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## CANADIAN BROADCAST STANDARDS COUNCIL

### ONTARIO REGIONAL PANEL

#### CILQ-FM re a “Last Word” segment on *Derringer in the Morning*

(CBSC Decision 09/10-0188)

Decided June 22, 2010

M. Oldfield (Acting Chair), B. Bodnarchuk, L. Levinson,  
J. Page (*ad hoc*), J. Pungente, P. Wedge (*ad hoc*)

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### THE FACTS

*Derringer in the Morning* is the morning show on classic rock radio station CILQ-FM (Q107, Toronto). Hosted by John Derringer, Maureen Holloway and Ryan Parker, it presents the usual mix of songs, traffic, news and weather reports, and banter among the hosts about entertainment news and current events. It airs from 5:30 to 9:00 am on weekdays. “The Last Word” is a segment on the program during which the hosts discuss entertainment news.

On August 28, 2009 during the last half hour of the program, part of “The Last Word” focused on comments made by pop singer Madonna about Roma Gypsies. The dialogue among the hosts was as follows:

Holloway: Uh, Madonna was booed while on tour in Romania when she spoke out against the treatment of Gypsies in that country. Madonna has a troupe of Romani Gypsies travelling with her in her show. Told the audience of sixty thousand in Bucharest that the discrimination against Gypsies made her sad. She didn't say anything about the tramps and the thieves, but [Derringer & Holloway laugh]. They said, oh, give it a Bucharest, Madonna! [all laugh] Ha-, er, most, apparently, like, half of the Gypsy tribes come originally from, from Romania, which is why they're called Rom-, Romani Gypsies. But, uh, I find them fascinating because people don't really know exactly where they came from. And what their ethnic origin is. Uh, but they are maligned, um, throughout Europe. We don't seem to have a Gypsy problem here.

Derringer: No, we don't. Well, in Ireland, they've got the Tinkers.

Holloway: Tinkers.

Derringer: Which is a similar sort of situation.

Holloway: But they are the same, they're the same, uh, origins, but, uh.

Derringer: Well, and, and, and the problem is not that they go around in caravans, like motorhomes, which is the way that they, they live and travel. The problem is that they happen to do a lot of illegal activity on the side. You know, most of them aren't workin' nine-to-five jobs.

Holloway: Really? They're not stealing babies and crossing a palm with silver?  
[Derringer & Parker laugh] Did you ever watch *The Riches*?

Derringer: I did not.

Holloway: It was very, it, it, they only did two seasons. This was with Eddie Izzard and, uh, Minnie Driver. And they played American Gyp-, well, of Irish background. They were originally Tinkers, as you mentioned. Uh, but, uh, yeah, grifters, uh, on the, uh, basically living below the radar in, in, uh, in, in the States. And, uh, they ended up taking over, uh, a wealthy family's identity when they were killed in a car accident. Moving into, uh, a gated neighbourhood. It was very entertaining. Uh, Eddie Izzard himself is, uh, is quite an entertainer. Uh, so, yeah, at least we don't have a Gypsy problem, you know?

Parker: Well, M-, I saw that clip, Maureen, that you were talking about with Madonna, where she gets booed.

Holloway: Yeah?

Parker: It's great to watch. But my biggest problem with it was with her accent. Like –

Holloway: What, did she have her Gypsy accent? [laughs]

Parker: Oh, she's, no, she's from Detroit. She's like, she's like, you know –

Holloway: She's has a Rochester accent.

Parker: [affecting British accent] "Ello Romania, are you all right then?"  
[Holloway & Derringer laugh] "Gypsies make me sad, they do."

Holloway: [affecting British accent] "They do, guvna."

Parker: "Why are you so mean to the Gypsies like?!" You're from Detroit.

Holloway: Do you know the whole thing was completely, uh, just a big mistake. She was actually talking about the discrimination against gypsum. Drywall problem.  
[Parker & Derringer laugh]

Derringer: She's al-, she's always been a great advocate for the drywall industry.  
[all laugh]

Holloway: No, no more plaster or drywall, please.

On September 29, a listener filed a complaint via the CBSC's webform, expressing his concerns about the segment in the following terms (the full text of all correspondence can be found in the Appendix):

Comments were made by the DJ Maureen Holloway about events transpiring in Romania during the August 26 Madonna concert. There was an episode of racism from Madonna's crowd, which Ms. Holloway was reporting on. For whatever reason, known only to her, Ms. Holloway made remarks that supported the stereotypes and racist beliefs that some have, including the Romanian audience at the concert, regarding the Roma Gypsy people. Rather than shutting her down, the show's host, Mr. John Derringer, made his own racist and stereotyping comments.

By the end of the segment, I was appalled that Q107 would condone the racism of a Romanian crowd, and would add their own "fuel to the fire" of racism against anyone. Further, the language selected by the Q107 morning show cast (for example, Ms. Holloway refers to the "Gypsy Problem") was strikingly reminiscent of the language in Hitler's Germany right before the Second World War. I am not accusing the Q107 hosts of being Nazis. I am accusing them of being horrendously ignorant of history, multicultural ethics and the way that their words will affect their listeners, specifically those who hate Gypsies and those who are Gypsies. I myself am not a Gypsy, but I know enough history to recognize fascistic language when I hear it. I hope your organization does too.

I wrote Q107 a letter, and discussed it with the program manager. At first, after listening to the tape, he did not agree with me, and thought there was no problem with this broadcast. After about 30 minutes of debate, in which I explained the meaning of racism and stereotyping, and shared with him the perspective of a Canadian minority, such as Gypsies, he acknowledged that there might be an issue here.

He discussed it with the DJs and sent me a letter saying that they would try to be more sensitive. While this is a great step, it is far from concrete. I would like Q107 to issue a correction or apology or do a positive segment educating viewers about the Roma Gypsies, without bias or stereotype. I think you will find the internet supplies plenty of free research material on the subject, including Wikipedia (where the section on Gypsies says that even the term 'Gypsy' is a derogatory word), and the Jewish Virtual Library (search 'Gypsies in the Holocaust' on Google). I would like the morning show to do something to demonstrate that they are NOT racist in intent, even if they slipped up one day, and that they ARE dedicated to making positive, tangible change. I think this apology/correction/positive info session would be a great way to do this. I think they can then follow up, as they said, by being more sensitive in the future.

Although the complainant indicated that he had already had some communication with the station, the CBSC offered Q107 the opportunity to respond further now that an official complaint had been filed. The station sent a letter to the complainant on October 20:

[Y]ou assert that one of the program hosts, Maureen Holloway, "made remarks that supported the stereotypes and racist beliefs that some have, including the Romanian audience at the concert, regarding the Roma Gypsy people". You make specific mention to Ms. Holloway's reference to a "Gypsy problem", which you say is strikingly reminiscent of the language used in Hitler's Germany right before the Second World War.

We have had a chance to review the broadcast in question, and confirm that Ms. Holloway did discuss Madonna's recent concert in Bucharest, where Madonna publicly denounced eastern Europe's treatment of what she referred to as "Romanis and Gypsies, in general". Ms. Holloway digressed by saying that she found the 'Romani Gypsies' to be fascinating people, because so little is known about their ethnic origin. She continued by acknowledging that they are maligned throughout Europe, but that we don't seem to have a "Gypsy problem here". John Derringer made reference to the "problem" with Irish "Tinkers", which is that they get involved in criminal activity.

We understand that you found the comments to be offensive, and can appreciate your point of view. The statements made by Mr. Derringer and Ms. Holloway reveal the poignant fact that the plight of Romanis is poorly understood, particularly in North America. This said, we don't believe that the comments were racist towards Roma Gypsies, and therefore, did not violate the Canadian Association of Broadcasters' *Code of Ethics* (the "Code"), which is administered by the CBSC and to which we adhere. The CBSC has frequently stated that it is not *any* reference to race, national or ethnic origin, religion, age, sex, marital status or physical or mental handicap that will be sanctioned, but rather, only those references that contain abusive or discriminatory material.

The CBSC has explained that in order for a program to constitute a breach of the Code, it would have to contain harsh language or imagery, nastiness, utter insensitivity or the like. We do not believe any of the comments made during this segment fit this description.

It is important to note that the segment between Mr. Derringer and Ms. Holloway is always "tongue in cheek". That said, Ms. Holloway was obviously serious in her contention that Romani Gypsies are 'fascinating', that they are generally misunderstood and widely ostracized. She continued that "we don't seem to have a Gypsy problem here". The context surrounding that statement makes it clear that the "problem" Ms. Holloway was referring to was not to the *existence* of Romani Gypsies, as you suggest, but rather, to the problems Romani Gypsies and other nomadic peoples have assimilating and being accepted into European society; a problem which has significant consequences for Romani Gypsies themselves and for the nation-states in which they live. These problems are well-documented and widely-known. Given the persecution of the 'Gypsies' during the Second World War, Ms. Holloway should have been more careful about her choice of words and more explicit about what she was trying to say. Despite this insensitive turn of phrase, however, Ms. Holloway was not, nor could she have been perceived to have been expressing racist or fascist sentiments towards any group of people.

In reference to Mr. Derringer's comments about so-called "Tinkers", Mr. Derringer was careful to say that there is no *inherent* problem associated with Tinkers or their nomadic lifestyle. Rather, the "problem" Mr. Derringer was referring to in Ireland relates to those Tinkers who get involved in criminal activity -- a fact that is also well-publicized and has been widely discussed in various media.

For these reasons, we don't believe that our programming violated the Code. We do, however, agree with you that our hosts must always be cognizant of their choice of words, which can have a profound influence on their audience. We therefore intend to discuss this matter with our on-air staff. We do regret that you were offended by some of our programming, and want to assure you that 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.

The complainant was not satisfied with that response and submitted his Ruling Request on October 22 along with the following note:

Q107 made racist comments on-air and will not retract them. Their program manager has wilfully interpreted the broadcast to suit his own interests. I am in no way satisfied by Q107's response.

He wrote a lengthier letter to the CBSC on November 16:

Thank you for your consideration of this matter. I am prepared to wait the period necessary to see this through.

Please add this information to my file: when I talked to Q107, I told them I would drop my complaint if they made a public service announcement that served to balance out the last one, i.e. equal length and positive in tone towards Roma Gypsies. I suggested an apology to Roma Gypsies on air for the previous thoughtless comments, or that they do some research about the Roma Gypsies and tell the listeners some nice or interesting things about this culture. Just a reminder – I am not a Roma Gypsy.

[...] My point to [Q107's Program Director] was that any culture has some good people and some bad people. The point is not to stereotype them as monolithic, as all possessing a certain trait. Like being 'thieves' and 'troublemakers', as the Roma are often portrayed. If Q107 balanced out the negative comment with a positive, I told him I would go away, as the issue would have been resolved, in my opinion. [...]

He discussed my issue and suggestions with the on-air personalities and decided that it was not an issue in the end, despite recognizing the issue to me on the phone days prior. They decided not to do the positive PSA. Now let me ask you: If they have nothing against the Roma people, why NOT make a positive comment? Doesn't every group have some good in it? Isn't that worth mentioning? What does it cost them to be respectful instead of stubbornly insensitive? I did not ask them to do something costly or overly humiliating or very taxing in any way. It was an obvious, simple solution. [...]

[...] But Q107 is shamelessly unafraid: unafraid of hurting Gypsies, unafraid of my complaint, unafraid of right and wrong, and unafraid of your organization. They would rather stick to their guns when they know they are wrong than apologize and move on. And they have forced me into a lengthy and frustrating complaint that I did not want anything to do with. I am involved because I believe in justice, and was taught that Canada was a society that does not believe in hate against any racial group. Certainly its public broadcasters should not be allowed to broadcast hate without consequence. Please show them the importance of this principle.

## THE DECISION

The CBSC Ontario Regional Panel examined the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* and *Equitable Portrayal Code*.

*CAB Code of Ethics*, Clause 2 – Human Rights

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

### *CAB Equitable Portrayal Code, Clause 2 – Human Rights*

Recognizing that every person has the right to the full enjoyment of 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, gender, sexual orientation, marital status or physical or mental disability.

### *CAB Equitable Portrayal Code, Clause 3 – Negative Portrayal*

In an effort to ensure appropriate depictions of all individuals and groups, broadcasters shall refrain from airing unduly negative portrayals of persons with respect to race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability. Negative portrayal can take many different forms, including (but not limited to) stereotyping, stigmatization and victimization, derision of myths, traditions or practices, degrading material, and exploitation.

### *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.

The Panel Adjudicators read all of the correspondence and listened to the broadcast in question. The Panel concludes that the stereotypical comments broadcast by Q107 violated Clauses 3 and 4, but not the Human Rights Clauses of the *CAB Code of Ethics* or the *CAB Equitable Portrayal Code*.

### **A Preliminary Point: Who May Complain?**

The complainant observed in his initial complaint of September 29, that he was not one of the potentially offended group: “I myself am not a Gypsy.” And then, in his Ruling Request of November 16, he raised the point again, saying, “Just a reminder – I am not a Roma Gypsy.” The Panel draws two conclusions from those statements: first, the complainant was concerned that one might conclude that he was making this complaint *because* he was a Roma Gypsy; or second, the related point, no Roma Gypsy ought to be *disentitled* to make such a complaint because of a perceived affront to his or her nationality or ethnicity.

As to the first point, neither he nor any other complainant needs to establish disinterest in order to justify a complaint. Neither the broadcaster nor the CBSC would be entitled to conclude that a complaint was being made solely because the individual complainant was a member of the group targeted in the broadcast in question.

As to the second point, in some ways the flip side of the first, the complainant would have been entitled to make the complaint even if he *had been* a Roma Gypsy. It is not as though he, or any other complainant, would lose such an entitlement to file a complaint with the CSBC on account of his or her nationality or ethnicity. As this Panel said in *CHOM-FM and CILQ-FM re the Howard Stern Show* (CBSC Decisions 97/98-0001+ and 0015+, October 17 and 18, 1997),

Some have suggested that the fact that a significant proportion, perhaps 65%, of the CHOM-FM audience is French-speaking had a bearing on the appreciation of the comments made by Howard Stern. The suggestion has been made that the abusive comments may have been made worse by reason of the make-up of the station's audience. The Regional Councils disagree. Every Canadian, regardless of nationality, is diminished by abusively discriminatory remarks which are aimed at *any* identifiable group.

It has not, in fact, been surprising to the members of the CBSC that a sizable component of the complaints relating to the negative comments directed at the French and the French-Canadians have been articulated by *Anglo*-Canadians in letters coming from Quebec and elsewhere in the country. What is prohibited by the Code is the abuse of any group by comments "based on matters of race, national or ethnic origin, religion, age, sex, marital status or physical or mental handicap." It is clear that representatives of English and other linguistic groups have been as offended by the comments directed at *one* group of Canadians as the Francophone members of that group have been. That has also been as true of Canadians outside Quebec as Canadians inside Quebec.

In summary, the Panel does not in any way criticize the complainant for his observations about his own detachment in making the complaint. On the contrary, as previous CBSC Panels have said, all Canadians are diminished by comments about an identifiable group that are found to breach the Human Rights or Negative Portrayal Clauses cited above. This includes members of any offended group as well as non-members who, like the complainant in this instance, are troubled by such comments.

### **The Human Rights Issue**

In the view of the Panel, there is no denying that the issue of the threshold of abusive or unduly discriminatory content is not easily defined. It is also undeniable that some cases are easier than others, namely, those at the extremes of discriminatory content. At the light, non-abusive end of that spectrum, are the comments that meet the criterion set down in *CHFI-FM re The Don Daynard Show* (CBSC Decision 94/95-0145, March 26, 1996). In the radio show challenged there, the hosts told a series of "light

bulb” jokes, including one which asked, “How many Jewish mothers does it take to change a light bulb?” A listener did not take this “joke” lightly, feeling that it was anti-Semitic and offensive. The Panel concluded that there had been no violation of the Code, and stated that

the Jewish mothers light bulb joke, while ethnically pointed, was neither demeaning nor abusive. It was told in the context of a series of light bulb jokes aimed at feminists, Marxists, surrealists, accountants, etc. *It poked fun but did not bludgeon. It tickled but was not nasty.* [Emphasis added.]

At the opposite extremity, there are, of course, intentionally or heedlessly abusive or unduly discriminatory comments. In *CKAC-AM re an episode of Doc Mailloux (Money)* (CBSC Decision 05/06-1379, December 11, 2006), for example, the Quebec Regional Panel dealt with an episode of an open-line program hosted by psychiatrist Pierre Mailloux. The topic of the day was borrowing and lending money. Within that context, Mailloux suggested that Cuba, North Korea and Iran were [translation] “deficient countries” and that Cubans and Russians were “deficients” and had no sense of honour because of their view of money and repaying debt. In *CKAC-AM re an episode of Doc Mailloux (Childless by Choice)* (CBSC Decision 05/06-1671, December 11, 2006), the question of the day of that episode was [translation] “Have you decided not to have children?” Mailloux introduced the topic by talking about the declining birth rate in Russia. He referred to Russia as a [translations] “deficient country” and stated that “I think they have enough morons and a few less wouldn’t be a bad thing.” In yet another example, namely, *CKAC-AM re Doc Mailloux (six episodes)* (CBSC Decision 06/07-0168 & -0266, August 23, 2007), Mailloux commented [translation] “Arab men don’t work. I am generalizing, but it is in fact true. [...] Central Americans don’t work, Blacks in Africa don’t work and the Russians don’t work.” As a final example, in *CKTF-FM re comments made on Les méchants matins du monde* (CBSC Decision 00/01-0705, April 5, 2002), the Quebec Panel said, of the comments stereotyping traits attributed to Hindus,

that the comments directed at Hindus with respect to their alleged habits, practices and conventions have unquestionably gone too far. The jokesters did not “poke” fun; they bludgeoned. They did not “tickle”; they were nasty. They did not joke *with* Hindus; they laughed *at* Hindus; they made fun *of* Hindus. They demeaned and denigrated the objects of their “humour”. This was “grit your teeth”, “cringe in discomfort” mockery; it had no cuteness or levity to offer. It did not belong on the public airwaves of Canada.

There are, in between those extremes, innumerable variants of discriminatory commentary. Some of these comments may be careless, some in good faith, some even well-intentioned. Panels do not, however, take the broadcaster’s intention into account. Their issue is *what* was said, not *why* it was said. Assuming that the challenged comments are discriminatory, the Panel will need to determine whether what was said attains the level of *unduly* discriminatory comment.

In the period prior to the application of the *Equitable Portrayal Code*, which introduced a codified standard defining stereotyping, any attempt by the CBSC to deal with stereotyping needed to be done with Clause 2 of the *CAB Code of Ethics*. This meant that challenged programming had to be either abusive or unduly discriminatory. In a pertinent precedent decided by this Panel, namely, *CFYI-AM re Scruff Connors and John Derringer Morning Show* (CBSC Decision 01/02-0279, June 7, 2002), the complaint was that the two radio hosts had insulted the Chinese by mocking a Chinese accent. They jokingly suggested that they were going to leave their jobs at Mojo Radio to work at a foreign language radio station. In furtherance of their jocular scheme, they telephoned a third language station and encountered the station's voice mail recorded message, part of which was in Cantonese. When Derringer asked Connors what the message was saying, Connors affected a Chinese accent and suggested that the message was listing the "lunch special" of "chicken ball, chicken fried rice, snow pea and noodoo." He also imitated Swedish, German and French accents in the course of the dialogue. The Panel did not find a breach of the Human Rights Clause, but made certain observations that are relevant to the matter at hand.

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

With respect to the complainant's concerns that the content stereotyped the Chinese community, this Panel did not dispute that contention, but stated that

[a]s in the case of discriminatory comment, however, the Panel does not consider that it is simply any stereotyping that will be in breach of the Human Rights Clause of the *CAB Code of Ethics*. It is only such stereotyping as can be reasonably viewed as abusive or unduly discriminatory. It is consequently difficult to envisage circumstances in which the use of an accent will on its own be in breach of the Code. The use of an alien accent will require ancillary demeaning, degrading, harsh, nasty or negative commentary or association in order to be found in breach of the Code.

On this occasion, the Ontario Panel, reflecting on that earlier decision it took prior to the existence of the *Equitable Portrayal Code*, notes that, if the same facts were before it today, with that Code available to it as an adjudicative tool, it might well arrive at a different conclusion. In any case, it wishes on this occasion to make it clear that its 2002 statement that "[i]t is only such stereotyping as can be reasonably viewed as abusive or unduly discriminatory" applies only to Clause 2 of the *CAB Code of Ethics* and not to Clause 4 of the *Equitable Portrayal Code*, about which more will be said in the following section.

As to the Panel's conclusions regarding the Human Rights Clause and the challenged segment of *Derringer in the Morning*, it does not consider that the stereotypical observations were abusive. Nor does the Panel consider that they were unduly discriminatory. They were undoubtedly a ham-handed attempt to be humorous and were, in the Panel's view "unduly negative stereotypical material", as the following section will indicate, but the Panel finds that they were, from a discriminatory perspective, on the cusp of being *unduly* discriminatory. When CBSC Panels conclude that content does not clearly cross over the line, it considers that the principle of freedom of expression predominates. In this case, it finds no breach of the Human Rights Clauses.

### **Unduly Negative Stereotypical Content**

As the Panel has indicated in the previous section, it considers that the standard established in Clause 4 of the *Equitable Portrayal Code* differs from that in the Human Rights Clauses. It considers that Clause 4 will be breached whenever comments are made that: a) stereotype an identifiable group established in Clause 4; and b) are unduly negative. As the Clause itself anticipates, stereotypical comments are "frequently simplistic, belittling, hurtful or prejudicial, while being unreflective of the complexity of the group being stereotyped." Stereotypical comments may also, as the word "frequently" implies, occasionally be something other than "belittling, hurtful or prejudicial". They may, for example, be positive. One identifiable group may have a particular aptitude for mathematics; another may be particularly athletic; another may have a greater penchant for literary or musical endeavours; and so on. Such stereotypical observations will probably be understood as affirming skills and be viewed as positive. The wording of Clause 4 makes it clear that such comments will not breach that codified standard. In order to achieve that result, a challenged comment must not merely be negative, it must be *unduly* negative. The Panel notes that the word "abusive" that is present in Clause 2 finds no equivalent here. While additional content decisions will in due course help to round out the definition of the standard, the Panel considers that "unduly negative" stereotypical comments may not need the degree of harshness or nastiness as may be required to cross over the standard of Clause 2.

To begin the assessment of the challenged segment, the Panel does not view the phraseology "We don't have a Gypsy problem here" as a reference to the mere *presence* of Gypsies in Canada, but rather to the issue of widespread public discrimination regarding Gypsies. In the view of the Panel, it was an acknowledgment that, while Europe appears to suffer such attitudinal pressures, Canada does not appear to.

There are, however, other comments in the hosts' dialogue that, collectively, are of concern to the Panel. The first was the observation by host Holloway that, when Madonna was criticizing discrimination against Romany Gypsies, "she didn't say anything about the tramps and thieves." While this may only be coincidental, the Panel recognizes that those words are from the widely-known Cher song "Gypsies, Tramps and Thieves". The fact is that, whether or not that musical literary allusion was intended, the phrase was used as a counter-weight or balance to Madonna's defence of Gypsies. While that comment *might* have survived scrutiny had it been the *sole* reference of that type, seconds later host Derringer added (in reference to *both* Tinkers and Gypsies, which are, as both hosts quickly indicate, "a similar sort of situation" or "the same"), "The problem is that they happen to do a lot of illegal activity on the side. You know, most of them aren't workin' nine-to-five jobs." And this was followed by the additional Holloway stereotyping query, "Really? They're not stealing babies and crossing a palm with silver?"

The Panel understands, on the tonal basis and by some accompanying giggles or laughter of the hosts that they were not being intentionally nasty, but there is no denying that their comments were negatively clichéd. Nor, in the view of the Panel, does the mirthful background protect the comments from characterization as unduly negatively stereotypical. In some ways, the fact that Canada "does not have a Gypsy problem" may have left the hosts without discomfort about their comments, given the remoteness of the targeted group (in the Canadian context). But the reality is that Gypsies are a real group, a real ethnicity, and comments labelling them as tramps, thieves, lawless to whatever extent, baby-stealers and so on, are stereotypes, and clearly unduly negative. The danger with such comments is that, particularly with any degree of snickering in the background, they risk desensitizing the public with regard to the verbal victims. The Stereotyping Clause is there to precisely avoid that social consequence. The Panel concludes that the broadcaster has breached Clause 4 of the *Equitable Portrayal Code* on that account. It follows that, since Clause 3, the general provision of that Code dealing with Negative Portrayal, includes a reference to stereotyping, that the finding of a breach of Clause 4 also constitutes a breach of Clause 3.

### **Broadcaster Responsiveness**

In all CBSC decisions, the Council's Panels assess the broadcaster's responsiveness to the complainant. In the present instance, the Panel finds that the response of the broadcaster's Program Director focussed directly and thoroughly on the issue that concerned the complainant. Indeed, it reviewed the issue at some length. That said, the complainant did not share the broadcaster's perspective, which is his right and the reason for which any complaint file is ultimately referred to a CBSC Panel for adjudication. In the end, it is the thoughtfulness of the response that determines

whether the broadcaster has met the CBSC membership responsibility of responsiveness, and the Panel considers that CILQ-FM has fully met that membership obligation in this instance.

The Panel also recognizes the complainant's insistence that he would wish an on-air corrective acknowledgment of some kind. In his words, taken from his original complaint of September 29 and his Ruling Request communication of November 16:

I would like Q107 to issue a correction or apology or do a positive segment educating viewers about the Roma Gypsies, without bias or stereotype. [...] I think this apology/correction/positive info session would be a great way to do this.

[...]

I told them I would drop my complaint if they made a public service announcement that served to balance out the last one, i.e. equal length and positive in tone towards Roma Gypsies. I suggested an apology to Roma Gypsies on air for the previous thoughtless comments, or that they do some research about the Roma Gypsies and tell the listeners some nice or interesting things about this culture.

The Panel can only observe that no broadcaster is under any obligation to air a segment of the type requested by the complainant. Where a broadcaster sees fit to do so, it is of course welcome to take that step [see, for example, *CFOX-FM re the Larry and Willie Show* (CBSC Decision 92/93-0141, August 30, 1993), where the broadcaster offered the complainant the opportunity to have two representatives of the Irish community designated by him join the hosts on air to read a script which they had prepared on the subject of Irish history and the use of derogatory references to the Irish people over time]. No self-regulatory or regulatory authority in Canada can, however, *oblige* the broadcaster to do so. It follows that the comprehensive nature of the response is a complete fulfilment of the broadcaster's membership obligations in the CBSC.

## **ANNOUNCEMENT OF THE DECISION**

CILQ-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 *Derringer in the Morning* was broadcast, but not on the same day as the first mandated announcement; 2) within the fourteen days following the broadcasts 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 CILQ-FM.

The Canadian Broadcast Standards Council has found that Q107 (CILQ-FM) breached Clauses 3 and 4 of the Canadian Association of Broadcasters (CAB) *Equitable Portrayal Code* in its broadcast of a segment of *Derringer in the Morning* on August 28, 2009. In that episode of the morning show, comments were made about Roma Gypsies that the CBSC considered were unduly negatively stereotypical and that were, consequently, in breach of Clauses 3 and 4 of the *CAB Equitable Portrayal Code*, which prohibits the airing of unduly negative portrayals, including unduly negative stereotyping, of persons with respect to their national or ethnic origin.

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

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## APPENDIX

### CBSC Decision 09/10-0188 CILQ-FM re a “Last Word” segment on *Derringer in the Morning*

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#### The Complaint

The following complaint was submitted via the CBSC’s webform on September 29, 2009:

station: Q107

program: *Derringer in the Morning*, Maureen Holloway and John Derringer

date: August 28, 2009 approximately

time: 8:30 am approximately – unsure

concern: Comments were made by the DJ Maureen Holloway about events transpiring in Romania during the August 26 Madonna concert. There was an episode of racism from Madonna's crowd, which Ms. Holloway was reporting on. For whatever reason, known only to her, Ms. Holloway made remarks that supported the stereotypes and racist beliefs that some have, including the Romanian audience at the concert, regarding the Roma Gypsy people. Rather than shutting her down, the show's host, Mr. John Derringer, made his own racist and stereotyping comments.

By the end of the segment, I was appalled that Q107 would condone the racism of a Romanian crowd, and would add their own "fuel to the fire" of racism against anyone. Further, the language selected by the Q107 morning show cast (for example, Ms. Holloway refers to the “Gypsy Problem”) was strikingly reminiscent of the language in Hitler's Germany right before the Second World War. I am not accusing the Q107 hosts of being Nazis. I am accusing them of being horrendously ignorant of history, multicultural ethics and the way that their words will affect their listeners, specifically those who hate Gypsies and those who are Gypsies. I myself am not a Gypsy, but I know enough history to recognize fascistic language when I hear it. I hope your organization does too.

I wrote Q107 a letter, and discussed it with the program manager. At first, after listening to the tape, he did not agree with me, and thought there was no problem with this broadcast. After about 30 minutes of debate, in which I explained the meaning of racism and stereotyping, and shared with him the perspective of a Canadian minority, such as Gypsies, he acknowledged that there might be an issue here.

He discussed it with the DJs and sent me a letter saying that they would try to be more sensitive. While this is a great step, it is far from concrete. I would like Q107 to issue a correction or apology or do a positive segment educating viewers about the Roma Gypsies, without bias or stereotype. I think you will find the internet supplies plenty of free research material on the subject, including Wikipedia (where the section on Gypsies says that even the term 'Gypsy' is a derogatory word), and the Jewish Virtual Library (search 'Gypsies in the Holocaust' on Google). I would like the morning show to do something to demonstrate that

they are NOT racist in intent, even if they slipped up one day, and that they ARE dedicated to making positive, tangible change. I think this apology/correction/positive info session would be a great way to do this. I think they can then follow up, as they said, by being more sensitive in the future.

## Broadcaster Response

CILQ-FM (Q107) responded on October 20 with the following:

The Canadian Broadcast Standards Council (the "CBSC") has asked us to respond to your email of September 28, 2009, in which you raised concerns regarding comments made during *Derringer in the Morning* (the "Program") on CILQ-FM on August 28, 2009. Specifically, you assert that the one of the program hosts, Maureen Holloway, "made remarks that supported the stereotypes and racist beliefs that some have, including the Romanian audience at the concert, regarding the Roma Gypsy people". You make specific mention [of] Ms. Holloway's reference to a "Gypsy problem", which you say is strikingly reminiscent of the language used in Hitler's Germany right before the Second World War.

We have had a chance to review the broadcast in question, and confirm that Ms. Holloway did discuss Madonna's recent concert in Bucharest, where Madonna publicly denounced eastern Europe's treatment of what she referred to as "Romanis and Gypsies, in general". Ms. Holloway digressed by saying that she found the 'Romani Gypsies' to be fascinating people, because so little is known about their ethnic origin. She continued by acknowledging that they are maligned throughout Europe, but that we don't seem to have a "Gypsy problem here". John Derringer made reference to the "problem" with Irish "Tinkers", which is that they get involved in criminal activity.

We understand that you found the comments to be offensive, and can appreciate your point of view. The statements made by Mr. Derringer and Ms. Holloway reveal the poignant fact that the plight of Romanis is poorly understood, particularly in North America. This said, we don't believe that the comments were racist towards Roma Gypsies, and therefore, did not violate the Canadian Association of Broadcasters' *Code of Ethics* (the "Code"), which is administered by the CBSC and to which we adhere. The CBSC has frequently stated that it is not *any* reference to race, national or ethnic origin, religion, age, sex, marital status or physical or mental handicap that will be sanctioned, but rather, only those references that contain abusive or discriminatory material.

The CBSC has explained that in order for a program to constitute a breach of the Code, it would have to contain harsh language or imagery, nastiness, utter insensitivity or the like. We do not believe any of the comments made during this segment fit this description.

It is important to note that the segment between Mr. Derringer and Ms. Holloway is always "tongue in cheek". That said, Ms. Holloway was obviously serious in her contention that Romani Gypsies are 'fascinating', that they are generally misunderstood and widely ostracized. She continued that "we don't seem to have a Gypsy problem here". The context surrounding that statement makes it clear that the "problem" Ms. Holloway was referring to was not to the *existence* of Romani Gypsies, as you suggest, but rather, to the problems Romani Gypsies and other nomadic peoples have assimilating and being accepted into European society; a problem which has significant consequences for Romani Gypsies themselves and for the nation-states in which they live. These problems are well-documented and widely-known. Given the persecution of the 'Gypsies' during the Second World War, Ms. Holloway should have been more careful about her choice of words and more explicit about what she was trying to say. Despite this insensitive turn of phrase,

however, Ms. Holloway was not, nor could she have been perceived to have been expressing racist or fascist sentiments towards any group of people.

In reference to Mr. Derringer's comments about so-called "Tinkers", Mr. Derringer was careful to say that there is no *inherent* problem associated with Tinkers or their nomadic lifestyle. Rather, the "problem" Mr. Derringer was referring to in Ireland relates to those Tinkers who get involved in criminal activity -- a fact that is also well-publicized and has been widely discussed in various media.

For these reasons, we don't believe that our programming violated the Code. We do, however, agree with you that our hosts must always be cognizant of their choice of words, which can have a profound influence on their audience. We therefore intend to discuss this matter with our on-air staff. We do regret that you were offended by some of our programming, and want to assure you that 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.

### **Additional Correspondence**

The complainant submitted his Ruling Request on October 22 with the following note:

Q107 made racist comments on-air and will not retract them. Their program manager has wilfully interpreted the broadcast to suit his own interests. I am in no way satisfied by Q107's response.

He wrote a lengthier letter to the CBSC on November 16:

Thank you for your consideration of this matter. I am prepared to wait the period necessary to see this through.

Please add this information to my file: when I talked to Q107, I told them I would drop my complaint if they made a public service announcement that served to balance out the last one, i.e. equal length and positive in tone towards Roma Gypsies. I suggested an apology to Roma Gypsies on air for the previous thoughtless comments, or that they do some research about the Roma Gypsies and tell the listeners some nice or interesting things about this culture. Just a reminder – I am not a Roma Gypsy.

I gave the example of the Roma being related to the Indians/Hindus, with a language based on Sanskrit, one of the oldest languages in the world – which I learned from Wikipedia. I asked if [the Program Director] knew this, and he replied that he did not. My point to him was that any culture has some good people and some bad people. The point is not to stereotype them as monolithic, as all possessing a certain trait. Like being 'thieves' and 'troublemakers', as the Roma are often portrayed. If Q107 balanced out the negative comment with a positive, I told him I would go away, as the issue would have been resolved, in my opinion. [The Program Director] said he would discuss this with his 'on-air team' and decide. It took some time and explaining, but I was finally able to explain what a stereotype was when I used the example of people saying that all Chinese people are bad drivers. This was the first time he understood what stereotyping was. This man needs some guidance. I hope you will give it to him.

He discussed my issue and suggestions with the on-air personalities and decided that it was not an issue in the end, despite recognizing the issue to me on the phone days prior. They decided not to do the positive PSA. Now let me ask you: If they have nothing against the Roma people, why NOT make a positive comment? Doesn't every group have some good in it? Isn't that worth mentioning? What does it cost them to be respectful instead of stubbornly insensitive? I did not ask them to do something costly or overly humiliating or very taxing in any way. It was an obvious, simple solution. As a business owner, if my employees made comments like theirs on air, I would make the PSA just to engender public goodwill – for PR purposes, even if I didn't care about racial equity (and to keep my licence as a restricted radio operator, where you cannot get away with making frivolous or rude comments).

In other words, I would care how I was perceived. But Q107 is shamelessly unafraid: unafraid of hurting Gypsies, unafraid of my complaint, unafraid of right and wrong, and unafraid of your organization. They would rather stick to their guns when they know they are wrong than apologize and move on. And they have forced me into a lengthy and frustrating complaint that I did not want anything to do with. I am involved because I believe in justice, and was taught that Canada was a society that does not believe in hate against any racial group. Certainly its public broadcasters should not be allowed to broadcast hate without consequence. Please show them the importance of this principle.