
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL PANEL**

CISS-FM re an Italian-language promotional spot

(CBSC Decision 02/03-0180)

Decided May 2, 2003

R. Stanbury (Chair), R. Cohen (*ad hoc*), H. Hassan, M. Maheu and M. Oldfield

M. Ziniak, Vice-Chair of the Ontario Panel, did not participate in this decision since she is employed by a station owned by the same corporate group as the station in question here.

THE FACTS

CISS-FM (KISS 92.5, Toronto) is an English-language radio station. On October 10, 2002 at approximately 4:30 pm, it broadcast a promotional spot for the station in the Italian language. The promo in Italian was as follows:

Ciao, io sono Mike di Woodbridge, io amo KISS 95, è la mia stazione preferita, suona la musica migliore, i migliori premi, i migliori deejays come Mad Dog e Billie, Tarzan Dan, Josie, Axel, DJX and Kid Carson, non come quelle stazioni di merda, come 103.5 oppure 93.5, quelle stazioni dovrebbero prender un martello e ficasselo nel culo.

The CBSC had the segment translated by an independent professional translator. A transcript of that translation reads:

Hi, I'm Mike from Woodbridge, I love KISS 95, it's my favourite station, it plays the best music, [has] the best prizes, the best deejays like Mad Dog and Billie, Tarzan Dan, Josie, Axel, DJX and Kid Carson, not like those shit stations such as 103.5 or 93.5, those stations should take a hammer and shove it up their arse.

The CBSC received a total of four complaints about this or similar content in Italian aired on the station. Only one of these complainants, however, filed a Ruling Request entitling the CBSC to pursue her complaint (the full text of that letter and other correspondence related to this file can be found in the Appendix to this decision). Explaining in the original

complaint (of October 11) that this was the first complaint she had ever written, the listener wrote that she “could not believe that a radio station that a lot of our young kids listen to would use such coarse language at that time of day.” She mentioned the use of the words or phrases “merda” and “putting things up your ‘culo””, but indicated that one would have to hear it “to really appreciate how vulgar it was.” She stated that she tried to teach her children not to use such language and was consequently frustrated by the fact that they end up in any event hearing it on their favourite radio station. She also questioned whether the station managers thought it was less offensive because it was directed at Toronto’s Italian community.

The Vice-President and General Manager of CISS-FM responded to this complainant on November 19. He explained that the segment in question was “a pre-produced comedy programming segment involving a fictional character named ‘Mike’. [...] Mike speaks in Italian and uses Italian phrases when comparing KISS 92 FIVE to other stations in Toronto. Our intention in producing this segment was to entertain our listeners. At all times, the segment was meant to be humorous and light-hearted.” He went on to write that CISS-FM’s primary audience consists of listeners ages 12 to 34 and that the station aims to provide “connection and interaction” with its audience. He indicated that CISS-FM tries “to balance the programming interests of [its] listeners with the standards of the community as a whole,” but that they know their programming will not be to everyone’s taste. He stated that it was not their intention to negatively portray members of the Italian community and apologized for any inconvenience or frustration the station may have caused.

THE DECISION

The Ontario Regional Panel examined the broadcasts under the following provisions of the Canadian Association of Broadcasters= (CAB) *Code of Ethics*:

Clause 2 – Human Rights

Recognizing that every person has the right to full and equal recognition and to enjoy certain fundamental rights and freedoms, broadcasters shall ensure that their programming contains no abusive or unduly 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 disability.

Clause 9 – Radio Broadcasting

Recognizing that radio is a local medium and, consequently, reflective of local community standards, programming broadcast on a local radio station shall take into consideration the generally recognized access to programming content available in the market, the demographic composition of the station’s audience, and the station’s format. Within this context, particular care shall be taken by radio broadcasters to ensure that programming on their stations does not contain:

- a) Gratuitous violence in any form, or otherwise sanction, promote or glamorize violence
- b) Unduly sexually explicit material; and/or
- c) Unduly coarse and offensive language.

The Ontario Regional Panel reviewed all the correspondence, listened to a tape of the segment in question and read the translated transcript. The Panel concludes that the content is very much on the edge of acceptability, but it finds no breach of either Code provision.

Coarse and Offensive Language

The CBSC has frequently been called upon to deal with coarse and offensive language. It has recognized that certain admittedly coarse words present no Code problem, even if broadcast at times of the day when children could reasonably be expected to be listening to the radio. Terms such as “damn” and “Goddamit”, “crap” and “ass”, “Life’s a Bitch”, and “kick-ass” and “son-of-a-bitch” have been found crude, vulgar, tasteless or the like but not a Code breach [see, among others, *CFRA-AM re Steve Madely* (CBSC Decision 93/94-0295, November 15, 1994), *CHAN-TV re Sportscastr* (CBSC Decision 95/96-0108, December 18, 1996), *CIRK-FM re T-Shirt Promotion Spot* (CBSC Decision 96/97-0206, December 16, 1997) and *CIQC-AM re Galganov in the Morning* (CBSC Decision 97/98-0473, August 14, 1998)]. Certain others, most notably the f-word and its derivatives have, in the past, presented a problem when broadcast in such time periods [see, among others, *CIOX-FM re the songs “Livin’ It Up” by Limp Bizkit and “Outside” by Aaron Lewis and Fred Durst* (CBSC Decision 00/01-0670, June 28, 2001), *Showcase Television re the movie Destiny to Order* (CBSC Decision 00/01-0715, January 16, 2002), *WTN re the movie Wildcats* (CBSC Decision 00/01-0964, January 16, 2002) and *Comedy Network re an episode of Gutterball Alley* (CBSC Decision 01/02-0450 & 01/02-0481, September 13, 2002)]. In one recent decision, namely, *CIRK-FM re K-Rock Morning Show* (CBSC Decision 01/02-0713 & -1113, February 5, 2003), the Prairie Regional Panel concluded that the word “shit” as used in that case was inappropriate for times of the day when children could be listening.

In the broadcast at hand, the on-air announcer used the word as an insult, albeit an undirected insult, and this in the context of a hypothetical scenario. The phrase “piece of shit” was not focussed on any particular politician, but rather reflected the host's view of politicians in general. Nevertheless, the coarse word was applied intentionally and in a derogatory way. The Panel considers such a usage sufficiently severe as to conclude that its use at times of the day when children could be expected to be listening constitutes a breach of Clause 6, paragraph 3 of the *CAB Code of Ethics*, the provision that the CBSC currently uses to deal with complaints about coarse language.

With the adoption of the new Clause 9 in the *CAB Code of Ethics* (as of August 1, 2002), the Panel will no longer need to refer to the times of day when children could be listening. The new clause includes no such limiting temporal reference and it will be up to CBSC Panels to determine the meaning of the term “unduly coarse and offensive language.”

On this occasion, the Panel has been influenced by several factors. The first of these is the context of the word's use. In the K-Rock decision, "the coarse word was applied intentionally and in a derogatory way." On CISS-FM it was not. The Panel finds the broadcaster's explanation that "the segment was meant to be humorous and light-hearted" entirely plausible. While it is true that it takes aim at two competitive stations, it does so on a tongue-in-cheek, not a barbed, basis. The gibes are friendly, not vituperative. Second, since the spot is in a foreign language, the actual meaning of the words spoken will have been missed by the vast majority of the audience. While this would not serve as an absolute defence to words that would otherwise fall afoul of the Codes, these words do not and the Panel is at least comforted by the fact that fewer people will have been offended by the coarseness of the language. Third, the Panel finds the urban setting for the broadcast of the comments a more acceptable environment than, say, a smaller city or town.

On balance, the Panel considers the promotional spot coarse, crass, vulgar and on the threshold of unacceptability. It does not, however, conclude that the version aired here falls to the level of *unduly* coarse and offensive language. Consequently, it finds no breach of Clause 9 of the *CAB Code of Ethics*.

Representation of Italians

Although the one complainant who filed her Ruling Request did not go into detail about her concerns that the segment was "directed at Toronto's Italian community", the other letters received by the CBSC clearly expressed their complaints that the segments negatively stereotype Italians. The Ontario Regional Panel thus considers it appropriate to deal briefly with this aspect of the segment in this decision.

There cannot be, to begin, any discriminatory comment based upon the simple use of Italian, or any other language. At the very least, there would need to be an additional element, such as negative stereotypical commentary, in order for the use of a language to amount to the breach of Clause 2 of the *CAB Code of Ethics*. In the view of the Panel, there is nothing in the substance of the words spoken that would make them remotely related to the Italian community but for the obvious fact that they were spoken in that language. Had they, for example, been uttered in Polish, Hebrew, Japanese or any other language, their substance would have no more been connected to those cultures than it is to Italian culture here. Moreover, since, as noted above, the words in English translation are considered coarse but not unduly so, their broadcast is not in any event in violation of Clause 9 of the *CAB Code of Ethics*. In such circumstances, it would not be logical to find that otherwise compliant terms would be converted into a state of non-compliance (under Clause 2) by reason of their mere enunciation in another language. The Panel finds no breach here.

Broadcaster Responsiveness

As a component of every adjudication, the CBSC evaluates the broadcaster's dialogue with the complainant. In addition to the objective membership requirement of the CBSC Manual, it is part of the reasonable expectation of any individual taking the time and making the effort of registering his or her concern about a broadcast that the broadcaster will make its corresponding effort to reply. After all, the broadcaster uses the airwaves it exploits under licence and, unless the individual is clearly not expressing a genuine concern in registering the complaint, it is fair that the audience concern begets the broadcaster's response. In this case, the Vice President and General Manager of CISS-FM has carefully fulfilled his responsibility. Nothing more is required on this occasion.

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

CBSC File 02/03-0180 CISS-FM re an Italian-language promotional spot

The Complaint

The following complaint dated October 11, 2002 was sent to the CRTC and forwarded to the CBSC in due course:

Dear Sir:

This is the first letter I have ever written about a thing I heard on KISS92 FM in Toronto yesterday just after 4:30 pm. I could not believe that a radio station that a lot of our young kids listen to would use such coarse language at that time of day. Then my kids said that they had already done it another 4 or 5 times the same day.

They were saying "merda" and putting things up your "culo". You would have to hear it way [*sic*] it was said to really appreciate how vulgar it was. I take a lot of time and effort to teach my kids right from wrong and never to use such language because it is not acceptable. Only for them to hear it their favourite radio station?

I am disgusted and appalled. Don't the people who run this station also have family? Or do they think it was less offensive or it does not matter because it was directed at Toronto's Italian community.

I want to know what I can do to prevent this thing from happening again.

Broadcaster Response

The broadcaster responded to the complainant's letter on November 19 with the following:

We are in receipt of your e-mail complaint to the CRTC regarding a radio programming segment that was broadcast on KISS 92 FIVE on the morning of October 10, 2002.

We are in receipt of your letter to the CRTC, dated October 11, 2002, regarding a programming segment that was aired on the afternoon of October 10. The CRTC forwarded your e-mail to the Canadian Broadcast Standards Council (CBSC) who then forwarded it to us for our response. We certainly appreciate the opportunity to address your concerns and respond to your complaint directly.

On the afternoon in question, the KISS 92 FIVE morning team broadcast a pre-produced comedy programming segment involving a fictional character named "Mike". In the segment, Mike speaks in Italian and uses Italian phrases when comparing KISS 92 FIVE to other stations in Toronto. Our intention in producing this segment was to entertain our listeners. At all times, the segment was meant to be humorous and light-hearted.

KISS 92 FIVE is a station that attracts radio listeners from a wide audience of mostly young people between the ages of 12 and 34. Our programming approach is focused on a connection and interaction with our audience. They tune in to our station not only to hear the very best in Top 40 music programming, but also to keep in touch with the local issues and concerns that are of particular interest to them. Although we do try to balance the programming interests of our listeners with the standards of the community as a whole, we know that programming on KISS 92 FIVE will never be to everyone's taste.

We regret that you found our programming segment on the morning of October 10th to be inappropriate. Please understand that it was never our intention to offend or embarrass you in any way, nor was it our intention to negatively portray members of the Toronto Italian community. We sincerely apologize for any inconvenience or frustration we may have caused.

Thank you for taking the time to comment and for allowing us the opportunity to respond to your concerns. I hope that we have addressed your concerns. We appreciate the opportunity to address your concerns and respond to your complaint directly. Please do not hesitate to contact us again to further discuss this issue. We assure you that any further comments would be attended to in a much more expeditious manner.

The complainant returned her Ruling Request form in November.