
CANADIAN BROADCAST STANDARDS COUNCIL

ONTARIO REGIONAL PANEL

CFNY-FM re comments made on the *Dean Blundell Show* (Justin Bieber fans)

(CBSC Decision 09/10-0333)

Decided June 22, 2010

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

THE FACTS

The *Dean Blundell Show* is CFNY-FM's (102.1 The Edge, Toronto) morning show, which airs from 5:30 to 10:00 am on weekdays. It contains the usual songs, news, traffic and weather updates, and banter among the hosts, Dean Blundell, Todd Shapiro and Jason Barr.

On October 20, 2009, at approximately 7:20 am, the hosts were discussing 16-year-old pop singer Justin Bieber, whose clean-cut, teeny-bopper style appears to appeal primarily to pre-teen and teenaged females. That style is much more pop-oriented than the hard rock and alternative music generally played on CFNY-FM. On October 18 (according to CFNY-FM's correspondence and the CBSC's own verification), Blundell posted a comment (also known as a "tweet") on his Twitter page expressing his dislike for Justin Bieber and implying, in vulgar terms, that Bieber is likely gay. In response, over the following days, Blundell received numerous tweets from Justin Bieber fans who defended the singer and insulted Blundell. On October 19, Blundell then posted the "fend off your dad" tweet that is referenced in the broadcast below. It was those Twitter exchanges that were the subject of conversation during the *Dean Blundell Show* on October 20, 2009.

The following is a transcript of the dialogue:

Blundell: Um, time for some tweets. Now as you know –

Shapiro: Uhh, I don't condone this activity, by the way [laughs].

Blundell: What?

Barr: Yeah, I can't condone this either.

Blundell: Me tweeting these, –

Barr: Yeah, yeah.

Blundell: – these fans? Of Justin Bieber?

Barr: Yeah, yeah. 'Cause they're all twelve.

Shapiro: I mean, I'll listen and laugh, don't get me wrong.

Blundell: “You need to” – this is from some girl – “You need to grow the hell up. You're an f-ing grown man. Why you hatin' on a cool kid cooler dan u?” That's Justin Bieber apparently.

Barr: Right.

Blundell: Uh, “Justin is hot, talent [sic] 'n' has amazing fans. What do u have? Nothing.” ... Oh, this is nice ... “DJs, Todd, gettin' 'er done. 102.1 The Edge.”

Shapiro: What's that?

Blundell: Uh, I don't know, I think he's happy. I think he likes us or somethin'. I don't know. Pay attention.

Barr: Heh!

Blundell: Uh, “Do yourself a favour, Dean, kill yourself. I can't get over people like you hatin' Justin Bieber. He da man. We are believers.”

Barr: Believers?

Blundell: Yeah.

Barr: Yeah. Well, that's not nice either to wish, you know, someone kills themselves [sic].

Blundell: And all I, all I said in one e-mail, one tweet, just a general tweet to everybody.

Shapiro: And what was that? What was that?

Blundell: It was a general tweet to everybody: “Save your energy for puberty or to fend off your dad tonight while you're sleepin'.”

Shapiro: [muttering in background] Oh god.

Barr: I see what you're sayin'. Yeah. How old are these people that are tweeting you back?

Blundell: I have no idea. They don't, they don't really give, uh, some people tell you how old you are.

Shapiro: Well, what are the ones you know?

Blundell: They're generally between twelve- and eighteen-year-old girls. [Shapiro & Blundell laugh]

Barr: Wow.

Blundell: So this is from a dude named J-, [Shapiro laughing] this is the only guy –

Barr: Uh huh?

Blundell: This is the only guy that has tweeted. Y-, so you know this kid'll be chuggin' by the time he's eighteen as well. I don't know how old he is. He's the only guy. His name's Josh. "F you, bitch." This is to me. And I think, he looks like he's about maybe twelve. "F you, bitch" this kid says to me.

Shapiro: He's so awkward.

Blundell: "Stop hatin' and go F yourself." Twelve-year-old boy!

Shapiro: Did you reply to him?

Blundell: These parents! No, I couldn't. I couldn't. I, I, listen, he knows deep down he'll be chuggin' before he's eighteen. So it's cool. If he likes that music, for sure. [Shapiro chuckles] So, you know, the joke's on him.

Barr: Yeah. Can you say that about ...?

Blundell: By the time he's eighteen? I guess. People do all kinds of stuff before they're eighteen. ... So, you know, the joke's on, on all these poor kids. I feel sorry for 'em. So I've decided, collectively, after that last e-mail about the dad and the sleeping bag and stuff like that –

Barr: Right.

Blundell: Maybe, maybe just to stop. Maybe.

Shapiro: Yeah.

Blundell: [laughs] Let it go. But I found it so humorous.

Shapiro: No, I –

Blundell: To me it was just, I'd get it and I'd laugh and I'd think how, how I could upset a twelve-year old the fastest. That was my goal.

The CBSC received a complaint dated October 20 from a listener who was concerned about the above comments. He indicated that the material was "offensive" and then

provided copies of an e-mail exchange he had had directly with CFNY-FM's Program Director. His complaint, in relevant part, was as follows (the full text of all correspondence can be found in the Appendix):

Of the many questionable and off-colour remarks this Dean Blundell makes, today was the limit.... He is an embarrassment to CFNY and Corus Entertainment ...

Today around 7:20 he is talking about his Tweets and the response to a dig at J. Timberlake [*sic*, actually Justin Bieber] and JT [*sic*] fans' response... His words, "I told them to save their energy to fend off their fathers later that night" ... (admitting he was referring to 12-13 yr. old girls) or to a 12-[year]-old boy, "he'll be a 'chugger' by the time he is 18", implying that the boy's fate is to [be] a gay prostitute, etc....

I've listened to CFNY dating back to the Live Earl Jive and Beverly Hills era of morning shows and many controversial things that have been said and aired from then until now, but this guy is just plain embarrassing... It reflects poorly on you and the entire organization that he continues to say such things ... enough is enough ...

My request ... an on air apology, one-day suspension without pay (acknowledged by him) and please, please start looking for a replacement ...

The Program Director wrote back that same day:

I appreciate your comments and feedback. I just met with the morning show and discussed the segment that you refer to; I was planning on meeting with them to discuss the content of that break prior to receiving your email. I agree that there were some inappropriate comments made. That's really all I will say about the content of our meeting, other than to say your concerns about the content have been addressed. Those comments in that segment are not a direction in which we want to go with the show. Again, thanks for your feedback.

After the complainant filed an official complaint with the CBSC, it provided the station with a second opportunity to respond. The Program Director did so on November 20:

We have listened to the broadcast, and confirm that at 7:20 am that morning, Dean Blundell reported the "tweets" he had been exchanging with fans of singer Justin Bieber. Mr. Blundell, who had criticized Mr. Bieber on the social networking site, Twitter, was, in turn, being criticized by Bieber's fans. In response to the various insulting comments he had received from Bieber fans, most of whom are likely teenagers, Mr. Blundell made an off-colour remark that they should save their "energy for puberty or to fend off [your] dad while you're sleeping". Mr. Blundell commented further that the only male respondent to his "tweets" would likely be a "chugger" by the time he turned 18.

There is no question that this segment was juvenile and we can certainly appreciate that some of our listeners would find it offensive. That said, 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 (*CJYC-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). While we agree that the comments in question may have contained innuendo, they were not of an explicit nature.

Moreover, the CBSC has 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). As noted above, the program is directed at an adult audience, and as such, does not need to be rigorously screened.

All of this being said, we agree with you that this segment was neither compelling nor entertaining. Since receiving your email, we have discussed the segment with the members of the morning show and expressed our view that this type of programming does not reflect well on the station or on its hosts. 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.

The complainant responded to the broadcaster on November 23:

Thanks for taking the time to address my e-mail. I, however, don’t agree with your interpretation of events ...

The comments in question were directed at not adult listeners, but to minors that are clearly part of the CFNY listenership (I am sure your marketing demographics could bare [sic] that out) and as such, is the basis of my complaint.

To allude to the fact and direct comments to a female (13-14 yr minor) listener “she should save her strength to fend off the advances of her father later that night” is not what I consider meeting the obligation of broadcast standards, let alone the community at large. To publicly attack a child in such a fashion reflects poorly on you and your management oversight of the Morning Show. Moreover, by responding to my complaint yet glossing over the fact that these were real comments directed at a real person concerning her impending rape confirms my impression that CFNY refuses to takes its public obligations seriously.

So let’s move on to the “Chugger” comment. Again directed at a minor, but a male listener this time. By Mr. Blundell claiming a 13 yr male listener’s only fate is [to] “become a Chugger by the time he is 18 yrs old”. “Chugger” in this situation was a derogatory term for a male prostitute, again there is an attempt to minimize Mr. Blundell’s contemptible behaviour.

I take exception in [sic] your claim “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)” ...

What Mr. Blundell did is the definition of breach under the code of ethics. His comments were made towards specific situations and specific real people. In doing so, he and you forfeit the claim his actions did “not contain any suggestion of reality or description of an explicit sexual act”. They did exactly that.

Your willingness to prevaricate the comments of Mr. Blundell are both disappointing and regrettable.

I believe this matter needs to see the light of day beyond scope of your office and its interpretation of events.

The complainant also wrote directly to the CBSC on November 23 requesting that the matter be reviewed “beyond [the Program Director]’s interpretation of events.”

THE DECISION

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

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 8 – Exploitation

[...]

- b) Broadcasters shall refrain from the sexualization of children in programming.

The Panel Adjudicators read all of the correspondence and listened to the challenged broadcast. The Panel concludes that CFNY-FM violated Clause 8(b) of the *CAB Equitable Portrayal Code*.

Sexual Comments: Were They Explicit?

While the Panel recognizes that the issue of sexual explicitness was not the initial concern of the complainant, it was a point arising in the later correspondence between the broadcaster and the complainant. It was also a point on which the complainant emphatically disagreed with the position taken by the broadcaster, namely, that the dialogues “did ‘not contain any suggestion of reality or description of an explicit sexual act.’ They did exactly that.” On this secondary issue, the Panel agrees with the broadcaster’s explanation in its November 20 response, that is to say, the CBSC has

established in numerous previous decisions that detailed and explicit descriptions of actual sexual activity cannot be broadcast on radio during daytime and early evening hours (times of the day when children could be listening). Mild and vague references to sex and sexuality as well as sexual innuendo can be aired at any time of day. In the matter at hand, the Panel finds that there were certainly allusions to sexual activity, which will be discussed in the following section of this decision, but there was *no* description of an actual sexual act. The Panel finds no reason to cite the considerable CBSC jurisprudence on this point on this occasion, but it may be helpful to provide the following explanatory passage from this Panel's recent decision regarding a broadcast about the program challenged in the matter at hand, *CFNY-FM re a "Gay Jeff" segment on the Dean Blundell Show* (CBSC Decision 08/09-0700, June 25, 2009) and to note that a full review of the precedents is provided there:

CBSC jurisprudential examples abound, but the Ontario Panel finds enough in the foregoing decisions to permit it to draw its conclusions in the *Dean Blundell Show* case at hand. [...] It was simply insufficiently explicit to amount to "unduly sexually explicit" content. This is not to say that it might not be *understood* by some young persons; it is rather that it 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.

Applying that principle to the present broadcast of the *Dean Blundell Show*, the Panel finds no breach of Clause 9(b) of the *CAB Code of Ethics*.

Sexualization of Children

The matter is entirely different in the case of the sexualization of *children*. The CBSC has found no justification for allegedly humorous references to children in sexual contexts, including those of the nature of sexual innuendo, double-entendres and inexplicit sexual comments that would not be problematic if the references were to adults (as discussed in the previous section). This is not to say that there cannot be any references to children in a sexual context. News reporting of serious matters, including crimes such as rape and child pornography, and studies relating to youth sexual activities are clearly in the public interest. This would also be true of the serious treatment of the subject in dramatic programming. [See, e.g. *Showcase Television re Kids* (CBSC Decision 97/98-1151, February 3, 1999).] It is rather the socially valueless humorous cheapening of the sexualization of children that is envisaged in Clause 8 of the *CAB Equitable Portrayal Code*. In *TQS re Le Grand Journal report ("Girl Assaulted Live")* (CBSC Decision 06/07-0284, August 23, 2007), the Quebec Regional Panel outlined appropriate parameters in dealing with a complaint about a 6:00 pm news report about a pedophile. (Note that the references to Article 4 in the following citations are to the *Sex-Role Portrayal Code*, which has been replaced by the *Equitable Portrayal*

Code. Although the wording of the present Clause 8 differs from Article 4, the substance of the two provisions is essentially identical.)

The Quebec Panel acknowledges the revulsion of the complainant in having to come face to face with the issue of child pornography and the accompanying visual elements. The Panel's issue, though, is not the mere presence of such images, but the discretion associated with their use. The Panel considers that the broadcaster chose discreet, non-exploitative images which were entirely relevant, indeed useful to the awful story it was called upon to report. It does not find that the images were either explicit or sensationalist, as the complainant has contended. Moreover, the Panel does not consider that the reporting of such matters, to begin with, in any way perpetuates the recurrence of the criminal activity. If anything, the Panel believes that such news stories may have the effect of both alerting the public and dissuading child pornographers. Although the complainant did not raise the following issue, the Panel considers it useful to add that the broadcast in question did not *sexualize* children (a point anticipated in Article 4). In the Panel's view, the word "sexualization" in the Article suggests the gratuitous, pandering or inappropriate attribution of sexual characteristics to children; the cautious reporting of a sexual occurrence without any of the foregoing elements will not constitute a breach of the prohibition of sexualization of children provision of Article 4.

There are also several previous CBSC decisions that have dealt with the trivialization of the sexualization of children. In the first of these, *CILQ-FM re The Howard Stern Show* (CBSC Decision 97/98-0487+, February 20, 1998), the Ontario Regional Panel had to consider comments made by the host regarding children's participation in sexual activities. Stern "joked" that he "tried to get it on" with his friend's children at a party. In response to a statistic about the rate of syphilis among babies in New York, he replied "who are they getting it on with?" and "nothing better than a good baby." He also asked: "What's the worst thing about having sex with your sister? [...] Breaking the crib." The Panel found a violation of Article 4.

The Regional Panel has not previously been called upon to assess the content of talk radio programming of a more serious nature than that involving the participation, real or imagined, of children in sexual acts. However permissive the view of society may be toward consensual sex among adults, there is *no* tolerance in civilized societies for child pornography in any form. As the Supreme Court put this point in defining the three categories of pornography in *Butler v. R.*, it explained that "explicit sex that is not violent and neither degrading nor dehumanizing is generally tolerated in our society and will not qualify as the undue exploitation of sex *unless it employs children in its production.* [Emphasis added.]" In this area, the station has itself acknowledged "that extra vigilance is required where children and sexuality are linked, even if in jest."

In *CFMI-FM re Satirical Sketch* (CBSC Decision 01/02-1062, January 14, 2003), the B.C. Regional Panel dealt with a complaint about a satirical audio sketch. Unrelated comments made by U.S. President George W. Bush were edited together to create a fictional speech for intended humorous effect. One portion of the mock speech stated "To all the men and women in our military so far from home, I gave a fourth grade girl. And now every sailor, every soldier, every marine will come." The Panel concluded that the sketch inappropriately sexualized children:

[T]he Bush satire is a comedic attempt to deal with a subject that is unrelated to children and does not inherently require *any* reference to children to be complete. The references to children in both cases were someone's concept that sexualizing children is or can be humorous. The BC Regional Panel does not take that position. It considers that neither explicit nor suggestive references to the sexualization of children (under 12) in the flippant, offhand way evident in this satirical broadcast are acceptable. There is neither reason nor excuse for the inclusion of that reference in the Bush satire. It should have been excised; alternatively the item ought not to have been broadcast. Its broadcast constitutes a breach of Article 4 of the *CAB Sex-Role Portrayal Code*.

That was also the case in *CFRQ-FM (Q104) re a conversation about a concert* (CBSC Decision 06/07-0310, August 8, 2007), in which the Atlantic Regional Panel dealt with a complaint from the Women's Innovative Justice Initiative (WIJI). Following a concert in Halifax by the Rolling Stones, two male announcers discussed the event on air. One suggested that the other was "excited like a little school-girl", to which the other replied, "with my budding breasts and my rock-hard nipples." A representative from the WIJI complained that this comment sexualized children and "objectified girls' bodies." The Panel agreed.

In the matter at hand, the parsing of the sentence reveals the problem. One of the commentators, Scott, used the simile "excited like a little school-girl". The other, J.C. [...], replied, "Like a little school-girl", encouraging Scott to take an additional step, retorting, "Like a tiny little school-girl." In the Panel's view, had they gone no farther, there would have been no issue. "Like a little school-girl" would have been understood in the same way as "like a little school-boy" would have been, namely, with the emphasis on "little", as in naïvely excitable, girlishly, boyishly or youngishly thrilled. Indeed, there are many kinds of excitement, most of which have no sexual connotation. A child may be excited by birthday or holiday presents, getting a new puppy, being at an amusement park, meeting a famous singer or sports personality, and so on.

The dialogue between Scott and J.C. did not, however, end at such an innocuous place. [J.C.] added "[my] budding breasts" and "my rock-hard nipples". In the view of the Panel, the reference was clearly sexual and, when the reference to "budding" breasts was added to "little school-girl", the intent to refer to children was unmistakable. In the circumstances, the Panel's conclusion cannot be otherwise than that the broadcaster unacceptably sexualized children, contrary to the prohibition contained in Article 4 of the *CAB Sex-Role Portrayal Code*.

Applying the principles and examples of the foregoing decisions to the matter at hand, the Panel concludes that the pre-pubescent reference, "Save your energy for puberty or to fend off your dad tonight while you're sleepin'" was gratuitous, unnecessary and a clear violation of Clause 8 of the *Equitable Portrayal Code*. The Panel also considers that the predictions that Josh, the youthful tweeter (they estimated his age as 12ish), will be "chugging" by the time he turns 18, are similar. The Panel considers that these comments were just as gratuitous and unnecessary and were, consequently, equally a violation of Clause 8 of the *Equitable Portrayal Code*.

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 was thorough and focussed on the issues that concerned the complainant, which is fundamentally what is required as a component of CBSC membership requirements. The Panel recognizes that the broadcaster's viewpoint was not that of the complainant, but that is always the case where a file is brought to a Panel adjudication level. Nonetheless, it is the thoughtfulness of the response that determines whether the broadcaster has met the CBSC membership responsibility of responsiveness, which the Panel considers CFNY-FM has fully met in this instance.

ANNOUNCEMENT OF THE DECISION

CFNY-FM is required to: 1) announce the decision, in the following terms, once during peak listening hours within three days following the release of this decision and once more within seven days following the release of this decision during the time period in which the *Dean Blundell Show* 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 CFNY-FM.

The Canadian Broadcast Standards Council has found that CFNY-FM (102.1 The Edge) has violated the Canadian Association of Broadcasters' *Equitable Portrayal Code*. During the course of the *Dean Blundell Show* of October 20, 2009, there were gratuitous and unnecessary sexual comments made with reference to children. Those comments violated Clause 8(b) of the Code, which prohibits the sexualization of children in programming.

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

APPENDIX

CBSC Decision 09/10-0333 CFNY-FM re comments made on the *Dean Blundell Show* (Justin Bieber fans)

The Complaint

The CBSC received the following complaint dated October 20, 2009 via the CRTC:

This is my correspondence with CFNY's radio manager from Oct. 20th, 2009. [The Program Director] clearly wants to handle the matter I complained about, privately. However, when an entity like CFNY and Corus Entertainment use the public airways [*sic*] to conduct their business affairs, yet continue to allow such offensive material to be broadcast, they should be held accountable and public scrutiny is a good first step.

The complainant then pasted an exchange he had had with CFNY-FM directly on October 20:

I've never found myself in a position to write a broadcaster to complain before, but today things have changed.... Of the many questionable and off-colour remarks this Dean Blundell makes, today was the limit.... He is an embarrassment to CFNY and Corus entertainment ...

Today around 7:20 he is talking about his Tweets and the response to a dig at J. Timberlake [*sic*, actually Justin Bieber] and JT fans' response... His words, "I told them to save their energy to fend off their fathers later that night" ... (admitting he was referring to 12-13 yr. old girls) or to a 12-[year]-old boy, "he'll be a 'chugger' by the time he is 18", implying that the boy's fate is to [be] a gay prostitute, etc....

I've listened to CFNY dating back to the Live Earl Jive and Beverly Hills era of morning shows and many controversial things that have been said and aired from then until now, but this guy is just plain embarrassing... It reflects poorly on you and the entire organization that he continues to say such things ... enough is enough ...

My request ... an on air apology, one-day suspension without pay (acknowledged by him) and please, please start looking for a replacement ...

I eagerly await your reply...

I appreciate your comments and feedback. I just met with the morning show and discussed the segment that you refer to; I was planning on meeting with them to discuss the content of that break prior to receiving your email. I agree that there were some inappropriate comments made. That's really all I will say about the content of our meeting, other than to say your concerns about the content have been addressed. Those comments in that segment are not a direction in which we want to go with the show. Again, thanks for your feedback.

Broadcaster Response

Once the CBSC got involved, CFNY-FM's Program Director sent a second response on November 20:

The Canadian Broadcast Standards Council (the "CBSC") has asked us to respond to your email of October 20, 2009, in which you raised concerns regarding comments made during the *Dean Blundell Show* that aired on CFNY-FM on the morning of October 20, 2009. Specifically, you state that Dean Blundell's comments of that morning make him "an embarrassment" to CFNY and to Corus Entertainment.

We have listened to the broadcast, and confirm that at 7:20 am that morning, Dean Blundell reported the "tweets" he had been exchanging with fans of singer Justin Bieber. Mr. Blundell, who had criticized Mr. Bieber on the social networking site, Twitter, was, in turn, being criticized by Bieber's fans. In response to the various insulting comments he had received from Bieber fans, most of whom are likely teenagers, Mr. Blundell made an off-colour remark that they should save their "energy for puberty or to fend off [your] dad while you're sleeping". Mr. Blundell commented further that the only male respondent to his "tweets" would likely be a "chugger" by the time he turned 18.

There is no question that this segment was juvenile and we can certainly appreciate that some of our listeners would find it offensive. That said, 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 (*CJYC-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). While we agree that the comments in question may have contained innuendo, they were not of an explicit nature.

Moreover, the CBSC has 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). As noted above, the program is directed at an adult audience, and as such, does not need to be rigorously screened.

All of this being said, we agree with you that this segment was neither compelling nor entertaining. Since receiving your email, we have discussed the segment with the members of the morning show and expressed our view that this type of programming does not reflect well on the station or on its hosts. 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 responded to the broadcaster on November 23:

Thanks for taking the time to address my e-mail. I, however, don't agree with your interpretation of events ...

The comments in question were directed at not adult listeners, but to minors that are clearly part of the CFNY listenership (I am sure your marketing demographics could bare [sic] that out) and as such, is the basis of my complaint.

To allude to the fact and direct comments to a female (13-14 yr minor) listener "she should save her strength to fend off the advances of her father later that night" is not what I consider meeting the obligation of broadcast standards, let alone the community at large. To publicly attack a child in such a fashion reflects poorly on you and your management oversight of the Morning Show. Moreover, by responding to my complaint yet glossing over the fact that these were real comments directed at a real person concerning her impending rape confirms my impression that CFNY refuses to takes its public obligations seriously.

So let's move on to the "Chugger" comment. Again directed at a minor, but a male listener this time. By Mr. Blundell claiming a 13 yr male listener's only fate is [to] "become a Chugger by the time he is 18 yrs old". "Chugger" in this situation was a derogatory term for a male prostitute, again there is an attempt to minimize Mr. Blundell's contemptible behaviour.

I take exception in your claim "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)" ...

What Mr. Blundell did is the definition of breach under the code of ethics. His comments were made towards specific situations and specific real people. In doing so, he and you forfeit the claim his actions did "not contain any suggestion of reality or description of an explicit sexual act". They did exactly that.

Your willingness to prevaricate the comments of Mr. Blundell are both disappointing and regrettable.

I believe this matter needs to see the light of day beyond scope of your office and its interpretation of events.

The complainant also wrote directly to the CBSC on November 23:

I just CC'd you concerning this complaint to CFNY and [its Program Director] ... I don't embrace CFNY's claim that they did nothing wrong and did not breach any ethical standards ... I would like to have this matter reviewed beyond [the Program Director]'s interpretation of events ...