
**CANADIAN BROADCAST STANDARDS COUNCIL
QUEBEC REGIONAL PANEL**

CKOI-FM re a segment by Cathy Gauthier on *Fun Radio*

(CBSC Decision 04/05-1729)

Decided September 9, 2005

G. Bachand (Chair), L. Baillargeon, R. Cohen (*ad hoc*), B. Gu  rin, M.-A. Murat

THE FACTS

CKOI-FM (96.9, Montreal) broadcasts the program *Fun Radio* (hosted by Virginie Coossa, Cathy Gauthier, Charles Lafortune et Dominic Paquet) weekdays from 4:00 to 6:00 pm. On June 22, 2005 at approximately 5:10 pm, the host/comedienne Cathy Gauthier performed a comedic segment in which she discussed “things which she was a bit ashamed to admit”. Among other things, she confessed that she was not able to tell Asian people apart. Her commentary, with interjections from her co-hosts, then continued as follows (the full transcript of her remarks can be found in Appendix A, available in French only):

[translation]

Gauthier: There's something else I'm a bit ashamed of and that is that I can't differentiate Asians. You know, I read in a newspaper not long ago that a little Chinese girl had disappeared. I'd like to find her, but I can't because I don't know what the difference is between, um, you know, between a Chinese, a Japanese, a Korean, a Thai. I don't know; it's all the same to me. So, I don't take any chances when I see an Asian on the street that looks like, that is only so tall, I just yell “Kim! Your mother is looking for you!” [laughter from the hosts]. “Your modder looking for you! [pseudo-Asian onomatopoeias]” [laughter from the hosts]. There are many Asians in my neighbourhood, and I know why they're small. It's because they have no room to grow. There's like thirteen of them in a studio apartment; it's ridiculous. Four of them have to go out on the balcony just so they can open the fridge door. It's pretty bad. Those Asians, I don't want to take issue with them, but I think they're taking over the world.

- Lafortune: Yes, indeed.
- Coossa: Look, we already know that.
- Gauthier: If you want your kids to have a future, they absolutely must learn to speak Chinese. Because here now, they're coming in via Québec, and they're coming in by way of, um, Vancouver, and they're going to keep chipping away, chipping away, chipping away, because they reproduce quickly those little critters. But, they will keep chipping away, chipping away, chipping away, until they meet up in Saskatchewan. And I swear to you that in a hundred years, the country will be called "Lakanadaï" [laughter from the hosts]. And that was it.
- Lafortune: And we're sending out greetings to all the young Brossards who, um, --
- Gauthier: Oh oh.
- Lafortune: -- who have tuned in.
- Coossa: That was the international portion of the show.
- Lafortune: Because we've got [?] with Li-Wan.

It was the preceding portion of Mme Gauthier's commentary that concerned a listener, who filed a complaint on the same date of the broadcast. The relevant portions of that complaint are as follows (the full text of all correspondence can be found in Appendix B, available in French only):

[translation]

In a prepared segment similar to a monologue, a woman made hateful remarks about a visible minority for several minutes.

[...]

These remarks are unacceptable. A radio licence comes with a civil responsibility. A mockery has been made of the fundamental respect for human rights and this type of comment has real and serious social repercussions.

I therefore ask that you consider my complaint with care and that you take the disciplinary action provided by the law.

The broadcaster responded to the complainant on July 12:

[translation]

As you know, CKOI-FM broadcasts music shows and also features commentary and discussion programs on various issues, some of which are considered controversial. Like many radio shows, the program you refer to may be controversial and not for everyone's taste. In your letter, you raise concerns about comments made by a host and we regret that her comments offended you.

Be assured, however, that the host used this language in a caricatured fashion without any connotation of real hate, racism or hostility.

We understand that hosts sometimes use terms that do not suit the tastes of certain listeners. Taste is an extremely subjective element and relative to the point of view of an individual. The Canadian Association of Broadcasters' *Code of Ethics* ("The Code"), which is administered by the Canadian Broadcast Standards Council ("CBSC"), provides that "the broadcasters' programming responsibility does not extend to questions of good taste."⁽¹⁾ The CBSC applies current social norms in its interpretation of the Code. The Council 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."⁽²⁾ 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."⁽³⁾ The CBSC has stressed that "to exceed that norm there will need to be evidence of harsh language or imagery, nastiness [...] utter insensitivity or the like."⁽⁴⁾

In a subsequent decision, the CBSC noted that it must be determined which 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.⁽⁵⁾

Please be assured that the host's comments were not aimed at discriminating in any fashion against an individual or a group. In fact, we do not tolerate discrimination of any kind on our airwaves.

We have reviewed your concerns internally and have had discussions with our on-air staff about appropriate content and we will continue to exercise greater diligence on such matters. Please be assured that we take our responsibilities as a broadcaster very seriously. At CKOI-FM, we endeavour to make sure all our programming is in accordance with the *Broadcasting Act*, the *Radio Regulations* and the Code and standards we must adhere to as a member of the CBSC. We deeply regret that you were offended by an aspect of our programming, for that was most certainly not our intention.

(1) Clause 1 – *CAB Code of Ethics*, Commentary

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

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

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

(5) *CKTF-FM re Voix d'accès* (CBSC Decision 93/94-0213, December 6, 1995)

The complainant filed his Ruling Request on August 16 accompanied by the following note:

[translation]

The reply sent to me by [CKOI-FM] merely follows an established model containing quotes made out of context that in no way deal with my concerns over

the patently hateful remarks made on the frequency it has been assigned. He excuses his employee's statements by suggesting that this is a question of taste. I am not the one who was offended, as he says; it is the law that has been mocked. This law exists for a reason. Apply it!!

THE DECISION

The Quebec Regional Panel examined the complaint under the following provision 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.

The Quebec Panel Adjudicators reviewed all of the correspondence and listened to a recording of the challenged broadcast. The majority of Panel Adjudicators (L. Baillargeon, R. Cohen and M.-A. Murat) conclude that the broadcast comments were in violation of the aforementioned Code provision. A minority (G. Bachand and B. Guérin) would have concluded that the broadcaster did not violate Clause 2.

The General Principles Associated with Discriminatory Humour

The general principles applied by CBSC Panels dealing with allegedly discriminatory humour are by now well established. The basic observation is that it is not every discriminatory comment that will be in breach of the Human Rights clause but rather only those that are considered to be abusive or unduly discriminatory. A variation on that theme, really only a more familiar way of restating the basic principle, is that those admittedly discriminatory comments that appear to tickle but not to bludgeon will be acceptable. Conversely, of course, those that appear to bludgeon rather than tickle will be considered in breach of Clause 2. The CBSC has likened this circumstance to the principle that a person is entitled to swing his or her arm freely, until such time as it comes into contact with someone else's nose. Finally, it is the CBSC Panels that are called upon to measure the permissible arc of that swing.

It should also be noted that the standard established in the Human Rights clause is not the precise equivalent of that found in the "abusive comment" provision enshrined in Section 3(b) of the *Radio Regulations, 1986*. In a sense, it may, if anything, be understood as having a broader sweep than the "abusive comment" section. And well might that be. After all, any section of the *Radio Regulations* is

a matter of public law with the regulatory and *Charter* consequences that attach thereto. There are also valuable property rights and licensing issues associated with the restrictions imposed by the regulations. The broadcaster Codes, on the other hand, are established with different goals in mind. Unfettered by legalistic constraints, they reflect standards of appropriate, decent, proper, correct on-air content which all of Canada's private broadcasters share. The broadcasters' goals are audience-oriented. Their codified standards represent what they consider is *right* for them to air in the communities they serve and in which, in general, they live. Their codified standards are more solicitous of audience sensibilities than strictly legal regulatory instruments. Their codified standards reflect a sensitivity to the audiences with which they have developed community relationships.

One can assume that any broadcast content that would fall afoul of the "abusive comment" provision of the *Radio Regulations* would also breach the Human Rights clause of the *CAB Code of Ethics*. The same will not necessarily be true in the other direction.

How Much Is Too Much?

The Quebec Regional Panel must now apply the general principles to the dialogue on the challenged *Fun radio* episode. The majority understands that Cathy Gauthier may have *intended* to tickle and not to bludgeon but they do not consider that intention to be material. What matters, after all, is the way the comments are *received* by members of the audience. A number of factors must be taken into account. These include the naked words used, to be sure, but they also include the way they are put together, their tone and their impact on reasonable listeners.

In the matter at hand, the minority considers that the co-host was mocking her own inadequacy, rather than that of the targeted minority. The majority, on the other hand, find the co-host's refuge in her own shame that she cannot tell Asians apart the springboard for *her* humour at *their* expense. Had she just left that line about her own inability to distinguish among Chinese, Japanese, Koreans and Thais, that position might have been credible, albeit insulting to Asians, who *do* understand and take pride in their racial, ethnic and national heritages. She was, however, ready to add injury to insult. Putting on a pseudo-Asian accent to simulate their inexperience with both English and French, she mocked them on that same collective basis, accompanied by howls of laughter from her co-hosts. She then stereotypically diminished their physical stature, packed them into small apartments and then hooted at their inability to even open the refrigerator door without making room by having some of them step out on the balcony. The co-hosts then pushed the matter further by attributing to all Asians an inevitable consumption of Canada's territory from Quebec to Vancouver as the result of, again stereotypically, the population explosion

associated with *that* community, as the co-host sees all Asians. She capped the comment off with a renamed country she called, duly accented, “Lakanadai”. The humour in the routine was not, in the view of the Panel majority, trivial or harmless. Unduly discriminatory comments may take many forms. These include derision, stereotyping and mockery, which were all present. The majority considers that the challenged segment of *Fun Radio* went too far and was in breach of Clause 2 of the *CAB Code of Ethics*.

Dissenting Opinion of G. Bachand and B. Guérin

The minority Adjudicators share fully the position of the Panel on the meaning of the Human Rights Clause of the *CAB Code of Ethics* and the general principles associated with discriminatory humour. They do not, however share the view of the majority with respect to the application of those principles to the challenged broadcast. It is the view of the minority of the Panel that there was nothing hateful or nasty in the comments, that they were of the nature of “nudge, nudge, wink, wink” comments, meant only to tickle, not bludgeon. Arguably, the comments reflect, not on Asians, the broadly identifiable group, but on the person observing that *she* cannot tell the difference between different Asian nationalities, notably, Chinese, Japanese, Koreans and Thais. She laughs at *herself* but not at the members of the various Asian communities to which she has referred specifically or inferentially. It is clear from her words and her tone that she is joking and means no evil or nastiness. There is not any sneering in her tone; she leaves no sense of looking down on the peoples of the most populous continent in the world.

In the view of the minority, the humour is similar to that in *Comedy Network re Comedy Club 54* (CBSC Decision 97/98-1242, February 3, 1999), where the National Specialty Services Panel acknowledged that

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.

In *CFMI-FM re Brother Jake Morning Show* (CBSC Decision 00/01-0688, January 23, 2002), the BC Regional Panel found that a spoof about a Scandinavian character was equally inoffensive:

[N]o 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*.

Finally, for these purposes, in *CJAY-FM re Forbes and Friends (Chinese Language "Translations")* (CBSC Decision 02/03-1646, April 16, 2004), the Prairie Regional Panel ruled similarly with respect to humour based on analogous circumstances:

In the present instance, the Panel concludes that the humour is neither deep nor cutting. It depends principally on the relatively light-hearted technique frequently applied in cases of ethnically-oriented humour, namely, the use of accents. While these are generally employed so as to leave the impression that the person or group that is the brunt of the "joke" is inferior, occasionally the issue is simply that the person or group is different. The Panel believes that this is the case in the matter at hand. The Panel considers that the Chinese community is not belittled, mocked or marginalized. It is the object of humour, to be sure, but not on the grounds of any alleged or even implied inadequacy, weakness or failure.

In conclusion, the minority considers that the host did not exceed a light-hearted level of humour that falls comfortably within the permissible range of discriminatory humour under the Human Rights clause of the *CAB Code of Ethics*. It finds no breach of Clause 2.

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 this case, the Panel finds that the broadcaster's Director of Corporate Affairs responded at some length to the complainant's letter; however, a quick analysis reveals that almost the entire reply was dedicated to general principles that had little to do with the specific concerns of the complainant. While the Panel believes it is useful to provide background regarding the matters explained by the broadcaster's representative, it regrets that only two sentences and 36 words actually dealt in any way with the complaint. At that, the one sentence of the two that was directed at the challenged program merely denied that the co-host had intended any discriminatory comment vis-à-vis an individual or a group. The generality of the response was not lost on the individual complainant, who underscored the fact that the boilerplate reply had not responded to any of his concerns. At best, the Quebec Regional Panel finds that this response was at the lower limit of acceptability in terms of the obligation of broadcaster responsiveness.

ANNOUNCEMENT OF THE DECISION

CKOI-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 *Fun Radio* 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 a copy of that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by CKOI-FM.

The Canadian Broadcast Standards Council has found that CKOI-FM breached the human rights clause of the Canadian Association of Broadcasters' *Code of Ethics* in its broadcast of an episode of the daily radio show *Fun Radio* on June 22, 2005. By airing an allegedly humorous dialogue that contained abusive or unduly discriminatory material about certain identifiable groups, namely, members of certain Asiatic communities, CKOI-FM violated the requirements of Clause 2 of the *CAB Code of Ethics*.

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

ANNEXE

Décision du CCNR 04/05 CKOI-FM concernant un commentaire de Cathy Gauthier diffusé dans le cadre de *Fun radio*

Le 22 juin à 17 h 10, l'animatrice/humoriste Cathy Gauthier a fait le commentaire suivant aux ondes de CKOI-FM :

- Lafortune : Non, mais elle est présentement en grand nettoyage spirituel, émotionnel et elle avoue ses torts.
- Gauthier : Mais pas mes torts, mais des choses que j'suis, que j'suis un peu gênée d'admettre. T'sais, « honte » c'est peut-être un peu fort comme mot là, mais « gênée », et étant donné que je n'ai aucune pudeur, je partage ça avec vous. Okay, vous vous souvenez sans doute lundi on a brièvement parlé de l'humoriste Guy Nantel qui, dans un numéro [dix-sept?] jours, nous avoue avoir vu une soucoupe volante, hein ? [animateurs rient] Vous vous en souvenez ?
- Coossa : Ouais.
- Lafortune : Comment oublie ça ?
- Coossa : Et on, on a dit aussi que le fait qu'il en parle publiquement, on peut rire.
- Gauthier : Mais moi, j'ai, j'ai gêné de l'admettre, mais j'ai longtemps cru aux extraterrestres.
- Lafortune : Non !
- Gauthier : J'ai peur des extraterrestres parce que quand j'étais petite, par chez nous il y avait tellement d'espace que je me disais si une soucoupe volante a à atterrir, c'est clair que c'est direct [??] par ma porte qu'ils vont faire ça. Ça avait l'air d'un *parking* à soucoupe volante [animateurs rient]. Mais, t'sais, j'essaie, j'essaie d'être rationnelle, puis de me dire qu'elle, une soucoupe, bon c'est une invention de l'homme. Si on peut inventer les religions, construire la Stade olympique et élire Jean Charest, on est assez [?] pour inventer les extraterrestres. Mais bon, je dis [??] à Guy Nantel qui va comme suit: [elle chante une chanson] [animateurs rient]. Mais c'est pour [?????] rester icitte. Une autre affaire, une autre affaire, mon micro marche-t-il bien ?
- Lafortune : Oui, oui, oui.
- Gauthier : Une autre affaire que j'ai honte, mais en fait il y a plein d'affaires dont j'ai honte, entre autres, j'aime, j'écoutais la lutte. Je trippais sur la lutte.
- Lafortune : Oui.
- Gauthier : Et je fantasmais sur les frères Rougeau.

- Coossa : Au secours.
- Gauthier : Vraiment là, j'étais en amour, j'avais un, un *poster* de Jacques puis Raymond au-dessus de mon lit en Speedo. Sur mon cache-à-crayon, j'écrivais avec du *Liquid Paper* "Cathy plus Raymond". Ça faisait bizarre, [?]. Mais là je me disais, ils ont tellement l'air fort ces gars-là que plus tard quand je vais aller au [?] ils vont être capables de me protéger contre les [ours?] [animateurs rient]. [?] c'est pas [?] que j'suis pas normal. Une autre affaire dont j'ai honte, c'est une de mes tantes qui a perdu son dentier dans un déménagement. C'est drôle, moi, des dents, je pensais que ça allait dans une bouche pas dans une boîte, mais elle a quarante-deux ans et vraiment laide quand elle rit [animateurs rient]. Puis, j'ai promis, [ma jeune?], son, son rêve à elle c'est de manger des [cashews?]. Elle a quarante-deux ans.
- Lafortune : 'Tends minute, attends minute là.
- Gauthier : Ça va pas ben là.
- Lafortune : Attends minute là.
- Coossa : Au secours.
- Gauthier : [??] fait de l'argent [?].
- Lafortune : Non, non, écoute.
- Coossa : Elle a pas eu un nouveau ?
- Lafortune : Un instant. La plus absurde, c'est pas de perdre son dentier dans un déménagement.
- Gauthier : C'est de ne pas en racheter.
- Lafortune : Ouais !
- Gauthier : Mais, euh, elle a dit qu'elle a une source de carottes crues [animateurs rient].
- Lafortune : Oh, j'aime ça quand on est végétarien [??].
- Gauthier : Une autre affaire dont j'ai un peu honte, c'est que j'suis pas capable de différencier les Asiatiques. T'sais, j'ai lu dans un journal, ça ne fait pas longtemps, qu'il y a une petite Chinoise qui a disparu. Puis j'aimerais ça la retrouver, mais je peux pas parce que je sais pas c'est quoi la différence entre, euh, t'sais, entre un Chinois, un Japonais, un Coréen, un Thaïlandais. Je sais pas, c'est toute la même affaire. Fait que je prend pas de chance quand je vois un Asiatique sur rue qui a l'air qui est grand comme ça, je fais juste crier « Kim ! Ta mère te cherche ! » [animateurs rient]. « Your modder looking for you ! [onomatopées pseudo-asiatiques] » [animateurs rient]. Dans mon quartier il y a beaucoup d'Asiatiques. Puis je sais pourquoi ils sont petits, parce qu'ils ont pas de place pour grandir. Sont comme treize dans un deux-et-demi là, c'est ridicule. Pour ouvrir la porte du frigidaire il y en a quatre qui doivent sortir sur la galerie, ça va pas ben. Les Asiatiques là, je veux pas s'en prendre, mais je pense sont en train de prendre le contrôle

de la planète.

Lafortune : Oui, mais oui.

Coossa : Écoute, mais on sait ça.

Gauthier : Si vous voulez que vos enfants aient de l'avenir, faut absolument qu'ils apprennent à parler chinois. Parce que là, ici là, ils rentrent par le Québec, puis ils rentrent par, euh, Vancouver, puis ils vont gruger, gruger, gruger parce que ça se produit vite ces petites bêtes-là. Mais ils vont gruger, gruger, gruger jusqu'à temps qu'ils se rencontrent en Saskatchewan. Puis je vous jure que dans cent ans le pays va s'appeler « Lakanadai » [animateurs rien]. Et c'était ça.

Lafortune : Eh, et on salue tous les jeunes bossards qui, euh, --

Gauthier : Oh oh.

Lafortune : -- qui nous écoutent.

Coossa : C'était un moment international de l'émission.

Lafortune : Parce qu'il y a [?] avec Li-Wan.

ANNEXE B

Décision du CCNR 04/05 CKOI-FM concernant un commentaire de Cathy Gauthier diffusé dans le cadre de *Fun radio*

La plainte

La plainte suivante, en date du 22 juin 2005, a été envoyée au CRTC et acheminée au CCNR :

À Montréal, au poste de radio FM 96,9, CKOI j'ai entendu des propos ouvertement et grossièrement racistes le 22 juin 2005 vers 17h10.

Une femme, dans un numéro préparé, du genre « monologue », a tenu des propos haineux visant une minorité visible et ce pendant quelques longues minutes. Je paraphrase une petite partie de ce qu'elle a dit :

Ils se ressemblent tous ! J'aimerais ça que quelqu'un m'aide à différencier les différents types d'Asiatiques parce que je ne suis pas capable de voir la différence entre un Coréen puis un autre Chinois. Ça arrive que des enfants Asiatiques sont portés disparus. « Hey Kim ! Ta mère te cherche ! Hey ! Kim ! You modder lookin' for you ! Kim ! [onomatopées pseudo-asiatiques] [...] Oh puis ça se reproduit ça ! Sont 13 dans un deux-et-demi ! [...] Ils arrivent au Québec puis ils arrivent à Vancouver puis là, ils grugent vers le centre, vers la Saskatchewan. [...]

Ces propos sont inacceptables. Le fait d'avoir une licence de radio vient avec une responsabilité civil. Le respect fondamental des droits humains a été bafoué et ce genre de discours a des repercussions sociales réelles et graves.

Je vous demande donc d'étudier avec attention ma plainte et de prendre les mesures disciplinaires prévues par la loi.

J'aimerais être tenu informé de toute décision dans ce dossier et suis prêt à témoigner si besoin est.

Veuillez recevoir l'expression de mes sentiments distingués.

La réponse du radiodiffuseur

Le radiodiffuseur a répondu au plaignant le 12 juillet :

Le Conseil canadien des normes de la radiodiffusion (CCNR) nous a demandé de répondre à votre courrier électronique reçu le 11 juillet 2005. Dans votre lettre, vous exprimez vos préoccupations quant aux commentaires entendus pendant une émission, sur les ondes de CKOI-FM le 22 juin 2005.

Comme vous le savez, CKOI-FM diffuse des émissions musicales et aussi, des émissions de commentaires et discussions sur des questions diverses dont certaines peuvent être

controversées. L'émission à laquelle vous référez, comme beaucoup d'émissions radiophoniques, peut être de nature controversée et ne pas rencontrer les goûts de chacun. Votre lettre soulève des préoccupations quant aux commentaires d'une animatrice et nous regrettons que vous ayez été offensé par ces propos. Cependant soyez assuré que l'animatrice a eu recours à ces propos de façon caricaturale et sans connotation de haine, de racisme ou d'hostilité réelle.

Nous comprenons que les animateurs peuvent parfois faire usage de termes qui ne correspondent pas aux goûts de certains auditeurs. Le goût est un élément extrêmement subjectif selon le point de vue des individus. Le *Code de déontologie* (« Le code ») de l'Association canadienne des radiodiffuseurs administré par le Conseil canadien des normes de la radiotélévision (« CCNR ») soutient que la « responsabilité du radiodiffuseur ne s'étend pas aux questions liées au bon goût. »(1) Le CCNR applique les normes sociales actuelles dans son interprétation du Code. Le Conseil a reconnu qu'une émission « peut ne pas être "la tasse de thé" de tout le monde et il assume que quelques personnes pourraient être offensées ... Ce n'est pas, cependant, le critère selon lequel l'émission doit être jugée. »(2) Dans des décisions précédentes, le CCNR a clarifié que « ce n'est pas la référence à la race, à l'origine ethnique ou nationale, à la religion, à l'âge, au sexe, à la situation matrimoniale, ou aux handicaps physiques ou mentaux, mais plutôt les propos et commentaires abusifs et discriminatoires qui seront sanctionnés. »(3) Le CCNR a souligné que pour outrepasser cette norme, il devra y avoir une évidence d'un langage ou d'images marqués par la méchanceté, l'insensibilité ou ce qui pourrait y être associé. »(4)

Dans une décision subséquente, le CCNR a noté qu'il faut déterminer quels commentaires seront considérés comme dépassant les limites de l'acceptable. Certains commentaires sont objets de sanctions, d'autres ne le sont pas même s'ils sont insipides et douloureux. Il serait déraisonnable de s'attendre à ce que le contenu diffusé sur les ondes soit, en quelque sorte, pur, antiseptisé et impeccable. La société dans son ensemble ne l'est pas, pas plus que ne le sont les rapports entre les individus. Ce qui peut constituer la limite de l'acceptable dans chaque cas doit être analysé dans leur contexte.(5)

Soyez assuré que dans ses commentaires, l'animatrice ne cherchait pas à faire de la discrimination contre un individu ou un groupe. De fait, nous ne tolérons aucune discrimination d'aucune sorte sur les ondes de notre station.

Nous avons analysé à l'interne vos préoccupations et nous avons tenu une série de discussions avec notre personnel en ondes au sujet des contenus diffusés et nous continuerons à exercer la plus grande vigilance concernant ces sujets. Soyez assurée que nous prenons sérieusement nos responsabilités comme radiodiffuseur. À CKOI-FM, nous travaillons pour assurer que toute notre programmation respecte la *Loi sur la radiodiffusion*, les *Règlements de la radio* et le Code et les standards exigés de nous comme un membre du CCNR. Nous regrettons profondément que vous ayez été offensé par un élément de notre programmation, car ce n'était pas certainement notre intention.

Nous espérons que la présente répond aux préoccupations soulevées dans votre lettre quant à notre programmation. À CKOI-FM, nous reconnaissons l'importance et apprécions les commentaires de nos auditeur(trice)s. Nous vous remercions d'avoir pris le temps de partager vos préoccupations avec nous.

(1) Clause 1 – ACR Code d'éthique Commentaire

(2) *CFJP-TV (TQS) re « Quand l'amour est gai »* (Décision du CCNR 94/95-0204, rendue le 6 décembre 1995)

(3) *CKVR-TV re Just for Laughs* (Décision du CCNR 94/95-0005, rendue le 23 août 1995)

(4) *CFYI-AM re Scruff Connors and John Derringer Morning Show* (Décision du CCNR 01/02-0279, rendue le 7 juin 2002)

(5) *CKTF-FM re Voix d'accès* (Décision du CCNR 93/94-0213, rendue le 6 décembre 1995)

Correspondance additionnelle

Le plaignant a présenté sa Demande de décision le 16 août :

La réponse [du Directeur des Affaires corporatives] n'est qu'un formulaire convenu contenant des citations hors contexte qui ne répond en rien à mes inquiétudes quant aux propos ouvertement haineux proférés sur la fréquence qui lui est attribuée. Il excuse les dires de son employée en suggérant qu'il s'agit d'une question de goût. Ce n'est pas moi qui a été offensé, comme il le dit, c'est la loi qui a été bafouée. Cette loi existe et ce n'est pas pour rien. Appliquez-là !!