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## CANADIAN BROADCAST STANDARDS COUNCIL

### ONTARIO REGIONAL PANEL

#### CFNY-FM re a “Wha’ Happened?” segment on the *Dean Blundell Show*

(CBSC Decision 08/09-1238)

Decided September 23, 2009

M. Ziniak (Chair), H. Hassan (Vice-Chair), R. Cohen (*ad hoc*), J. David, M. Hamilton

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### THE FACTS

*The Dean Blundell Show* airs from 5:30 to 10:00 am weekdays on CFNY-FM (102.1 The Edge, Toronto). It is hosted by Dean Blundell, Todd Shapiro and Jason Barr. The show includes the usual music, news and traffic reports, humorous banter among the hosts, as well as occasional celebrity interviews and in-studio guests. In one recurring segment, entitled “Wha’ Happened?”, callers would recount unusual or unbelievable things that had happened to them. The hosts would then choose the “best” story and the selected caller would win a prize. The “Wha’ Happened?” segment of March 20 began at approximately 8:00 and lasted eight minutes. A transcript of the most relevant portion follows (the full transcript can be found in Appendix A):

male voice: The *Dean Blundell Show* officially apologizes for all future off-side comments. However, that will not prevent him from making more in the future.

Blundell: All right, time for “Wha’ Happened?”

[...]

Barr: Uh, what’s your story? [Shapiro laughs]

Ashley: So, a few years back, this guy cheated on my friend and we decided to get back at him. So we all finished work one night and we went to the grocery store and bought a bunch of stuff to throw on his car. Um, I also brought my cat’s litter box with me. And we

threw it all over the guy's car and then we left and he called her up and he accused her of doing it. We denied it and said it wasn't us. And then he ended up finding the receipt to all the stuff that we bought at the grocery store. And he brought it back to the, the grocery store and asked them to see the videotape. And found out that it was us.

[Shapiro shouts something unintelligible in background.]

Blundell: He found out what?

Ashley: He found out that it was in fact us that threw all the, my cat's litter box and eggs and flour all over his car. So the police arrested us for mischief and strip-searched us and we had to stay, like, um, for a couple hours in a little room and talk about it and go to court for, like, a year.

[...]

Brenda: My name's Brenda.

[...]

Blundell: Whatta you got?

Brenda: Uh, my –

Blundell: Wha' happened?

Shapiro: [funny voice] Wha' happened?

Brenda: My fiancé, uh, my fiancé accidentally cut off my nipple with a weed whacker.

Barr: Wow.

Shapiro: That's a good one.

Barr: That is, that's new.

Shapiro: Can you explain how?

Brenda: Um, I like to sunbathe in the nude.

Shapiro: Oh yeah.

Brenda: And I was in the backyard and my fiancé was doing the lawn work.

Blundell: So he was weed whacking, was he? [Shapiro laughs]

Brenda: He was weed whacking, yes.

Shapiro: While you're sun-tanning naked?

Brenda: Correct.

Shapiro: Okay.

Barr: Seems like a bad combo, but go on. [Shapiro laughs]

Brenda:[laughs] And he thought it would be funny to scare me with the weed whacker. And we have the kind of weed whacker that has the, uh, the wires that come out to weed whack the grass.

Barr: Yeah.

Brenda: And it accidentally hit me in the boob. And took my nipple off.

Barr: Now, are you minus one nipple or was it re-attached?

Brenda: No, I am minus one nipple.

Shapiro: Wow.

Barr: So he ruined his own fun.

Brenda: And part of a boob.

Blundell: So you won't be able to breastfeed out of that nipple?

Brenda: No.

Barr: Wow.

Shapiro: Are you, are you still with the dude?

Brenda: I am.

Shapiro: You gotta be now 'cause you can't, uh, –

Blundell: You know, you know what you should do when he lie, uh, when he's sunbathing naked? Uh, weed whack the tip of his johnson.

Barr: Yeah. Whack his weed.

Brenda: Um, then we're definitely not having children. [laughs]

Barr: Right.

Shapiro: That'd be less pleasure for her too.

Blundell: Well, plus the tip go like this –

Barr: Uh huh.

Blundell: – so it goes in, so it wouldn't ...

Shapiro: Oh yeah.

Barr: That's, that's a good lesson for people to learn. Don't play with things like that.

Blundell: Weed whackers?

Barr: Yeah, don't toy with them.

Blundell: Hi, The Edge.

Hyper-Lee: Hi. I got a story for "What Happened?"

[...]

Hyper-Lee: Okay, I was living in Mexico –

Shapiro: Wha' happened?

Hyper-Lee: I was living in Mexico and, uh, I was with a guy. And I couldn't, couldn't find the condom after during sex. And so we're looking everywhere for it and eventually we realized, we think it was inside me. So I had to go to a Mexican gynaecologist [Shapiro starts laughing]. And so, my friend went with me and they put the camera –

Blundell: And he grabbed some salad tongs.

Barr: Yeah. From the taco stand he worked at. [Shapiro & Blundell laugh]  
Which he, he, –

Blundell: And one of those, and one of those –

Barr: – which was good for him because –

Blundell: What's that?

Barr: – he didn't have to change the sign, right?

Blundell: Yeah, taco stand. [Shapiro laughs]

Blundell: What's it called? Uh, he put on his cave-splunking [*sic*] helmet, licked his fingers and said [affects Mexican accent] "Here we go! Come on! Time to explore the fish taco! Hey!" [Shapiro & Barr laugh]

Hyper-Lee: But they put the camera inside me, right? And my friend was there and she's, like, –

Blundell: Was it, was it, like, a regular size camera? [Shapiro & Barr laugh]

Barr: It was, like, an old Betamax.

Blundell: [with Mexican accent] Hang on, let me jam this in, okay?

Shapiro: It's a Polaroid.

Hyper-Lee: And then my friend's, like, "I've never seen inside your, a, another woman's vagina like that before in my life". 'Cause the camera was up on the, the TV screen next to where I was sitting.

Barr: Yeah? It was broadcast at the hotel too.

Hyper-Lee: And anyway, he didn't find it.

Blundell: He didn't find it?

Hyper-Lee: No, but then the next day, the condom, you know, worked its way out.

Blundell: Huh.

Barr: Wow.

Blundell: Well, that's good.

Shapiro: He probably found it, he's just playing a joke on you.

Barr: Yeah.

Blundell: Yeah, yeah.

Hyper-Lee: Yeah.

Barr: [affects Mexican accent] Come back tomorrow.

Shapiro: [laughs] Yeah.

Blundell: [affects Mexican accent] You know, I cannot see it and I couldn't taste it, so you're good! [Shapiro laughing] Maybe it's on the other hole!

Barr: [with Mexican accent] Are you sure you knew what you were doing?

Blundell: [with Mexican accent] All right. Put the camera in.

Barr: [with Mexican accent] Bend over.

Blundell: It's a Sony handycam.

Barr: Yeah.

Blundell: One of those VHS ones. [Shapiro laughing]

Barr: [with Mexican accent] Hold on, I have to kick it. [Blundell laughs]

Blundell: All right.

Shapiro: Oh, that was great.

Hyper-Lee: Believe it or not, it was a real medical camera.

Barr: Oh yeah.

Shapiro: What was his name? Doctor what?

Hyper-Lee: Doctor, I don't know.

Shapiro: Oh.

Barr: Doctor Taco. [Shapiro laughs]

Blundell: Hang on, okay?

Hyper-Lee: Yeah.

Blundell: That's a good one.

Barr: Yeah.

Blundell: Hi, The Edge.

Shapiro: He was Doctor Sanchez.

Blundell: [sighs] You win.

Shapiro: Yeah, yeah, that's the best.

Barr: Which one?

Hyper-Lee: Me?

Blundell: The fish taco.

Hyper-Lee: Awesome!

Barr: Really? Not the lady who got her nipple cut off?

[...]

Blundell: All right, we'll split 'em up. You both win.

Brenda: Yeah!

Hyper-Lee: Awesome.

Barr: [??] winner.

Blundell: She doesn't have a nipple anymore, but this woman had to go to a Mexican gynaecologist. [Shapiro laughs]

Barr: They're both bad stories. I get it. Like, they're bad things that happened.

[...]

Blundell: All right. Uh, congratulations to you both. Todd, uh, tell them what they've won.

The complainant did not initially raise the issue of the March 20 episode of the *Dean Blundell Show*. He began with a complaint about the show *in general*, describing it as

a thoroughly disgusting morning show where they degrade and insult pretty well everyone. Their content always seems to have a sexual content, with innuendo to the most disgusting and vile acts. This is an absolute disgrace and must cease immediately.

The Canadian public airways [*sic*] are no place to be airing this teenage smut and disgusting concepts of how sexually perverse a person can be; it is an outrage. This show must be terminated with the greatest enforcement as soon as possible.

The complainant's denunciation of the show is, with all other correspondence, included in Appendix B. To this initial letter, the CBSC responded as it does in all circumstances where no specific time and date is provided by the complainant. The Council's mandate is to deal with specific complaints, not generalities about a program or series. The complainant responded on March 2, saying, in part:

You require times and dates for the *Dean Blundell Show*? How about the entire years of 2005\2006\2007\2008 – pick a day, any day – each show is guilty of Clause 3. They do the morning show Monday to Friday. Try anytime from September 2008 onwards for a more recent approach.

Needless to say, this was not sufficiently focussed either. The CBSC wrote again that day to explain the reason for the requirement; it added that the Council could only deal with matters for which digital loggers remain available, explaining that broadcasters are only required by the CRTC (and the CBSC) to retain such recordings for 28 days. The complainant replied on March 6, acknowledging the assistance and explanations provided by the CBSC's Communications Co-ordinator, while being critical of the CBSC itself, as well as CFNY-FM. CFNY-FM's General Manager and the complainant then had an exchange of e-mails and spoke on the telephone. Then, on March 23, the complainant sent the following e-mail identifying a specific episode of the *Dean Blundell Show* with which he had problems.

I now have a date and time for the CBSC to investigate. With respect to the CFNY-FM 102.1 the *Dean Blundell* morning show. Check the tapes from 8:00-8:15 AM on Friday March 20th. I think you will find this type of content to be a fairly typical occurrence on the *Dean Blundell* morning show – this type of radio content should be stopped immediately. If you or the CBSC does not agree, then the *Dean Blundell* morning show, at least, should have a serious warning message to the listening audience as to the nature of the show's content and how it can be offensive, rude, disgusting and shocking to some of the listening audience. The fact that younger people can "tune in" and listen to such smutty filth is truly disgusting.

The station's Program Director replied to that specific complaint on April 13, in pertinent part as follows:

The Canadian Broadcast Standards Council (the "CBSC") has asked us to respond to your email of March 23, 2009, in which you raised concerns regarding comments made during the *Dean Blundell Show* that aired on CFNY-FM on March 20, 2009. Specifically, you state that the content broadcast between 8:00 am and 8:15 am that day should be preceded by a warning to the audience that the show's content may be "rude, offensive, disgusting and shocking" to some of the listening audience. You also mention that young people can tune at this time and hear what you have described as "smutty filth".

[...] One of the [two] segments [broadcast in that time frame] was a segment called "Wha' Happened", a call-in segment during which listeners relay bizarre, personal anecdotes.

[...] As far as the “Wha’ Happened” segment is concerned, we agree that some people might find the discussions offensive, but we don’t believe the segment breached the Canadian Association of Broadcasters’ *Code of Ethics* (the “Code”), which is administered by the CBSC and to which we adhere.

The CBSC has stated that a program may contain sexual overtones, but should not be sexually explicit (CJVC-FM re *Local Exotic Dancer Bar Commercial*, CBSC Decision 97/98-0282). Where a program is not explicit and does not contain any suggestion of reality or description of an explicit sexual act, the CBSC has further stated that it would not find a breach of the Code (CFQR-FM re *The Morning Show*, CBSC Decision 01/02 - 1137). The CBSC has also found that a program filled with double entendres and suggestive comments was not explicit enough to be in breach of the Code (CFMI-FM re *Brother Jake Morning Show*, CBSC Decision 01/02-1137). While we agree that the comments made during the program were of a sexual nature, we do not believe that the comments were of a sexually explicit nature. The material was presented using euphemisms and innuendoes and it was delivered in a comedic manner.

The CBSC has also said that, where programming is directed at 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 bad taste, i.e. via the on/off or dial button (CIQC-AM re *Galganov in the Morning*, CBSC Decision 97/98-0473).

In view of the foregoing, we do not believe that the program violated the Code. [...]

The complainant replied to the Program Director the following day, in pertinent part as follows:

RE: “While we agree that the comments made during the program were of a sexual nature, we do not believe that the comments were of a sexually explicit nature. The material was presented using euphemisms and innuendoes and it was delivered in a comedic manner.”

[Mr. W], you didn't find that bit about the Mexican gynaecologist a little sexually grotesque? Sickening? Demeaning? Tossing her salad? There is NO INNUENDO there. I mean, c'mon brother, it's 8 o'clock in the morning for goodness sake and one of the worst radio stations in the country is belting out this filthy crap to the potentially largest listening base in the country. The innuendo and nuance you refer to is about as suggestive as a sledge hammer hitting a push pin. Those statements are as crude as they come and there is absolutely nothing subtle or double entendre about them.

### Clause 3 – Sex-Role Stereotyping

Recognizing that stereotyping images can and do have a negative effect, it shall be the responsibility of broadcasters to exhibit, to the best of their ability, a conscious sensitivity to the problems related to sex-role stereotyping, by refraining from exploitation and by the reflection of the intellectual and emotional equality of both sexes in programming. Broadcasters shall refer to the *Sex-Role Portrayal Code for Television and Radio Programming* [since March 17, 2008, replaced by the *Equitable Portrayal Code*] for more detailed provisions in this area.

Please look at the above code of ethics. Do you really think that CFNY exhibited to the best of their ability, a conscious sensitive nature towards airing that piece about the foolish girl and the Mexican gynaecologist? Intellectual and emotional equality? Yeah, right. [...]



RE: "The CBSC has also said that, where programming is directed at 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 bad taste, i.e. via the on/off or dial button (CIQC-AM re Galganov in the Morning, CBSC Decision 97/98-0473)."

[...]

Directed at an adult audience? Have you ever seen the amount of warnings on TV about adult content? Before the show starts, before the resumption of the show after commercials, the *Dean Blundell Show* should have those warnings before the show starts and before resuming the broadcast from commercials.

So instead of having crude and disgusting morning personalities, you off-load the "disgusting content" onto your listening audience and have them air it? Wow – sheer brilliance.

[...] I vehemently oppose your statement "As far as the 'Wha' Happened' segment is concerned, we agree that some people might find the discussions offensive, but we don't believe the segment breached the Canadian Association of Broadcasters' *Code of Ethics* (the 'Code'), which is administered by the CBSC and to which we adhere".

In addition, I now find the CBSC to also be in hot water as per your comment, because if it is true, then the CBSC needs a good old fashioned "shaking-up" too.

The complainant filed his Ruling Request on April 14 with the following note:

1) I want to find out how to register a complaint against the CBSC. I cannot believe that the CBSC would condone the CFNY on-air statements about a young foolish girl and a Mexican gynaecologist. It was thoroughly disgusting and should never have been allowed on the Canadian public airways [*sic*]. It seriously looks like it is time to have a long hard look at the CBSC.

2) Would you please have the CBSC respond to me regarding the letter from CFNY [...] dated April 13, 2009 to me. I wish to appeal this response as it is totally unacceptable.

## THE DECISION

The CBSC's Ontario Regional Panel reviewed the complaint under the following clauses of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* and *Equitable Portrayal Code*, which read as follows:

### *CAB Code of Ethics*, Clause 3 – Sex-Role Stereotyping

Recognizing that stereotyping images can and do have a negative effect, it shall be the responsibility of broadcasters to exhibit, to the best of their ability, a conscious sensitivity to the problems related to sex-role stereotyping, by refraining from exploitation and by the reflection of the intellectual and emotional equality of both sexes in programming. Broadcasters shall refer to the *Sex-Role Portrayal Code for Television and Radio*

*Programming* [since March 17, 2008, replaced by the *Equitable Portrayal Code*] for more detailed provisions in this area.

### *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:

[...]

- b) Unduly sexually explicit material [...]

### *CAB Equitable Portrayal Code, Clause 4 – Stereotyping*

Recognizing that stereotyping is a form of generalization that is frequently simplistic, belittling, hurtful or prejudicial, while being unreflective of the complexity of the group being stereotyped, broadcasters shall ensure that their programming contains no unduly negative stereotypical material or comment which is based on matters of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability.

### *CAB Equitable Portrayal Code, Clause 7 – Degrading Material*

Broadcasters shall avoid the airing of degrading material, whether reflected in words, sounds, images or by other means, which is based on race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability.

The Panel Adjudicators read all of the correspondence and listened to a recording of the segment. The Ontario Panel concludes that the broadcast did not violate any of the foregoing Code provisions.

### **Sex-Role Stereotyping**

As a general rule, the CBSC has been clear that discussions about sexuality, even when accomplished in juvenile, crass or vulgar terms, do not on that account constitute sex-role stereotyping. In *CKVU-TV re an episode of Nightstand* (CBSC Decision 96/97-0140, June 19, 1997), for example, the B.C. Regional Panel considered whether a talk-show parody which aired at midnight had exploited women by telling a “tall tale” about the death of a woman during a bear attack. According to the story, the woman was tied to a tree nude, spread-eagled and covered with honey by her husband who then left her alone a moment, during which time a bear came and licked all the honey and had sex with her. The Panel did not find that the episode violated the *Sex-Role Portrayal Code*:

The view of the B.C. Regional Panel is that, at worst, the segment was in very poor taste, but it did not exploit women. It was an extended pun, styled in some respects along the lines of what used to be called “shaggy dog” stories. The humour may have been childish and somewhat sexual or off-colour but it was no more exploitative of the one sex than of the other. As the CBSC has long established, it will not measure questions of taste in terms of the Codes it administers; such questions are to be left for the resolution of the audience by means of the on/off switch. It is only when matters of taste pass the threshold of the Codes by reason of their abusive or discriminatory nature or other Code-offending nature that the Panel will measure them against the Codes. This is not the case here.

Similarly, in rendering its decision in *CKX-TV re National Lampoon’s Animal House* (CBSC Decision 96/97-0104, December 16, 1997), in response to a complaint about bare breasted women shown in a late night movie, the Prairie Regional Panel stated:

It is essential to remember that the principal goal of the *Sex-Role Portrayal Code* [since replaced by the *Equitable Portrayal Code*] relates to the *equality* of the sexes and not to issues of sexual behaviour which do not go to equality or exploitation, which is itself a form of *inequality*.

While the Panel is conscious of the fact that the complainant has himself cited Clause 3 of the *CAB Code of Ethics*, it can find no aspect of the story of the woman and the Mexican gynaecologist to which that Clause could be made, however tortuously, to apply. There is simply no breach of Clause 3.

### **Ethnocultural Stereotyping**

Although the point was not raised by the complainant, the Panel Adjudicators were somewhat troubled by the language and tone used in the segment dealing with the Mexican gynaecologist. Beginning with the reference of Hyper-Lee, the woman telling the Mexican story, to “a Mexican gynaecologist”, one of the co-hosts laughed, possibly (in the view of the Panel) as though such terms were mutually exclusive. Then the reference to the doctor “by name” was a mocking “Doctor Taco”. And there were numerous examples of the affecting of a Mexican accent to accompany elements of the story. The bottom line for the Panel, though, is that, although the attitude of the co-hosts was distasteful and crude, there was not a single specific negative stereotypical comment made regarding Mexicans. Accents, even though they may indeed be mocking, do not *per se* constitute unduly negative stereotypical comments. Nor does the application of a yuk-yuk name such as that mentioned immediately above. All in all, the Panel does not find the unduly negative stereotypical content required for a finding of breach of Clause 4 of the *Equitable Portrayal Code*.

## Degrading Material

As to the application of Clause 7 of the *CAB Equitable Portrayal Code*, the Panel has found no connection. In other terms, the Panel finds *nothing* in the Mexican gynaecologist segment of the program that is remotely degrading. To use some of the complainant's words, a bit sickening perhaps (to some), a little grotesque perhaps (to others), certainly bizarre, but demeaning, not at all, in the view of the Panel, nor degrading, to use the word that appears in Clause 7. To demean, in the sense of the *Oxford English Dictionary*, is: "To lower in condition, status, reputation or character." To degrade, in the *OED*, is: "To lower in estimation; to bring into dishonour or contempt." Those are the critical terms insofar as Clause 7 is concerned. In the view of the Panel, that segment in no way accomplishes any of those forms of diminution. The challenged segment is not in breach of Clause 7.

## Sexual Explicitness on Radio

The Panel can do no better in reviewing the definition and limits of sexual explicitness on radio than to refer to its decision of several months ago in *CFNY-FM re a "Gay Jeff" segment on the Dean Blundell Show* (CBSC Decision 08/09-0700, June 25, 2009).

The key terminology, as laid down in Clause 9(b) of the *CAB Code of Ethics* is "unduly sexually explicit material". The implication of the phraseology is that *some* sexually explicit material *will be* acceptable; it is only *unduly* sexually explicit material that will not be. It is evident that one person's measure of those words can be expected to differ from another's and that there cannot be a *mathematical* formula applicable to such circumstances as those that face the Ontario Regional Panel in the matter at hand. And yet the CBSC Adjudicators *must* arrive at an assessment of what is and what is not acceptable for radio broadcast at different times of day. It can and will do so, relying on previous CBSC jurisprudence, which reflects the considered judgment of many Adjudicators evaluating the issue of sexual explicitness across Canada over nearly twenty years. Even with that tool in hand, the Panel has no illusions. It does not, indeed it *cannot*, hope to arrive at a mathematical predictability in such matters.

Historically, "unduly" has been a function of the time of day. The CBSC has interpreted the word to mean *too* explicit for daytime or early evening radio hours, in other words, too explicit for times of the day when children could reasonably be expected to be listening. Bearing that in mind, the various CBSC Panels have determined that sexual innuendo, double entendres, mention of body parts and mild references to sexuality will not be understood to be "too" or "unduly" explicit, even at that time of day. On the other extreme, detailed descriptions of actual sexual activity or clearly understandable references to an actual sexual act will violate the Code if aired at a time when children could be listening. The foregoing borders of sexual explicitness are still hypothetical.

The Panel then provided references to, and extracts from, ten additional CBSC decisions providing concrete examples of sexual commentary that either constituted, or did not constitute, unduly explicit sexual content. The conclusion in the decision dealing with the facts raised in the "Gay Jeff" segment was that

the examples were simply insufficiently explicit to amount to “unduly sexually explicit” content. This is not to say that they might not be *understood* by some young persons; it is rather that the sexual dialogue was not anything like the “in your face” examples cited above. And material that is on the cusp is protected by the application of the principle of freedom of expression, which takes precedence over material that is not clearly in breach of a codified standard.

In the matter at hand the Panel concludes that the dialogue pertaining to the Mexican gynaecologist contained even *less* sexual content than the “Gay Jeff” segment. There was only a reference to the fact that the caller had *had* sexual intercourse. There was no description of the act itself. The reference to the missing condom and how it worked itself out was not at all sexual. As suggested above, perhaps distasteful, but certainly not sexual. There is no breach of Clause 9(b) on that account.

### **Broadcaster Responsiveness**

In addition to assessing the relevance of the Codes to the complaint, the CBSC always assesses the responsiveness of the broadcaster to the substance of the complaint. The Panel is acutely conscious of the fact that the complainant was particularly critical of the entire concept of the program and seemed to believe that he could pick any episode and find problematic content. He did make his choice of episodes and provided CFNY-FM’s Program Director with the opportunity to respond. It was clear that the Program Director did not convince the complainant of his position. That is understandable. After all, complaints never get to an adjudication unless the complainant finds the broadcaster’s position untenable. And in this case, the fundamental criticism of the complainant was that he appeared to find it incomprehensible that the Program Director did not see matters the way he did. He posited, “Do you sincerely, really believe what you have written to me? I cannot believe what I am reading from you. It sounds just like a canned response.” The CBSC Secretariat and CBSC Panels see hundreds and hundreds of such responses every year, and they consider that the letter of the Program Director provided a thorough, thoughtful and contextual reply to the complainant, including references to previous CBSC jurisprudence. That is what a careful broadcaster reply ought to do. There is nothing wrong, and indeed much right, with a broadcaster guiding its content decisions, both before the fact and after, with references to the standards and the CBSC’s interpretations of them. Moreover, there is nothing inherently incorrect or unreasonable in the broadcaster’s taking the position that it was justified in airing what it did. Broadcasters do not always do so, but it is reasonable that they take such a position. In any case, the Panel is of the view that nothing more by way of a reply could be expected of any broadcaster. CFNY-FM has amply fulfilled its CBSC membership obligation of responsiveness 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.*

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## APPENDIX A

### CBSC Decision 08/09-1238 CFNY-FM re a “Wha’ Happened?” segment on the *Dean Blundell Show*

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*The Dean Blundell Show* airs on CFNY-FM (102.1 The Edge, Toronto) on weekdays from 5:30 to 10:00 am. It is hosted by Dean Blundell, Todd Shapiro and Jason Barr and includes the usual music, news and traffic reports, as well as humorous banter between the hosts and occasionally celebrity interviews and in-studio guests. One recurring segment is entitled “Wha’ Happened?” in which callers recount unusual or unbelievable things that have happened to them. The hosts then choose the “best” story and the caller wins a prize.

The “Wha’ Happened?” segment of March 20 began at approximately 8:00 am. The following is a transcript of the segment:

male voice: The *Dean Blundell Show* officially apologizes for all future off-side comments. However, that will not prevent him from making more in the future.

Blundell: All right, time for “Wha’ Happened?”

Shapiro: [in funny voice] Wha’ happened?

Blundell: Hi, The Edge.

caller Ashley: Hi, I’m calling for “Wha’ Happened?”

Blundell: Yep. What’s your name?

Ashley: Ashley.

Blundell: Who?

Barr: Shley?

Ashley: Pardon me?

Blundell: What’s your name?

Ashley: Ashley.

Blundell: Ashley.

Barr: Oh.

Blundell: All I got was “Shley”.

Shapiro: Chili.

Ashley: Pardon?

Barr: Uh, what's your story? [Shapiro laughs]

Ashley: So, a few years back, this guy cheated on my friend and we decided to get back at him. So we all finished work one night and we went to the grocery store and bought a bunch of stuff to throw on his car. Um, I also brought my cat's litter box with me. And we threw it all over the guy's car and then we left and he called her up and he accused her of doing it. We denied it and said it wasn't us. And then he ended up finding the receipt to all the stuff that we bought at the grocery store. And he brought it back to the, the grocery store and asked them to see the videotape. And found out that it was us.

[Shapiro shouts something unintelligible in background.]

Blundell: He found out what?

Ashley: He found out that it was in fact us that threw all the, my cat's litter box and eggs and flour all over his car. So the police arrested us for mischief and strip-searched us and we had to stay, like, um, for a couple hours in a little room and talk about it and go to court for, like, a year.

Shapiro: Wait, wait, wait, wait, wait. The police strip-searched you?

Barr: 'Cause you ...?

Ashley: Yeah. All three of us.

Blundell: Did they find anything in you?

Ashley: No.

Shapiro: Why would they strip-search you?

Barr: They thought maybe you were –

Ashley: I think they just wanted to put us through, I don't know, put us through something just to teach us a lesson.

Blundell: Are you hot?

Ashley: Yep.

Shapiro: Yeah, that's –

Blundell: That'll do it.

Shapiro: That's why. [hosts laugh]

Ashley: No, no, no, no, it was a girl! [laughs]

Blundell: Well, girls do like girls, you know.

Shapiro: 'Cause they can. [hosts laugh]



Blundell: Did she give you the snack-sized Kit Kat?

Shapiro: Oh. [chuckles]

Ashley: No.

Blundell: Okay. Little snack size. [makes clicking noise] Kit Kat. Hang on. [Shapiro laughs] Hi, The Edge.

male caller: Hey, I got a story for "Wha' Happened?"

Blundell: Yeah, but you're not a girl, so no, you don't. [Shapiro & Barr laugh] Hi, The Edge.

caller Brenda: Hi.

Blundell: Hi, how are ya?

Brenda: Good, how are you?

Blundell: Good. What's your name?

Brenda: My name's Brenda.

Blundell: Brenda?

Brenda: Yeah.

Blundell: That's something people don't name their kid these days for good reason. [Brenda laughs]

Shapiro: Wha'?

Blundell: Well, no, it's just "Brenda". I just haven't heard the name "Brenda" in a long time.

Shapiro: It's a nice name.

Blundell: It is a beautiful name.

Brenda: Thank you.

Blundell: Whatta you got?

Brenda: Uh, my –

Blundell: Wha' happened?

Shapiro: [funny voice] Wha' happened?

Brenda: My fiancé, uh, my fiancé accidentally cut off my nipple with a weed whacker.

Barr: Wow.

Shapiro: That's a good one.

Barr: That is, that's new.

Shapiro: Can you explain how?

Brenda: Um, I like to sunbathe in the nude.

Shapiro: Oh yeah.

Brenda: And I was in the backyard and my fiancé was doing the lawn work.

Blundell: So he was weed whacking, was he? [Shapiro laughs]

Brenda: He was weed whacking, yes.

Shapiro: While you're sun-tanning naked?

Brenda: Correct.

Shapiro: Okay.

Barr: Seems like a bad combo, but go on. [Shapiro laughs]

Brenda: [laughs] And he thought it would be funny to scare me with the weed whacker. And we have the kind of weed whacker that has the, uh, the wires that come out to weed whack the grass.

Barr: Yeah.

Brenda: And it accidentally hit me in the boob. And took my nipple off.

Barr: Now, are you minus one nipple or was it re-attached?

Brenda: No, I am minus one nipple.

Shapiro: Wow.

Barr: So he ruined his own fun.

Brenda: And part of a boob.

Blundell: So you won't be able to breastfeed out of that nipple?

Brenda: No.

Barr: Wow.

Shapiro: Are you, are you still with the dude?

Brenda: I am.

Shapiro: You gotta be now 'cause you can't, uh, --

Blundell: You know, you know what you should do when he lie, uh, when he's sunbathing naked? Uh, weed whack the tip of his johnson.

Barr: Yeah. Whack his weed.

Brenda: Um, then we're definitely not having children. [laughs]

Barr: Right.

Shapiro: That'd be less pleasure for her too.

Blundell: Well, plus the tip go like this –

Barr: Uh huh.

Blundell: -- so it goes in, so it wouldn't ...

Shapiro: Oh yeah.

Barr: That's, that's a good lesson for people to learn. Don't play with things like that.

Blundell: Weed whackers?

Barr: Yeah, don't toy with them.

Blundell: Hi, The Edge.

caller Hyper-Lee: Hi. I got a story for "What Happened?"

Blundell: What's your name, babe?

Hyper-Lee: Hyper-Lee.

Blundell: Hyper-Lee?

Shapiro: Are you a porn star?

Hyper-Lee: No. [laughs]

Barr: That is hot.

Blundell: Are you sure?

Hyper-Lee: No, I'm not a porn star.

Blundell: You should be.

Hyper-Lee: I have an awesome story, though.

Blundell: All right.

Shapiro: Okay.

Hyper-Lee: Okay, I was living in Mexico –

Shapiro: Wha' happened?

Hyper-Lee: I was living in Mexico and, uh, I was with a guy. And I couldn't, couldn't find the condom after during sex. And so we're looking everywhere for it and eventually we realized, we think it was inside me. So I had to go to a Mexican gynecologist [Shapiro starts laughing]. And so, my friend went with me and they put the camera –

Blundell: And he grabbed some salad tongs.

Barr: Yeah. From the taco stand he worked at. [Shapiro & Blundell laugh] Which he, he, –

Blundell: And one of those, and one of those –

Barr: – which was good for him because –

Blundell: What's that?

Barr: -- he didn't have to change the sign, right?

Blundell: Yeah, taco stand. [Shapiro laughs]

Blundell: What's it called? Uh, he put on his cave-splunking [*sic*] helmet, licked his fingers and said [affects Mexican accent] "Here we go! Come on! Time to explore the fish taco! Hey!" [Shapiro & Barr laugh]

Hyper-Lee: But they put the camera inside me, right? And my friend was there and she's, like, –

Blundell: Was it, was it, like, a regular size camera? [Shapiro & Barr laugh]

Barr: It was, like, an old Betamax.

Blundell: [with Mexican accent] Hang on, let me jam this in, okay?

Shapiro: It's a Polaroid.

Hyper-Lee: And then my friend's, like, "I've never seen inside your, a, another woman's vagina like that before in my life". 'Cause the camera was up on the, the TV screen next to where I was sitting.

Barr: Yeah? It was broadcast at the hotel too.

Hyper-Lee: And anyway, he didn't find it.

Blundell: He didn't find it?

Hyper-Lee: No, but then the next day, the condom, you know, worked its way out.

Blundell: Huh.

Barr: Wow.

Blundell: Well, that's good.

Shapiro: He probably found it, he's just playing a joke on you.

Barr: Yeah.

Blundell: Yeah, yeah.

Hyper-Lee: Yeah.

Barr: [affects Mexican accent] Come back tomorrow.

Shapiro: [laughs] Yeah.

Blundell: [affects Mexican accent] You know, I cannot see it and I couldn't taste it, so you're good! [Shapiro laughing] Maybe it's on the other hole!

Barr: [with Mexican accent] Are you sure you knew what you were doing?

Blundell: [with Mexican accent] All right. Put the camera in.

Barr: [with Mexican accent] Bend over.

Blundell: It's a Sony handycam.

Barr: Yeah.

Blundell: One of those VHS ones. [Shapiro laughing]

Barr: [with Mexican accent] Hold on, I have to kick it. [Blundell laughs]

Blundell: All right.

Shapiro: Oh, that was great.

Hyper-Lee: Believe it or not, it was a real medical camera.

Barr: Oh yeah.

Shapiro: What was his name? Doctor what?

Hyper-Lee: Doctor, I don't know.

Shapiro: Oh.

Barr: Doctor Taco. [Shapiro laughs]

Blundell: Hang on, okay?

Hyper-Lee: Yeah.

Blundell: That's a good one.

Barr: Yeah.

Blundell: Hi, The Edge.

Shapiro: He was Doctor Sanchez.

Blundell: [sighs] You win.

Shapiro: Yeah, yeah, that's the best.

Barr: Which one?

Hyper-Lee: Me?

Blundell: The fish taco.

Hyper-Lee: Awesome!

Barr: Really? Not the lady who got her nipple cut off?

Blundell: No! Well ...

Barr: What?

Shapiro: Split 'em up.

Barr: She doesn't have a nipple anymore! [Shapiro laughs]

Blundell: All right, we'll split 'em up. You both win.

Brenda: Yeah!

Hyper-Lee: Awesome.

Barr: [??] winner.

Blundell: She doesn't have a nipple anymore, but this woman had to go to a Mexican gynecologist. [Shapiro laughs]

Barr: They're both bad stories. I get it. Like, they're bad things that happened.

Blundell: [??] I'm sorry. Jeesh.

Barr: But she has no nipple.

Blundell: Oh yeah.

Barr: It's clearly the worst.

Shapiro: Yeah, it's a go-, you know what, it's a good call you made there.

Blundell: But this is "Wha' Happened?", not "What's Wrong with You?"

Barr: Tha' happened! [hosts laughs]

Brenda: That happened, that happened.

Barr: Can you imagine?

Shapiro: "Hey, honey, I got a big joke for you. Weed whacker to ..." What an idiot your boyfriend is. [laughs]

Barr: Yeah, yeah. [makes "whrring" sound of weed whacker]

Blundell: All right. Uh, congratulations to you both. Todd, uh, tell them what they've won.

Shapiro: All right. Well, I think you guys have to go to the *Fast and Furious* movie together and one of you is going to go to –

Blundell: You'll share those.

Shapiro: Yeah, you'll share those. One of you go, will go to Edgefest 2009 and the other one will go to, uh, a game, uh, it's a Lotto Super Seven, because you get a Toronto Raptors give-away. It's March 29<sup>th</sup>. I don't know who they're takin' on 'cause my computer's frozen. You also have a Lotto Super Seven prize pack. And, uh, fifty-five dollars worth of tickets. So there you go.

Blundell: All right.

Hyper-Lee: Awesome.

Blundell: Hold on, chiquitas.

Hyper-Lee: Thanks.

Blundell: Yeah.

Shapiro: The game's the Bulls, by the way.

Blundell: You see I did that, the chiquita thing because of the ...

Shapiro: Oh, the whole Mexican ...

Barr: Uh huh.

Blundell: Yeah.

Barr: I got it.

Blundell: ... connection.

Barr: That was great.

Shapiro: There you go, bud.

Blundell: Mexicali. [affects Mexican accent] Hey, let's check out the hoo-haw!  
[Shapiro & Barr laugh] All right, it's time for my thermometer. I'll lube it. With some re-fried  
beans.

Barr: I love re-fried beans.

Blundell: [with Mexican accent] I mean KY. [without accent] Eight-oh-seven.  
MGMT, 102.1 The Edge.



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## APPENDIX B

### CBSC Decision 08/09-1238 CFNY-FM re a "Wha' Happened?" segment on the *Dean Blundell Show*

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#### The Complaint

The following complaint dated February 18, 2009 was sent to the CRTC and forwarded to the CBSC in due course:

Dear Sir/Madam,

I would like to express my extreme outrage and disgust as to a certain radio station with respect to their disappointing commentary and music programming. The suspect station is located in Toronto, ON and goes by the call letters CFNY 102.1 - "The Edge". The morning DJ – a man called Dean Blundell – has a thoroughly disgusting morning show where they degrade and insult pretty well everyone. Their content always seems to have a sexual content, with innuendo to the most disgusting and vile acts. This is an absolute disgrace and must cease immediately. The Canadian public airways [*sic*] are no place to be airing this teenage smut and disgusting concepts of how sexually perverse a person can be; it is an outrage. This show must be terminated with the greatest enforcement as soon as possible.

Now don't get me wrong here, I am not an uptight, morally-bound individual. Moreover, I am a very reasonable person and a strong proponent of "freedoms" including speech, expression, thought, ideologies, etc. However, in this case and many others, CFNY 102.1 and Dean Blundell have crossed a line of moral decency. Please feel free to listen to their shows sometimes. They degrade immigrants, Americans, handicapped people, fat people, anyone who doesn't think like they do and all with a perverted sexual twist. The show insults and degrades the intelligence of anyone listening. The *Dean Blundell Show* must end ASAP. I'm actually surprised they haven't been sued for libel and slander, as they are guilty of these charges on a daily basis.

On a further note, their programming is also pathetic. This is supposed to be an FM station playing an FM format of music content. One would think that an FM format might also include a degree of sophistication and intelligence, but not in this case. Instead, they sound like the worst AM station playing the same set of music *ad nauseam*. I suggest if they want to have a music format like their current one then they lose their FM license and move to an AM frequency. Both the music programming and the *Dean Blundell Show* have to change, as they are NOT living up to their promise of being a responsible radio station under their licensed agreement with the CRTC and Canadian Broadcasting Regulations. Besides that, their BBM ratings reflect in [*sic*] great negativity. Would you please supply me with a copy of the CRTC licence that they are signatory to?

Please do something about this immediately as it reflects strongly on your administration of the Canadian Public Airways [*sic*]. I will assume that you condone this type of disgraceful and despicable behaviour if nothing is done. At which point I will contact my local MP and make this a public matter.

The CBSC wrote back explaining that it requires the date and time of a specific episode in order to proceed with a complaint. The complainant responded with the following on March 2:

Thank you for acknowledging my complaint against the CFNY morning show. You require times and dates for the *Dean Blundell Show*? How about the entire years of 2005\2006\2007\2008 – pick a day, any day – each show is guilty of Clause 3. They do the morning show Monday to Friday. Try anytime from September 2008 onwards for a more recent approach.

It is not the music programming I am concerned about it (I realize very little can be done to affect a poorly-managed radio station); it is the commentary – the idle brain dead banter that drones on and on – it was\is always the same old perverted and disgusting aspects of carnal knowledge. The content of that banter is in direct contravention of Clause 3 and perhaps other clauses. I sincerely believe the *Dean Blundell Show* to be a disgusting, demeaning, and vile radio program that contravenes CBSC broadcast codes, ethics and standards.

#### Clause 3 – Sex-Role Stereotyping

Recognizing that stereotyping images can and do have a negative effect, it shall be the responsibility of broadcasters to exhibit, to the best of their ability, a conscious sensitivity to the problems related to sex-role stereotyping, by refraining from exploitation and by the reflection of the intellectual and emotional equality of both sexes in programming. Broadcasters shall refer to the *Sex-Role Portrayal Code for Television and Radio Programming* [since March 17, 2008, replaced by the *Equitable Portrayal Code*] for more detailed provisions in this area.

Please let me know what further information is required to pursue a formal complaint.

The CBSC wrote back again explaining that he would have to narrow down his time frame even more because the CBSC could not review the tapes of every episode from a program that airs five days a week over a period of seven months. The CBSC also mentioned that broadcasters are only required to hold tapes of their programming for 28 days following the broadcast. The complainant responded on March 4:

This sounds like a complete stonewall. Of course somebody has to review the tapes. I think I will simply get in touch with my member of Parliament. The CBSC will certainly hear about this and I think your approach is nothing short of pathetic. Thanks for nothing.

The CBSC responded to that e-mail with the following:

The Canadian Broadcast Standards Council (CBSC) has received your correspondence concerning the *Dean Blundell Show*.

I'm afraid we have had a misunderstanding due to the unclear e-mail I sent to you on March 3rd. The CBSC is the Council which deals with complaints about what listeners have heard broadcast by our member stations. Our process works and it is here to serve the public and the stations in order to resolve complaints. But, like any council of this type, we need to follow a neutral process in order that no complaint, complainant or station be given priority over others. We are absolutely a serious organization and I take my work to heart. If I am

explaining our process to you, the complainant, it is so that you can use it. Any tool may do an excellent job, but if you don't know how to use it, how could it work properly?

We (just like the legal system) deal with specific complaints. You may have many complaints, and we can generally accommodate that, as long as you provide the date and time of the broadcasts, and as long as the logger tapes are available. Logger tapes are copies of what went exactly on air, including commercials, advisories, etc. (They are not the same as a copy of the show, which will not have advisories yet, or commercials, and by human error, may not even have gone to air as planned.) By law, broadcasters must keep their tapes for 28 days, after which they can be recycled. In case the broadcaster's response to your complaint doesn't resolve the issue, the CBSC needs to have access to the logger tapes in question in order to review them and decide whether or not these shows breached a code or not. That is why we can only accept complaints about broadcasts which are less than 28 days old.

I hope that this has cleared some of the confusion about our process. If you have any further questions, please do not hesitate to contact me again. I have kept your file on hold while I wait for further information from you.

The complainant replied to that e-mail on March 6:

Understood, [CBSC Communications Coordinator]. If I was aware of the rules and regulations of the CBSC at the time the on-air offences took place, I certainly would have acted on it immediately. I feel very frustrated that there seems to be no recourse for me or any of my fellow Canadians when dealing with these sorts of issues. From what you have explained to me, I am "out of luck", hence my rather terse response to your last e-mail. I sincerely do appreciate that you are trying your best and take your job to heart, but feel "let down" by the system. So far, in spite of you including a reference to not only [the Assistant Program Director] at CFNY and the Parent Company that owns CFNY – namely CorusEnt – there has been absolutely no response from either of their parts. No one wants to be responsible for anything anymore, they just want the \$\$\$.

I still am a firm believer that CBSC current processes and methodology for bringing a complaint to light are pathetic and essentially do not work, at least from my POV and my brief experience with it. That is why I want to involve my MP. Canadian public institutions seem to be failing as a whole these days and it looks like the CBSC is not immune. Many offences have taken place on that show for many years now and I find it hard to believe that I am the only one who has complained about the *Dean Blundell Morning Show* at CFNY. CorusEnt?? Are you there?? Have anything to say about my concerns??

Why are the people at CFNY and CorusEnt not responding? Is it that they feel a response would be an admission of guilt? At this point, if you ever included me in a CBSC feedback status report, I would have to condemn the current approaches to dealing with the complaint process. Why is the CBSC passive and non pro-active? Why are these outrageously disgusting statements allowed to be aired on the public airways [sic]? Who polices these radio stations for content, quality? Themselves? That would be like asking "the rabbits to guard the lettuce".

In any case, I suppose I will simply by-pass the CBSC and continue this complaint process through my MP and follow it as far as it will go. I am going to take a run at the CBSC as I strongly sense, through my brief experience with it, that [it] is broken and needs a complete overhaul like the rest of our public institutions including all levels of gov't, the CRTC, the CAS, the MCS, the RCMP etc., etc., etc.

Keeping tapes for 28 days is a serious mistake – it is definitely too short a time period. How do you ever audit a radio station? According to GAAP, companies have to keep records for at least 7 years. Why wouldn't a radio station have to comply with that too? All in all, this system is full of holes and is, generally speaking untrustworthy, and unreliable.

As per usual CBSC process, employees at the station and Corus were copied on all of the correspondence. Following receipt of the complainant's March 6 e-mail, CFNY-FM's General Manager wrote to the complainant on March 9:

I would be happy to talk to you more on your comments and concerns. Please feel free to call me at your convenience at my phone number listed below.

The complainant apparently took the General Manager up on his offer and spoke with him on the telephone. The complainant sent a follow-up e-mail to the General Manager on the same day:

[General Manager] – I want to thank you very much for getting back to me and explaining the "situation" from your point-of-view. It's amazing how communications can help to solve problems. My grievances with the CFNY morning show were addressed and your explanation of [the Program Director's] game plan made a lot of sense. I want you to know that you handled my concerns in a professional and diligent manner. I really appreciated our conversation.

I am also very happy to hear that you are in the midst of a "change of course" and looking at addressing some of the current "less than ideal" situations. I hope your efforts make the grade. Thank you and Good Luck.

The complainant then made note of a specific date and time and contacted the CBSC again on March 23:

Hello [CBSC Communications Coordinator] – I now have a date and time for the CBSC to investigate. With respect to the CFNY-FM 102.1 the Dean Blundell morning show. Check the tapes from 8:00-8:15 AM on Friday March 20th. I think you will find this type of content to be a fairly typical occurrence on the Dean Blundell morning show – this type of radio content should be stopped immediately. If you or the CBSC does not agree, then the Dean Blundell morning show, at least, should have a serious warning message to the listening audience as to the nature of the show's content and how it can be offensive, rude, disgusting and shocking to some of the listening audience. The fact that younger people can "tune in" and listen to such smutty filth is truly disgusting.

Thank you [CBSC Communications Coordinator] – it will be interesting to see "if the system actually works".

## **Broadcaster Response**

The station then responded to the complainant's specific concerns about the March 20<sup>th</sup> episode on April 13:

The Canadian Broadcast Standards Council (the "CBSC") has asked us to respond to your email of March 23, 2009, in which you raised concerns regarding comments made during the *Dean Blundell Show* that aired on CFNY-FM on March 20, 2009. Specifically, you state that the content broadcast between 8:00 am and 8:15 am that day should be preceded by a warning to the audience that the show's content may be "rude, offensive, disgusting and shocking" to some of the listening audience. You also mention that young people can tune at this time and hear what you have described as "smutty filth".

Between 8:00 am to 8:15 am on March 20, 2009, two segments [were] broadcast. One of the segments involved an interview with the Punjabi Hockey Night in Canada broadcasters, and the other segment was a segment called "Wha' Happened", a call-in segment during which listeners relay bizarre, personal anecdotes.

We have reviewed the segments, and cannot find anything during the hockey night in Canada interview that fits your description. As far as the "Wha' Happened" segment is concerned, we agree that some people might find the discussions offensive, but we don't believe the segment breached the Canadian Association of Broadcasters' *Code of Ethics* (the "Code"), which is administered by the CBSC and to which we adhere.

The CBSC has stated that a program may contain sexual overtones, but should not be sexually explicit (CJVC-FM re *Local Exotic Dancer Bar Commercial*, CBSC Decision 97/98-0282). Where a program is not explicit and does not contain any suggestion of reality or description of an explicit sexual act, the CBSC has further stated that it would not find a breach of the Code (CFQR-FM re *The Morning Show*, CBSC Decision 01/02 -1137). The CBSC has also found that a program filled with double entendres and suggestive comments was not explicit enough to be in breach of the Code (CFMI-FM re *Brother Jake Morning Show*, CBSC Decision 01/02-1137). While we agree that the comments made during the program were of a sexual nature, we do not believe that the comments were of a sexually explicit nature. The material was presented using euphemisms and innuendoes and it was delivered in a comedic manner.

The CBSC has also said that, where programming is directed at 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 bad taste, i.e. via the on/off or dial button (CIQC-AM re *Galganov in the Morning*, CBSC Decision 97/98-0473).

In view of the foregoing, we do not believe that the program violated the Code. We do regret, however, that you were offended by some of some of our programming. We meet daily with the morning show to discuss content and keep them on-side of the code. We take our responsibilities as broadcasters very seriously, and work hard to make sure all of our programming complies with the *Broadcasting Act*, the *Radio Regulations* and the Code and standards required of us as a member of the CBSC.

We trust that this letter has addressed your concerns. We recognize the importance of listener feedback and appreciate all comments.

## **Additional Correspondence**

The complainant wrote back to the Program Director on April 14:

RE: "While we agree that the comments made during the program were of a sexual nature, we do not believe that the comments were of a sexually explicit nature. The material was presented using euphemisms and innuendoes and it was delivered in a comedic manner." [CFNY-FM Program Director], you didn't find that bit about the Mexican gynecologist a little sexually grotesque? Sickening? Demeaning? Tossing her salad? There is NO INNUENDO there. I mean, c'mon brother, it's 8 o'clock in the morning for goodness sake and one of the worst radio stations in the country is belting out this filthy crap to the potentially largest listening base in the country. The innuendo and nuance you refer to is about as suggestive as a sledge hammer hitting a push pin. Those statements are as crude as they come and there is absolutely nothing subtle or double entendre about them.

### Clause 3 – Sex-Role Stereotyping

Recognizing that stereotyping images can and do have a negative effect, it shall be the responsibility of broadcasters to exhibit, to the best of their ability, a conscious sensitivity to the problems related to sex-role stereotyping, by refraining from exploitation and by the reflection of the intellectual and emotional equality of both sexes in programming. Broadcasters shall refer to the *Sex-Role Portrayal Code for Television and Radio Programming* [since March 17, 2008, replaced by the *Equitable Portrayal Code*] for more detailed provisions in this area.

Please look at the above code of ethics. Do you really think that CFNY exhibited to the best of their ability, a conscious sensitive nature towards airing that piece about the foolish girl and the Mexican gynecologist? Intellectual and emotional equality? Yeah, right. Do you sincerely, really believe what you have written to me? I cannot believe what I am reading from you. It sounds just like a canned response. From a person who is simply in it for the money. So you are saying that everything is fine at CFNY and that your broadcasting falls within the CBSC standards? I highly doubt that and intend on proving a point.

[Program Director], this isn't an isolated incident. As a matter of fact, I'm certain it is an ongoing concern with the Dean Blundell morning show. You mentioned that you take the CBSC ethics seriously and meet every morning to discuss ethics and keeping these guys in line. Does this show worry you at all? Is it the type of show you would allow your adult children to listen to?

RE: "The CBSC has also said that, where programming is directed at 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 bad taste, i.e. via the on/off or dial button (CIQC-AM re Galganov in the Morning, CBSC Decision 97/98-0473)."

[CBSC Communications Coordinator] – Is this true that the CBSC found nothing wrong with the broadcaster's content?

Directed at an adult audience? Have you ever seen the amount of warnings on TV about adult content? Before the show starts, before the resumption of the show after commercials, the *Dean Blundell Show* should have those warnings before the show starts and before resuming the broadcast from commercials.

So instead of having crude and disgusting morning personalities, you off-load the "disgusting content" onto your listening audience and have them air it? Wow – sheer brilliance.

Thanks [Program Director], but your response is completely unacceptable – this issue is not over.

I am going file a ruling request against the CFNY Dean Blundell morning show. This charade has to cease this type of broadcasting content and cease it immediately. If need be, we'll see this matter in front of the courts. I vehemently oppose your statement "As far as the 'Wha' Happened' segment is concerned, we agree that some people might find the discussions offensive, but we don't believe the segment breached the Canadian Association of Broadcasters' *Code of Ethics* (the 'Code'), which is administered by the CBSC and to which we adhere".

In addition, I now find the CBSC to also be in hot water as per your comment, because if it is true, then the CBSC needs a good old fashioned "shaking-up" too.

The complainant filed his Ruling Request on April 14 with the following note:

- 1) I want to find out how to register a complaint against the CBSC. I cannot believe that the CBSC would condone the CFNY on-air statements about a young foolish girl and a Mexican gynecologist. It was thoroughly disgusting and should never have been allowed on the Canadian public airways [*sic*]. It seriously looks like it is time to have a long hard look at the CBSC.
- 2) Would you please have the CBSC respond to me regarding the letter from CFNY – [Program Director], dated April 13, 2009 to me. I wish to appeal this response as it is totally unacceptable.