
**CANADIAN BROADCAST STANDARDS COUNCIL
PRAIRIE REGIONAL PANEL**

CJKR-FM re the song "Kill All the White Man" by NOFX

(CBSC Decision 04/05-0612)

Decided June 2, 2005

V. Cownden, D. Dobbie, V. Dubois, J. Fong, K. Johnston

THE FACTS

The song entitled "Kill All the White Man" by the punk band NOFX was broadcast on CJKR-FM (Power 97, Winnipeg) during its *Punk-O-Rama* program at approximately 11:15 pm on November 19, 2004. The first part of the song has a reggae beat, while the latter part has a more hard-rock/punk style. The lyrics to the song are as follows:

Oh yeah, oh yeah
Kill all the white man
Oh yeah, oh yeah
Kill all the white man

The white man call himself civilized
'Cause he know how to take over
The white man come to pillage my village
Now he tell me I have to bend over

Oh yeah, oh yeah
Kill all the white man
Oh, oh, oh, oh yeah, oh yeah
Kill all the white man

No I do not I like the white man up in me
He rape all my people as he rape my country
Everything I love and cherish, he try to take away
We will be rid of him, soon come the day

Oh yeah, oh yeah
Kill all the white man

Oh, oh, oh, oh, oh yeah, oh yeah
Kill all the white man

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On November 20, a listener complained to the Canadian Radio-television and Telecommunications Commission (CRTC), which forwarded the complaint to the CBSC in due course. The listener noted the date and time of the broadcast, provided a copy of the lyrics, and described his concerns as follows (the full text of all correspondence can be found in the Appendix):

I'm usually a fan and frequent listener of Power 97 but I've heard this song before and I find it needlessly offensive, racist and sexist. I do not think it is ever appropriate to play this particular song in a public setting, at any hour of the day, especially on a public radio station.

I am a Caucasian male or "white man" if you like and I'm offended by the notion that racism is ok as long as it's directed at Caucasian males. I'm fully aware that the members of the band NOFX are all "white men" and the song is still not funny in the least to me. (The word Vaudevillian springs to mind.).

I should not have to endure this kind of behaviour just as no one in this country should have to endure it.

Power 97's Program Director replied to the complainant on December 2 and explained the station's decision to air the song in question:

As you know, *Punk-O-Rama*, like many other music radio shows, can sometimes be controversial in nature. It attracts listeners, in particular adults in the 18-34 age category, from a wide variety of listener backgrounds including young professionals, blue and white collar workers and university and college students, looking for something different musically. *Punk-O-Rama* draws from the mainstream and underground scene, and wouldn't garner acceptance from fans of that style of music in Winnipeg if it didn't.

More specifically, you suggested that "Kill All The White Man" from NOFX was discriminatory. That song was played on the show because it is one of NOFX's more popular songs. The show in question was dedicated to the release of

NOFX's greatest hits release, and this song can be found on that album. It was the understanding of the host of the show that the song was satirical in nature.

We regret that the song in question offended you or that you felt that it was discriminatory. Please be assured that at Power 97, it has never been our policy to discriminate against any group or segment. Moreover, the CBSC has acknowledged that a program "will not be everyone's 'cup of tea' and it assumes that some members of society would be offended [...] *That* is not, however, the criterion by which the program must be judged." In previous decisions, the CBSC 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." The CBSC has noted, "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."

Notwithstanding the foregoing, we deeply regret that the Program offended you, for that was certainly not the intent. We have reviewed your concerns internally and, since receiving your letter, we have had discussions with the Program hosts about appropriate on-air content and will continue to exercise diligence on such matters. Please be assured that we take our responsibilities as a broadcaster seriously. Our producers and hosts are sensitive to the substance of the various topics presented on Power 97 and we work to ensure all our programming complies with the *Broadcasting Act*, the *Radio Regulations* and the Code and standards required of us as a member of the CBSC.

The complainant submitted his Ruling Request on December 6 with the following note:

I was not offended by the program *Punk-O-Rama* (It is in fact "my cup of tea"). I was offended by the song entitled "Kill All the White Man" which I found racist (not merely discriminatory). I would be completely happy with a promise not to play that particular song any more. That is all I really want. Not fines, not penalties, not firing anyone. Just don't play that one song. It's an obscure song from a non-mainstream band and it wouldn't hurt the station in the least if it were not aired anymore. Thank you.

THE DECISION

The Prairie Regional Panel examined the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics*:

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.

CAB Code of Ethics, 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.

The Prairie Panel concludes that CJKR-FM did not violate Clause 2 but did violate Clause 9 (a) in its broadcast of the song in question.

Abusive or Unduly Discriminatory Comment vs. Political Commentary

With respect to the Human Rights issue, the Panel does not read the lyrics of "Kill All the White Man" as unduly discriminatory at all; rather, it understands them as political commentary, essentially a criticism of the imperialist attitude of the Caucasian race, alleged by the songwriter and, presumably, the performers. Expressions such as "he know how to take over", "come to pillage my village", "he tell me I have to bend over", "He rape all my people as he rape my country", and "Everything I love and cherish, he try to take away" are all examples of such commentary. And the CBSC has consistently defended commentary on political matters as opposed to identifiable groups as falling squarely within the protected area of speech. Examples of such decisions follow.

Although, in *CHOM-FM and CILQ-FM re the Howard Stern Show* (CBSC Decision 97/98-0001+, October 17-18, 1997), the Quebec and Ontario Regional Panels jointly concluded that the September 1997 broadcasts of *The Howard Stern Show* contravened the *CAB Code of Ethics* and *CAB Sex-Role Portrayal Code*, they did distinguish between Stern's comments about identifiable groups and his comments about political issues. They did not conclude, for example, that the comments relating to the state of radio in Canada, the use of English in Quebec, the value of French culture, the role of the vanquished French in Vichy France and Quebec separatism were in violation of any Code provisions. When, in *CFRA-AM and CHRO-TV re The Lowell Green Show* (CBSC Decisions 98/99-0157, -0158 and -0177, June 17, 1999), the Ontario Regional Panel dealt with a talk-show host's comments on a third party issue, namely, controversial sentencing decision by an Ontario judge which ordered no jail-time to a woman who had killed her husband while he was sleeping, it concluded:

[T]here is no doubt that Green is attacking the criminal court in question, if not the justice system as a whole, for making the controversial decision and, in at least equal measure, the feminist political activists, to whom he refers as "femi-Nazis", for having lobbied for it. There can be no doubt that he is critical of that

political position of certain feminists, not on the grounds that they are women, but on the grounds of the political view which they hold. The former would not be fair game. The latter is.

In *CJOB re the “Adler on Line” and “Afternoons with Larry Updike” Talk Shows* (CBSC Decision 99/00-0092, May 5, 2000), the hosts and callers to the show commented on the role of First Nations Chiefs in a demonstration at the Manitoba Legislature, as well as on other general issues relating to the First Nations. In a detailed letter of complaint, the Grand Chief of the Assembly of Manitoba Chiefs alleged that certain statements made by the hosts and the callers promoted hatred against aboriginals. The Prairie Regional Panel drew the distinction between the issue of political commentary and that relating to the identifiable group itself and found no Code breach, stating that “those who choose to govern the reserves are not, on account of their racial or national origin, thereby removed from the critical optics of the media”:

Those who occupy positions of power on the reserves may legitimately be described, on account of the decisions which they make, as “boneheads” or “intellectually moribund” by opinion-holders in the media. As Charles Adler was quoted as saying in the News and Program Director’s letter, “I have never said the ordinary native is intellectually moribund.” Had he taken *that* position, the attitude of this Council would likely have been different. In the circumstances of these criticisms, the Council can only consider them fair political commentary, which is unrelated to anyone by reason of his membership in any of the identifiable minorities entitled to protection under Clause 2 of the *CAB Code of Ethics*.

In a more controversial program (on the subject of the Israeli-Palestinian conflict), dealt with in *CKTB-AM re the John Michael Show (Middle East Commentary)* (CBSC Decision 01/02-0651, June 7, 2002), the Ontario Regional Panel explained the difference between the range of acceptable and unacceptable points of discussion in the following language:

There is a fine but essential line to be drawn between comments which are unduly discriminatory and those which simply constitute political commentary or the discussion of controversial public issues. The former are in violation of the private broadcasters’ codified standards. The latter are not. Moreover, it is of the essence of statements that are political that the point of view expressed need not be popular. While democracy is a numbers game in the election of lawmakers, it is not that in the marketplace of ideas. The freedom of expression which flows from the nature of a stable and mature democracy protects the enunciation of minority, even unpopular, ideas.

In the matter at hand, the issue is similar to the above-cited precedents. Moreover, neither the fact that the comments are made by *white* entertainers about white imperialists nor their self-critical nature either justifies or exacerbates the comments. The creators’ racially self-critical comments are fair enough. No breach of any Code provision would occur on that account. Nor does any Code-related predicament arise from the speculative prediction that “We will be rid of

him, soon come the day.” The Panel finds no breach of the Human Rights clause in the words of the song.

Promotion of Violence

While the Panel finds no Code breach in the words cited above, it concludes very differently with respect to the exhortation “Kill all the white man” for purposes of the radio broadcast of the challenged song. The Panel’s observations are made with respect to the *broadcast* of the song and not in any way with respect to its availability for sale elsewhere. The Panel’s concerns relate solely to the standards it is responsible to apply pursuant to the various Codes it administers on behalf of private broadcasters. In this connection, it relies in particular on the language contained in Clause 9(a) of the *CAB Code of Ethics*, which provides that “particular care shall be taken by radio broadcasters to ensure that programming on their stations does not [...] sanction, promote or glamorize violence.” The “solution” to the ills described above is “Kill all the white man.” Moreover, if the sentence is not in and of itself sufficiently unequivocal, the line is repeated no less than 23 times. It is, in a sense, a material magnification of the language that was the subject of the adjudication in *CIOX-FM re a song entitled “Boyz in the Hood”* (CBSC Decision 99/00-0619, October 12, 2000). In that case, which dealt with issues relating to violence against women that are not pertinent here, the Ontario Regional Panel made an important point regarding the issue of the song creators’ intention, which the Prairie Panel considers applicable by analogy in the matter at hand.

Whether the intention of the song is serious or satirical, the Council finds that the lyrics, in their sanctioning, promotion or glamorizing of violence against women, constitute abusive commentary on the basis of gender and are insensitive to the dangers of stereotyping generally and to the exploitative linking of sexual and violent elements in dealing with women.

The Panel concludes that, although the underlying political message of the song is in keeping with the goals of the principle of freedom of expression, its proposed solution is in breach of Clause 9(a) of the *CAB Code of Ethics*.

Broadcaster Responsiveness

In all CBSC decisions, the Council’s 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 the matter at hand, the broadcaster’s reply was generic but fulsome and it did touch on the issue of discrimination, which was a principal concern of the complainant. As this decision makes clear, the Prairie Regional Panel does not find the discriminatory aspect of the song to be problematic but

rather the violent component of the song. In any event, the Panel considers that the broadcaster has fulfilled its obligation of responsiveness in this instance.

ANNOUNCEMENT OF THE DECISION

CJKR-FM is required to: 1) announce the decision, in the following terms, once during peak listening hours within three days following the release of this decision and once more within seven days following the release of this decision during the time period in which the song "Kill All the White Man" by NOFX was broadcast; 2) within the fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the statement to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by CJKR-FM.

The Canadian Broadcast Standards Council has found that CJKR-FM has breached the Canadian Association of Broadcasters' *Code of Ethics* in its broadcast of the song "Kill All the White Man" by NOFX on November 19, 2004. The CBSC found that the repetition of the title lyric constituted the promotion or sanctioning of violence contrary to Clause 9(a) of the Code.

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

APPENDIX

CBSC Decision 04/05-0612 CJKR-FM re the song "Kill All the White Man" by NOFX

The Complaint

The following complaint was sent to the CRTC on November 20, 2004 and forwarded to the CBSC in due course:

On Friday November 19th, at 11:15 pm (Central Time) the Winnipeg radio station Power 97 (97.5fm) played a song by the punk band NOFX as part of their *Punk-O-Rama* show. This particular song was entitled "Kill All The White Man". The lyrics are attached below.

I'm usually a fan and frequent listener of Power 97 but I've heard this song before and I find it needlessly offensive, racist and sexist. I do not think it is ever appropriate to play this particular song in a public setting, at any hour of the day, especially on a public radio station.

I am a caucasian male or "white man" if you like and I'm offended by the notion that racism is ok as long as it's directed at caucasian males. I'm fully aware that the members of the band NOFX are all "white men" and the song is still not funny in the least to me. (The word Vaudevillian springs to mind.).

I should not have to endure this kind of behaviour just as no one in this country should have to endure it.

"KILL ALL THE WHITE MAN"

The white man call himself civilized
Cause he know how to take over
The white man come to pillage my village
Now he tell me I have to bend over

Oh yeah, kill all the white man

No I don't like the white man up in me
He rape my people as he rape my country
Everything I love and cherish, he try to take away
We will be rid of him, soon come the day

Oh yeah, kill all the white man

Broadcaster Response

The broadcaster responded on December 2:

The Canadian Broadcast Standards Council ("CBSC") has asked us to respond to your letter

of Saturday, November, 20, 2004 where you raised concerns regarding a song by NOFX played during *Punk-O-Rama* that aired on Friday, November, 19th, 2004, at 11:15pm on Power 97 (CJKR-FM).

As you know, *Punk-O-Rama*, like many other music radio shows can sometimes be controversial in nature. It attracts listeners, in particular adults in the 18-34 age category, from a wide variety of listener backgrounds including young professionals, blue and white collar workers and university and college students, looking for something different musically. *Punk-O-Rama* draws from the mainstream and underground scene, and wouldn't garner acceptance from fans of that style of music in Winnipeg if it didn't.

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We trust the foregoing responds to the concerns you raised in your letter regarding the Program. At Power 97, we recognize the importance of listener feedback and appreciate all comments. We thank you for taking the time and initiative to share your concerns with us.

¹*CFJP-TV (TQS) re "Quand l'amour est gai"* (CBSC Decision 94/95-0204, December 6, 1995).

²*CKVR-TV re Just for Laughs* (CBSC Decision 94/95-0005, August 23, 1995).

³*CFYI-AM re Scruff Connors and John Derringer Morning Show* (CBSC Decision 01/02-0279, June 7, 2002)

Additional Correspondence

The complainant returned his Ruling Request form on December 6 with the following note:

I was not offended by the program *Punk-O-Rama* (It is in fact "my cup of tea"). I was offended by the song entitled "Kill All the White Man" which I found racist (not merely

discriminatory). I would be completely happy with a promise not to play that particular song any more. That is all I really want. Not fines, not penalties, not firing anyone. Just don't play that one song. It's an obscure song from a non-mainstream band and it wouldn't hurt the station in the least if it were not aired anymore. Thank you.