laughs (CBSC Decision 94/95-0005, August 23, 1995).

²CKTF-FM re Voix d’Accès (CBSC Decision 93/94-0213, December 6, 1995).

³CHUM-FM re Sunday Funnies (CBSC Decision 95/96-0064, March 26, 1996).

⁴Clause 1 – CAB Code of Ethics Commentary

⁵CIQC-AM re Galganov in the Morning (CBSC Decision 97/98-0473, August 14, 1998).

The complainant returned his signed Ruling Request form on February 22.