
CANADIAN BROADCAST STANDARDS COUNCIL

ad hoc NATIONAL PANEL

Review of the Atlantic Regional Panel decision in

CHOZ-FM re the song “Money for Nothing” by Dire Straits

(CBSC Review of Decision 09/10-0818)

Decided May 17, 2011

R. Cohen (National Chair), R. Deverell, D. Ish, J. Macdonald, D. Meloul, H. Pawley, S. Warren, M. Ziniak

THE FACTS

Dire Straits was a British rock band that brought together Mark Knopfler and other musicians beginning in 1977. Their first album, *Dire Straits*, was released in February 1978. Their fifth album, *Brothers in Arms*, was released in May 1985. The song “Money for Nothing”, which is at the centre of this decision and first appeared on that album, rose to No. 1 in the United States on the *Billboard 100* in that year. There is more than one version of the song (more about this point below), but the original version of the song includes lyrics to which a listener to CHOZ-FM (OZ FM, Newfoundland) objected. The station played that version of the song on February 1, 2010 at 9:15 pm. The opening lyrics to that version (which is about eight minutes long) were as follows (the full lyrics can be found in Appendix A):

I want my, I want my MTV
I want my, I want my MTV
I want my, I want my MTV

Now look at them yo-yos
That’s the way you do it
You play the guitar on the MTV
That ain’t workin’

That's the way you do it
 Money for nothin' and your chicks for free
 Now that ain't workin'
 That's the way you do it
 Let me tell ya, them guys ain't dumb
 Maybe get a blister on your little finger
 Maybe get a blister on your thumb

We got to install microwave ovens
 Custom kitchen deliveries
 We got to move these refrigerators
 We got to move these colour TVs

The little faggot with the earring and the make-up
 Yeah, buddy, that's his own hair
 That little faggot's got his own jet airplane
 That little faggot, he's a millionaire

We got to install microwave ovens
 Custom kitchen deliveries
 We got to move these refrigerators
 We got to move these colour TVs

[...]

The CBSC received a complaint from a listener in the Province of Newfoundland and Labrador, who expressed objections to the use of the word “faggot” (hereinafter frequently referred to as the other f-word) in the broadcast of the song. The text of the complaint was as follows:

A song was aired, “Money For Nothing” by Dire Straits, and included the word “faggot” a total of three times. I am aware of other versions of the song, in which the word was replaced with another, and yet OZ FM chose to play and not censor this particular version that I am complaining about.

I find this extremely offensive as a member of the LGBT community and feel that there is absolutely no valid reason for such discriminatory marks to be played on-air.

The station responded to the complainant and explained its decision to air this original version of the song in pertinent part as follows (the full text of all correspondence can be found in Appendix B):

In this specific case, the song in question has been played countless times in its original form, from its #1 release in 1984 to the present day, and continues to be aired on stations across the country in this form. As this selection has been aired continuously for 25+ years, and the original version is regarded by many as an historically successful and essential rock hit in that form with these particular lyrics, management chose in this specific instance to retain the authenticity of this selection.

The complainant was dissatisfied with the broadcaster’s explanation and asked that the Atlantic Regional Panel consider the complaint. Her rationale related in part to the highly-acclaimed 2005 Kanye West song “Gold Digger”, which “contains another

discriminatory slur, not directed towards sexual orientation, but towards race.” The complainant pointed out that “When played on OZ FM, this slur is censored despite the song’s achievements. I fail to see a difference between the two situations.” She added:

I do not feel the argument in favour of the unabridged version of the song was valid, and it is certainly not strong enough to justify playing such words on the radio. This word carries an unavoidable connotation of hate. By airing it unapologetically on the radio, this station is indirectly propagating hate. Although I can see the value in a timeless classic rock song in its original form, I cannot help but feel that it does not overshadow the importance of ending discrimination.

The Atlantic Regional Panel decision

In the ordinary course, the complaint was considered by the Atlantic Regional Panel, which found it justified. (The text of the decision, which was released on January 12, 2011, can be found in Appendix C.) In the decision, the Atlantic Panel concluded that CHOZ-FM had breached Clause 2 of the *CAB Code of Ethics*, and Clauses 2, 7 and 9 of the *Equitable Portrayal Code*. The reasons for that decision are, in summary, as follows:

1. Songs broadcast on the airwaves are as subject to the provisions of the CBSC-administered Codes as any other broadcast content. The Panel also referred to the well-known existence and role of *edited* versions of songs created especially for use in radio broadcasting.
2. The Panel referred to the substance of Clause 9 of the *CAB Equitable Portrayal Code*, which provides: “It is understood that language and terminology evolve over time. [...] Broadcasters shall remain vigilant with respect to the evolving appropriateness or inappropriateness of particular words and phrases, keeping in mind prevailing community standards.” The Panel added that, anecdotally, in the area of racially-charged terminology, some words once possibly viewed as acceptable from a broadcasting perspective, even if not in good taste, had merged into a category of unacceptable usage.
3. The Panel noted that no other CBSC Panel had been called upon to render an opinion regarding the word “faggot”. It also observed that “faggot” was less likely than the word “fag” to “benefit” from a benign usage as a double entendre or otherwise, particularly in Canada, and therefore was likelier than “fag” to be problematic. The Panel also acknowledged that the word “faggot”, although lightly sarcastic in its application in the song, was not used in a “sneering, derisive, nasty tone”. In the end, the Panel concluded that, like other racially driven words in the English language, “faggot” is one that, even if entirely or marginally acceptable in earlier days, was no longer so. The Panel found that it

had fallen into a category of unacceptable designations on the basis of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability.

4. The Panel considered that the primary purpose of Clause 10(a) was to protect longer-form programming in which an idea or context that would otherwise be problematic under one of the negative portrayal provisions of the *Equitable Portrayal Code* was advanced by one or more of the characters or principals of the program. The Panel was not of the view that the Clause would generally be of application in the case of a song, in which the exposition of a context would be less likely to be present. The Panel did not close the door to that possibility but it did not consider that “Money for Nothing” was, in any event, such a song. The Panel found no case for the application of the exception protecting legitimate artistic usage on this occasion.

There was considerable public reaction to the decision from across the country, expressed both in e-mails and in the print and electronic media.

The CRTC request

In a letter to the National Chair of the CBSC, the Secretary General of the CRTC reported that it had “received about 250 letters from all parts of Canada on this topic, most of which have suggested that the CBSC made an incorrect decision, and many of which have urged the Commission to take corrective action.” (The full text of that letter can be found in Appendix D.) The CRTC letter also noted that “many of the letters it has received mistakenly have assumed that it was the Commission, and not the CBSC, that determined that the version of the Dire Straits song containing the contested derogatory word was inappropriate for radio airplay.” Referring to the new “national scope of this matter, the strong public reaction to the Atlantic Panel’s decision, and the considerable experience of the CBSC in reviewing such matters,” the CRTC requested that the “CBSC should appoint a panel with a national composition to reconsider the matter and review the new correspondence regarding this song.” In that reconsideration, the CRTC requested that the CBSC seek submissions from the public “by means of a public request for comments via your website” and, in so doing, “take into consideration all relevant factors, including”:

- the context of the particular wording in the song’s theme and intended message,
- the age and origin of the song and the date of its performance,
- the prominence of the contested word in the song and the use of that word over time, and
- the length of time and frequency that it has been playing on the airwaves.

The *ad hoc* National Panel

In accordance with the CRTC's request, the CBSC sought comments from the public via the CBSC website. And it already had the benefit of some additional useful information relating to the background of the song that it had received from individuals in response to the decision of the Atlantic Regional Panel, material that had not been submitted to the Atlantic Panel at the time of its decision. The CBSC also convened a specially-constituted Panel made up of experienced Adjudicators from each of the five regions (British Columbia, the Prairies, Ontario, Quebec and the Atlantic provinces), as well as the permanently constituted National Panels. In all, four of the Adjudicators represented the public side and four the broadcasting industry. None, it goes without saying, had sat on the Atlantic Regional Panel adjudication. The Panel met on May 17, 2011.

THE DECISION

The *ad hoc* National 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 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.

CAB Equitable Portrayal Code, Clause 9 – Language and Terminology

Broadcasters shall be sensitive to, and avoid, the usage of derogatory or inappropriate language or terminology in references to individuals or groups based on race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability.

[...]

- b) It is understood that language and terminology evolve over time. Some language and terminology may be inappropriate when used with respect to identifiable groups on the basis of their race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability. Broadcasters shall remain vigilant with respect to the evolving appropriateness or inappropriateness of particular words and phrases, keeping in mind prevailing community standards.

CAB Equitable Portrayal Code, Clause 10 – Contextual Considerations

Broadcasts may fairly include material that would otherwise appear to breach one of the foregoing provisions in the following contextual circumstances:

- a) Legitimate artistic usage: Individuals who are themselves bigoted or intolerant may be part of a fictional or non-fictional program, provided that the program is not itself abusive or unduly discriminatory;
- b) Comedic, humorous or satirical usage: Although the comedic, humorous or satirical intention or nature of programming is not an absolute defence with respect to the proscriptions of this Code, it is understood that some comedic, humorous or satirical content, although discriminatory or stereotypical, may be light and relatively inoffensive, rather than abusive or unduly discriminatory;
- c) Intellectual treatment: Programming apparently for academic, artistic, humanitarian, journalistic, scientific or research purposes, or otherwise in the public interest, may be broadcast, provided that it: is not abusive or unduly discriminatory; does not incite contempt for, or severely ridicule, an enumerated group; and is not likely to incite or perpetuate hatred against an enumerated group.

The *ad hoc* National Panel Adjudicators read all of the original correspondence and listened to the broadcast in question, and reviewed a summary of all of the pertinent parts of the online submissions received and examined by the CBSC Secretariat. The Panel unanimously concludes that, in general, the use of the word “faggot” remains inappropriate for broadcast on Canadian airwaves. With one Adjudicator dissenting, the Panel also concluded that the broadcast of the original version of “Money for Nothing” is, for the reasons related to contextual considerations discussed at greater length below, acceptable.

A preliminary point: Valuable new information

At the time of the original Atlantic Regional Panel decision, the Adjudicators did not have much of the information that has subsequently been provided to the CBSC by the public following that Panel's adjudication. That information resulted from two principal sources: first, the CBSC's online solicitation of submissions; and, second, the considerable volume of e-mails from the public reacting to the original decision. Prior to the rendering of that decision, since the CBSC is not a fact-finding body and does not tend to do original research, the Council was dependent on information coming from the complainant and the broadcaster. The information offered by the complainant, as would be expected, sustained her position (with which the Atlantic Panel agreed). That provided to the complainant and the CBSC by the broadcaster did no more than argue that it had vested rights that had in effect been grandfathered by virtue of the age of the song. In its letter, the broadcaster argued that "Money for Nothing" had "been aired continuously for 25+ years, and that the original version is regarded by many as an historically successful and essential rock hit in that form with these particular lyrics." As will be clear from this decision, the National Panel has been alerted to *considerable* additional information relating to the song's context, which the Panel finds to be of great value. While there is no way to be sure, the majority of the National Panel appreciates that, had that information been available to the Adjudicators on the Atlantic Regional Panel at the time of its decision, that Panel *might* have come to a different conclusion. While *no broadcaster is obliged* to provide a complainant with such historically useful material, the National Panel notes that CHOZ-FM might have been able to furnish that information as a part of its response to the complainant. It did not. While that is water under the bridge, in the end *this* Panel does have the additional information and is in a position to render a more fully-informed decision than the Atlantic Panel was.

Alternative versions of songs: the general principles

The Atlantic Panel pointed out that the CBSC had long ruled that songs broadcast on the airwaves are as subject to the provisions of the CBSC-administered Codes as any other broadcast content. In the first CBSC decision dealing with that point, namely, *CIGL-FM re a song entitled "The Bad Touch"* (CBSC Decision 99/00-0654, October 12, 2000), the Ontario Regional Panel pointed out that

questions have from time to time arisen regarding other kinds of content for which it might seem that broadcasters might not have responsibility. Among these might be advertising, dramatic programming created by third parties, theatrical motion pictures, on-air telephone calls from the public and, generally, any form of programming not having been created by the broadcaster or persons for whom the broadcaster has direct responsibility.

There is no need to review the various codified standards that have been applied in such adjudications in the present matter; however, there is an aspect of the music-

related jurisprudence that is worth noting here; namely, the existence and role of *edited* versions of songs in broadcasting. In the above-noted CIGL-FM decision for example, the Ontario Regional Panel put the foregoing general principles in the following terms.

Whether it is spoken word or set to music, the same rules apply. Music is, after all, no more or less a form of programming than other dramatic, documentary, news or, indeed, advertising material, all of which must conform to the terms of the various Canadian private broadcaster Codes.

The Panel added some information about the existence of broadcast-suitable versions of music.

It should, moreover, be noted that music recording companies, like distributors of motion pictures, generally create more than one version of their respective products. They understand that, in order to facilitate the responsibilities of broadcasters and to render broadcast markets more accessible to their products, they must provide versions that are susceptible of being aired. While broadcasters themselves frequently edit motion pictures, whether for content or to ensure that there are appropriate breaks for commercials, it is obvious that recorded popular songs are not as readily susceptible of broadcaster intervention. The decision for the broadcaster, when there is no edited version of a song, may, therefore, become, in black and white terms, whether to play or not to play. Knowing that, in order to assure air time, recording companies frequently provide a second version which they consider suitable for radio broadcast.

In another decision on that point, taken at the same meeting of the Ontario Regional Panel, namely, *CIOX-FM re the song entitled "Boyz in the Hood"* (CBSC Decision 99/00-0619, October 12, 2000), that Panel reiterated the above points and noted:

It is also appropriate to add that both the music recording industry and Canada's private broadcasters are aware that there are often edited versions of songs, one for direct sale and the other for radio play. They often, therefore, have the choice of which version of a song to play or, in circumstances where they do not, their choice is reduced to whether the song is or is not suitable for airing in terms of the Codes with which they have agreed to comply. [...] In this case, the Council is unaware whether an edited version of the song was available. That is, however, immaterial. Its decision is made as a function of the song as it was played on the air

The foregoing principles relating to both the application of the codified standards to the wording of songs and the availability of songs edited for radio airplay were central to the decision of the Atlantic Regional Panel in the present matter. They remain central to the decision of this *ad hoc* National Panel.

Alternative versions of songs: the case of "Money for Nothing"

One of the matters that the National Panel considers has gotten lost in the shuffle is the availability of versions of the song "Money for Nothing" that do *not* include the challenged word "faggot". They are in fact numerous and are to be found in both audio and video formats. A detailed list of those audio and video recordings is referred to in

this section of the decision and provided in Appendix E. While they are admittedly not germane to the National Panel's determination of whether the original version of "Money for Nothing" is suitable for broadcast, they do respond to the argument raised by some that an edited version of the song constitutes an imposition or restriction on the creativity of the composer and the band.

In other words, the existence of these alternative versions is particularly important to note since a) they are not new (indeed, they are almost as old as the original version of "Money for Nothing"), and b) the less offensive versions of this song were not imposed on the band by any outside individual or authority (they were in fact created and sung by Mark Knopfler and Dire Straits). As just presaged, it should also be appreciated that the more benign and less controversial versions of the song have been available since 1985, that is to say, the very year in which the song was first recorded. And in the following section of this decision, the Panel will deal further with the composer's own recognition of the controversy created by his wording and with the contextual background for his original choices.

The Albums

In all, there were twelve Dire Straits albums, six of which were studio albums, three of which were live albums and three of which were compilation albums. Not all of these even included the song "Money for Nothing", which was after all first recorded in 1985 on the band's studio album *Brothers in Arms*. That version of the song was of course the original full-length recording (with the three uses of the challenged word "faggot") which was played by CHOZ-FM and gave rise to the Atlantic Regional Panel decision which is the subject of this review. The only other Dire Straits studio album recorded after *Brothers in Arms*, namely, *On Every Street* (1991), does not include "Money for Nothing".

Of the three Dire Straits live albums, only *On the Night* (1993) includes "Money for Nothing" and that version of the song is edited so as to include only one reference to the challenged word "faggot"; the band substituted less offensive words in the other two verses. The stanza in that version reads as follows:

See that little faggot got his earring, got his make-up on
Tell ya buddy, that's his own hair
That little mother got his own jet airplane
Little mother trucker, he's a millionaire

All three compilation albums, namely, *Money for Nothing* (1988), *Sultans of Swing: The Very Best of Dire Straits* (1998), and the single-disc version of *The Best of Dire Straits & Mark Knopfler: Private Investigations* (2005) include edited versions of "Money for Nothing". In other words, none of those three albums include the challenged word "faggot" in their versions of the song. There is also a two-disc version of *The Best of*

Dire Straits & Mark Knopfler: Private Investigations (2005), which does include the full original version of “Money for Nothing”.

The Live Concerts on YouTube

The National Panel has also sought the video recordings of live concerts during which Dire Straits performed “Money for Nothing” on YouTube, in order to see which versions of the song were played (between 1985 and the break-up of the band in 1995). While the list in Appendix E may not be absolutely comprehensive (obviously, only a small percentage of the actual concert dates have been recorded and posted on YouTube), it is particularly representative in the sense that the concerts identified in the research are those marked by the largest number of views. Even those video recordings of concerts on YouTube that followed the dissolution of the band are predominantly characterized by their edited nature. Indeed, the Panel is particularly struck by the number of such occasions on which an edited version of the song without a *single* usage of the other f-word was played by Dire Straits or Knopfler alone. In the 23 live concerts on YouTube by either Dire Straits or Mark Knopfler alone (after the break-up of the band), 17 do not include the “other f-word” even once, 5 include it only once, and only one includes all three uses. It should be added that, in those concerts, the words substituted for “faggot” include: “mother fucker”, “queenie”, “mother”, “trucker”, “mother trucker”, “maggot”, “queen”, “cowboy” and “mama”.

Online retail access to the song

The Panel notes that, of the top 50 versions of “Money for Nothing” offered (as ranked) by iTunes (the largest online retailer of songs), four are the Dire Straits albums *Brothers in Arms*, *Money for Nothing*, *Sultans of Swing* and the two-disc version of the *Best of Dire Straits*. Corresponding to the information given above, two of these have the original version with the word “faggot” and two have the fully-edited version. The only additional iTunes “compilation album” source (but not a Dire Straits album) on which Dire Straits performs “Money for Nothing”, namely, *Gods of Guitar* provides a fully-edited version of the song. The remaining sources in the top 50 are all either duplicates, covers, or pop and remixed versions (including Karaoke and workout versions).

The Composer’s Context and the Song’s Background

The National Panel has benefited to a considerable extent from both the suggestions made in the critical mass of e-mails received from the public and the research the CBSC Secretariat has done pursuant to those suggestions. What has become clear to the National Panel is the dramatic intention of songwriter Mark Knopfler in the creation of “Money for Nothing”. According to Knopfler, he wrote the lyrics from the point of view

of a blue-collar worker watching music videos on a television screen in the midst of his own labours. Bored with his own work and touched with envy at the riches inuring to the benefit of a singer whose workaday talents led to greater rewards with far less bodily sweat, Knopfler's character expressed his thoughts in the language the songwriter captured nearly verbatim in the shop in which Knopfler heard them.

Knopfler described the song's composition process in a 1985 interview with Bill Flanagan, author of the book *Written in My Soul: Conversations with Rock's Great Songwriters* (1986):

The lead character in "Money for Nothing" is a guy who works in the hardware department in a television/custom kitchen/refrigerator/microwave appliance store. He's singing the song. I wrote the song when I was actually in the store. I borrowed a bit of paper and started to write the song down in the store. I wanted to use a lot of the language that the real guy actually used when I heard him, because it was more real. It just went better with the song, it was more muscular. I actually used "little faggot," but there are a couple of good "motherfuckers" in there. I wanted to do a second version that way but I never had time. I'd still love to be able to do it. Even if just the band had it, because it would be the real version. I mean that is the way people speak. I think people still get the general idea. You can use other words that will suggest the general feel.

It also has to do with the context in which a song's received. If we walk into a hardware store and hear someone say, "Look at that motherfucker" it means nothing to us, but if you hear it in a pop song ...

If you hear it in New York it means nothing. If you're living in Tallahassee then maybe it's a different thing. There is no way that I would expect people to receive all that in the spirit in which it was intended. They'd probably think I was just being vulgar.

Fifteen years later, in 2000, after the dissolution of the band, Knopfler appeared on Michael Parkinson's British talk show, *Parkinson*. During that interview, Knopfler once again explained the origin of the lyrics. The relevant portion of that transcript follows:

M. Parkinson: Tell me about "Money for Nothing", which is one of the most famous songs you wrote and where that came from.

M. Knopfler: Well, I was in New York, and I was in a, in a, in a kitchen appliance store, um, ah, there you go, like you are, you know [laughter in the crowd], and it had a window. There was a kitchen display in the window and there'd be a row of microwaves or, you know, cupboards and things like that, and, at the back of the store, there was a big wall of televisions, all, all tuned to MTV. And, um, there was some bonehead who worked for the store, a great big macho guy with a, you know with a checked shirt on and a cap and a pair of work boots, and he had been delivering stuff at the back and he, so he was watching MTV, and he was saying all these great lines about, you know, "that ain't working" you know, "that's the way you do it", stuff like that, "what's that Hawaiian noises", he was saying. So, I just thought it was so classic, that I went and asked for a pen and paper and started writing the lines down, you know? And then when I started putting it to music, again that whole finger and thumb thing [Mark Knopfler started playing his guitar on stage while sitting next to the host. The familiar sound of the opening rhythm of "Money for Nothing" can be heard with clapping in the background].

The use of the word “faggot”

It is of course central to the decision that there be a determination regarding the use of the word “faggot”. After all, if that word is considered to be *acceptable*, all other issues relating to context, age, prominence of the word in the song, and the length of time and frequency of its broadcast become academic. In adjudicating *that* issue, the Atlantic Regional Panel concluded that,

like other racially driven words in the English language, “faggot” is one that, even if entirely or marginally acceptable in earlier days, is no longer so. The Panel finds that it has fallen into the category of unacceptable designations on the basis of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability. In addition to the terms already so categorized by previous CBSC Panels, there are undoubtedly other racial epithets (not yet the subject of CBSC Panel decisions) that would likely fall into the category of words that are inherently problematic.

In consideration of that very issue, the *ad hoc* National Panel has taken note of the fact that, despite the admittedly considerable critical reaction to the overall conclusion of the Atlantic Panel decision, hardly any e-mailed voices were raised against that Panel’s evaluation of the word “faggot”. The arguments made by the public tended to relate to issues such as context and the long-term acceptance of the classic song; there was little or no argument made in favour of the public acceptability of the other f-word. In fact, the National Panel has been quite taken by the emotional quotient of some of the e-mails from those individuals who wrote to express their gratitude for the Atlantic Panel position on a word that had caused many of them personal suffering. Excerpts from nine of those e-mails, some of which are quite poignant, follow:

[T]hey do not understand why this word is hurtful and offensive.

I [have] been randomly attacked on the street for my sexual orientation. I have had to hear endless streams of hateful language and jokes at the expense of the gays and lesbians in my workplace. I want to thank you for taking steps to making [*sic*] this hurtful language stop.

I have been called that word in high school, I have had that word hurled at me while I was walking down street from people driving by in a car. I had been called that word by potential employers, I have been called that word by family. Whenever I hear that word, [...] I remember their insulting attacks against who I am. [...] In fact more than a few times I got that word with a bottle hurled from a car that nearly hit me. When a young person such as myself hears that word and has an identity crisis so deep not even family understands what’s going on that I saw every day, adding that word almost pushed me over the edge. Luckily I’m still here. To some it means nothing and to be honest I understand that. The world has changed and the efforts you made I applaud even though many don’t understand the big deal.

I’m gay. I’ve heard the word “faggot” as people threw glass bottles at me and the guy I was dating. I heard the word “faggot” again when I was kicked and beaten for no other reason than they thought I was gay and thus some kind of threat. I hate the word. It’s used to express hatred. I’d personally be happy never to hear it again.

I would like to commend the CBSC for this ruling and express my thanks. As a Canadian, who also happens to be homosexual, I find it reassuring to know that there will be one less instance of discriminatory language to worry about when listening to the radio.

The word used in this song is vile, disgusting, degrading and most importantly discriminatory and has no place on the radio at anytime, and in any context. Inappropriate discriminatory hate words and the decision of their usage should take precedence before context.

I just wanted to write and thank the CBSC in correctly identifying discriminatory and offensive language [...] This language is offensive to me and I'm grateful for the work you and your team have done. Opponents argue there is only one person opposed to the usage of this word in the song, well I am writing to tell you there is more than one.

As a Canadian, I feel that this type of hate speech is unwelcome on our radio, and that no such language should be permitted simply because "it's been this way for this long." Please stand strong in your position.

The word "faggot" is not simply "offensive," like the five-letter "b-word" or the four-letter "f-word"; this word is painful. Gay men have been called "faggot" while being raped, being bullied and even while being killed. Indeed, I find it disheartening that the majority of people weighing in on this controversy are *not* from the gay community. It is not for the dominant society (heterosexual people, in this case), to tell a historically marginalized group that they should not feel hurt or offended at the use of this historically degrading term. [...] Whoever complained about the use of this term had every right to do so. We do not hear the word "nigger" on the radio; why on earth should we hear the word "faggot"? Just as "nigger" is a politically charged term historically used to erode the dignity and worth of blacks, so too is "faggot" a politically charged term historically used to erode the dignity and worth of homosexuals. [The writer went on to argue that the word "nigger" itself is still edited because it is the *word* that is offensive, not the manner in which it is spoken. Just as there is no nice way to call someone a nigger, there is similarly no nice way to call someone a faggot. The word "nigger" is politically charged, as is the word "faggot." It makes no difference that the singer did not *intend* to offend anybody. The fact is that these are inherently hurtful, offensive words, and no amount of "free speech" rhetoric can change that.

The National Panel finds no reason to interfere with the conclusion of the Atlantic Regional Panel with respect to the word "faggot". It would, however, add to that anodyne conclusion the fact that the word is not merely discriminatory and insulting, but it is also aggressive, hurtful and painful. Even if there was a time when the word had a more benign connotation, or, even if it did not, was less socially unacceptable, that time is past. While it is obvious that broadcasters, and society as a whole, have considerable occasion to refer to identifiable groups, the way in which they do so is important. After all, the power of the broadcast microphone is undeniable. Broadcasters must take particular care to use language which is neither abusive nor unduly discriminatory and which will not have the effect of desensitizing audiences by spreading the use of hurtful and painful terminology.

The Panel also notes that there are other versions of the song in which the word "faggot" is not included. It should not be forgotten that those edited versions are the creation of the band itself, as well as the song's composer. They are, in that sense,

original to Dire Straits and Mark Knopfler, not a third-party imposition or creation. Out of sensitivity to listeners, it would make sense to the Panel that the inoffensive version of the song be the one chosen for broadcast when there is a risk that some, or many, members of the audience might be offended by the use of the other f-word.

Context: The View of the Majority

Nothing has been made clearer to the *ad hoc* National Panel in the reams of information it has received from the public than the fact that there is a story behind the song. The National Panel does consider it extremely material that the composer's language appears not to have had an iota of malevolent or insulting intention. The words were, as he has consistently explained publicly since 1986, written, indeed virtually *recorded* verbatim, by him as he observed a guy working in an appliance store in New York City. As Knopfler said, that "bonehead who worked for the store, a great big macho guy with a, you know with a checked shirt on and a cap and a pair of work boots" was looking up at MTV and bemoaning his fate relative to the musical performer on the television screen. The composer, apparently captivated by the rather coarse, but very real, language of the labourer, explained that he "borrowed a bit of paper and started to write the song down in the store. I wanted to use a lot of the language that the real guy actually used when I heard him, because it was more real. It just went better with the song, it was more muscular." It was, in that sense, more a commentary on the worker than the MTV performer. If anything, it reflected jealousy on the part of the former at the achievements of the latter.

From the perspective of the majority of the National Panel, the song lyrics and their background fall squarely within the exceptions provided in the contextual considerations in Clause 10 of the *CAB Equitable Portrayal Code*. Although the National Panel is not convinced that the blue-collar worker in the challenged stanza was himself bigoted or intolerant, at worst, if he were such, the situation would be *precisely* what was anticipated in the opening words of Clause 10(a) (Legitimate artistic usage), namely, "Individuals who are themselves bigoted or intolerant may be part of a fictional or non-fictional program, provided that the program is not itself abusive or unduly discriminatory." The majority of the National Panel is, in other words, of the view that the story told in this song, developed at some length over more than eight minutes, provides sufficient plot development, story line and context to justify the application of the legitimate artistic usage exception in Clause 10(a). The Panel has already made its unanimous views on the *unacceptability* of the word "faggot" very clear earlier in this decision; however, *this* contextual consideration alone would justify the usage of that word in the context of the broadcast of this song.

To the foregoing point, the National Panel, once again dependent on its understanding of the composer's intent and perspective in the creation of "Money for Nothing", would add that it considers that the exception provided in Clause 10(b) (Comedic, humorous or satirical usage) is also applicable. While the Panel is clear that "satirical intention or nature of programming is not an absolute defence" to a complaint of unduly negative portrayal, it may be a defence when challenged "satirical content, although discriminatory or stereotypical [is determined to] be light and relatively inoffensive, rather than abusive or unduly discriminatory." In that assessment, the Panel is applying the pertinent part of the *Oxford English Dictionary* definition of "satire":

1. A poem, or in modern use sometimes a prose composition, in which prevailing vices or follies are held up to ridicule. Sometimes, less correctly, applied to a composition in verse or prose intended to ridicule a particular person or class of persons, a lampoon.
- c. *fig.* A thing, fact, or circumstance that has the effect of making some person or thing ridiculous.
2. a. The species of literature constituted by satires; satirical composition.
- b. The employment, in speaking or writing, of sarcasm, irony, ridicule, etc. in exposing, denouncing, deriding, or ridiculing vice, folly, indecorum, abuses, or evils of any kind.

The majority of the Panel concludes that Mark Knopfler has satirized the jealous attitude of the "bonehead in the checked shirt" who was his inspiration and that he has done so deftly, and with a light and genuine touch. The Panel concludes that this contextual consideration would also on its own justify the usage of the otherwise unacceptable word "faggot" in the context of the broadcast of this song.

Context: The Dissenting View of R. Deverell

I disagree with the majority on one principal aspect of their conclusion, but I will begin by indicating the points on which I agree. First, the word "faggot". I share the majority's view that the word is aggressive, hurtful, painful and insulting, as well as abusive and unduly discriminatory. Second, I agree that the age and origin of the song and recognitions it earned around the time of its release do not protect its broadcast today.

Where I part company with the majority is over the issue of *context*. It is their view that the composer's explanation of the source and nature of his inspiration was highly material. As they explain in the majority opinion, "the fact that there is a story behind the song", and that the composer "appears not to have had an iota of malevolent or insulting intention" are material contextual justifications for the use of the challenged word in the song. It is their view that the use of the word "faggot" fell within the contextual exceptions of "legitimate artistic usage" and "comedic, humorous or satirical usage".

As to the *principle* that context may be relevant in justifying an otherwise inappropriate term or description, I am in entire agreement. What I question is how we determine what that context is. Indeed, I put some emphasis on the word “we” for I believe that the context should not be appreciated or evaluated *through* the ears and eyes of the Panel. The context, in this or any future situation, should be assessed through the ears and eyes of the *public*. The context should *not* be the result of documentary submissions or research *off* the airwaves; it should be evident from the actual broadcast. There may be circumstances where bigoted content is evident on the air such as in the personas of some of the lead characters on the iconic 1970s television series *All in the Family*, or the spin-off series *The Jeffersons*. Indeed, there are examples galore in which a television or radio broadcast provides evident context. I am not, however, persuaded, even if a song may on occasion be its own context, that *this* song does that.

The issue for me is how the *listeners* have the necessary contextual information. While I would understand the broadcast of the song with an introduction that provided the Mark Knopfler composition background, I do not find the contextual evidence present in the broadcast of the song with which the Atlantic Regional Panel dealt. I believe that *many* of the people criticizing that Panel’s decision were supplying *their own* context based on what they knew of the background to the song. That, of course, leaves out a whole demographic of younger individuals, say, those under 30, who would probably be unable to supply the missing context, not to mention those of any age who might not be familiar with the back story of the composition.

The reliance of the majority on everyone else’s “knowledge” of the fact that the composer’s intention was not homophobic does not leave me comfortable with the application of the contextual argument as the justification of the bare broadcast of the original version of the song without additional explanation. In the absence of self-contained context or supplementary information at the time of broadcast, I would decide that the broadcast of the original, unedited version of “Money for Nothing” constituted, and would constitute in future, a breach of the Human Rights provisions of the *CAB Code of Ethics* and the *CAB Equitable Portrayal Code*.

The age and origin of the song and the date of its performance

The National Panel had the opportunity to review a range of submissions on the time/age issue. Since the Panel has already concluded that the use of the challenged word was acceptable in the context of this song, its finding on the age of the performance would only be relevant if applied in the context of another decision on a similar point at some time in the future. That, after all, is not without some importance. Among the points made by six of those submitting comments were the following:

This is a classic Rock song that is very important in Rock history since it was the first MTV music video [in Europe]. We can't go changing words of poetry, books, movies, etc. from the past to suit the political correctness of the day. This would lose the authenticity of the time these works were written.

The song should be held accountable to the time of when it was originally released. Not today's standards. If this song was released today, I would support the movement that is objecting to it. However, a song that was released over 25 years ago should not be held to standards of the day and age we live in today, no more than a vehicle for example does not have to comply to safety items that are mandatory today.

The song's age is especially relevant. If the song were indeed homophobic, or had the effect of promoting homophobia, then regardless of its age it would not be acceptable.

It doesn't matter how acceptable the term "faggot" was in 1985, we are living in 2011 and it is offensive now. We have standards, rules, and regulations for a reason. Unfortunately it may have been deemed okay to use that word freely in 1985 but thankfully this is not the case today. Think of all the equity groups that have gone through their struggles since the dawn of time. How small and significant changes effect and improve our society to be more inclusive and to discriminate less. Our culture has changed for the better, and as you have pointed out even Mark Knopfler and the band Dire Straits do not use the word anymore.

We no longer allow cigarette ads on TV. Should old ads be grandfathered in? I don't think so. Smoking used to be socially acceptable, but then we learned of the harm it does, and the rules were changed.

Age makes no difference. It wasn't acceptable then and it isn't acceptable now.

The *ad hoc* National Panel's view is that age alone will not "save" a challenged song but the Panel does acknowledge that it is one of the factors to consider. That said, in the matter at hand, given its contextual conclusions (above), the Panel judges that the age of "Money for Nothing" is not a material issue. Moreover, the Panel does believe that the fact that an offending word *may* have been acceptable in 1985 or 1995 does not mean that it would remain so in 2010, 2025 or 2050. Nor, the Panel wishes to add, do awards earned by a song assist in determining its playability on the airwaves. Such recognitions go to the reason for a broadcaster choosing to put a song in rotation; they are not of any assistance in assuring that such broadcasts meet the broadcasters' own codified standards.

The Panel also considers it exceptionally important and relevant to note that the CBSC deals only with the *broadcast* of this or any other song. Its conclusions relate only to the playing of the song on *licensed Canadian airwaves*. Even a song that may breach codified standards can be played to one's heart's content in private or on the internet, without the least interference. Any *broadcast* of musical or spoken content must be judged by the standards applicable on the date of the broadcast. While grandfathering

may protect old motor vehicles in terms of compliance with today's safety standards, to use the example given by one of those submitting comments, those circumstances are not analogous. Older vehicles are, by definition, a rapidly diminishing and almost insignificant part of the automobile population, with little effect on the public roads, particularly as most of the safety standards are for the protection of those persons *in* the vehicles in question, rather than those exposed *to* the vehicles. Broadcast standards are applied to words, music and content broadcast *today* and affecting listeners (and viewers) *today*. There is sufficient protection for broadcasters in the contextual considerations to allow for serious use of otherwise problematic content from *today and yesteryear*. There is no issue of grandfathering either needed or applicable to older content outside of those contextual exceptions.

The length of time and frequency of the song's playing on the airwaves

This question raised by the CRTC is not entirely dissimilar from, or unrelated to, that dealt with in the previous section, at least insofar as it relates to the length of time that "Money for Nothing" has been playing on Canadian airwaves. The National Panel has nothing to add to what it has just said on that issue. As to the question of airplay frequency, it is not surprising that the Panel has no way of making the assessment. That said, the Adjudicators believe that it is reasonable to assume that the farther away one gets from the release date of *any* song, the greater the likelihood that the airplays of even an important classic will probably gradually decrease over time. More important, though, is the question of *which version* of the song has been broadcast over the years. Has it been the original version or one of the edited versions? While the Panel has no more information that would permit it to draw a conclusion in this regard, the Panel doubts whether, for reasons of the length of the song or audience sensitivity, the apparent public conclusion that it has *always* been the original full-length *Brothers in Arms* version is correct. And that may well be part of the explanation of the absence of complaints about the other f-word over the past 25 years.

In any case, the number of complaints received by the CBSC is never a material issue for the Council. Its role is to determine whether a complaint is justified. That is done by measuring the public concern against the codified standard, not by counting heads. The CBSC is not a polling service. Nor should it be. It assesses the legitimacy of issues raised about broadcasts. In so doing, it can only render proper public service by adjudicating matters, whether they result from a single voice, a hundred voices, or a thousand voices. Right and wrong are not determinable by numbers.

The prominence and use of the contested word in the song

The National Panel does not find that the word “faggot” was used with any frequency or prominence in the song. It was there, to be sure, but only used three times in a four-line 29-word stanza, in an eight-plus minute song. The problem found initially (by the Atlantic Panel) was with the use of the word *at all*, not with an over-usage. Having dealt with both the word and the context earlier in this decision, the *ad hoc* National Panel has nothing to add to its conclusion in the first sentence of this section.

The conclusion

In the end, the *ad hoc* National Panel considers that the Atlantic Regional Panel was correct in its view of the inappropriateness of the word “faggot” for broadcast on Canadian airwaves. Whether or not the challenged word was at one time less unacceptable, perhaps as recently as 25 years ago, it no longer is and it must be judged by the standards applicable on the date of its broadcast. That conclusion is also consistent with the position of almost all of those who reacted to the Atlantic Regional Panel’s position or who sent submissions pursuant to the CBSC’s online solicitation of these. The National Panel hastens to add that, as discussed two paragraphs before, the CBSC and its Atlantic Regional Panel were correct in dealing with “Money for Nothing” on the basis of a single complaint.

On the basis of newly-submitted information that could originally have been supplied to the Atlantic Panel, but was not, the National Panel does part company with that Panel’s conclusion regarding the context of the otherwise inappropriate word. It does conclude that, based to a considerable extent on the story told in the song, which was strongly supported by information found in interviews given by the composer soon after the time of its release, the usage of the other f-word was contextually justified in “Money for Nothing”. The word was satirically and supportively used. The National Panel wishes to make perfectly clear to those persons who have commended the CBSC for its “brave” position regarding the disapproval of the hateful and painful term that it is not abandoning that position or the CBSC’s sensitivity to their concern. It is only saying that there may be circumstances in which even words designating unacceptably negative portrayal may be acceptable because of their contextual usage. The *ad hoc* National Panel finds *this* one such occasion.

Finally, the Panel wishes to reaffirm the existence of numerous versions of “Money for Nothing”, created and performed by Dire Straits themselves and Mark Knopfler on a solo basis, used by them or him in most of the live concerts and in their albums, as well as on iTunes. They are available for broadcast and, to the extent that broadcasters wish to respect that sensitivity of members of their audience, they have the option to make that airplay choice without any editing of the song on their part. While, for the

reasons given in this decision, the *ad hoc* National Panel concludes that the original version does not breach the private broadcasters' codified standards, it would encourage broadcasters to make the airplay choice appropriate to their market.

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

APPENDIX A

Review of the Atlantic Regional Panel decision in CHOZ-FM re the song “Money for Nothing” by Dire Straits

(CBSC Review of Decision 09/10-0818)

Lyrics

The lyrics of the version broadcast by CHOZ-FM that was the subject of the complaint are as follows:

I want my, I want my MTV
I want my, I want my MTV
I want my, I want my MTV

Now look at them yo-yos
That's the way you do it
You play the guitar on the MTV
That ain't workin'
That's the way you do it
Money for nothin' and your chicks for free
Now that ain't workin'
That's the way you do it
Let me tell ya, them guys ain't dumb
Maybe get a blister on your little finger
Maybe get a blister on your thumb

We got to install microwave ovens
Custom kitchen deliveries
We got to move these refrigerators
We got to move these colour TVs

The little faggot with the earring and the make-up
Yeah, buddy, that's his own hair
That little faggot's got his own jet airplane
That little faggot, he's a millionaire

We got to install microwave ovens
Custom kitchen deliveries
We got to move these refrigerators
We got to move these colour TVs

We got to install microwave ovens
Custom kitchen deliveries
We got to move these refrigerators
We got to move these colour TVs

I shoulda learned to play the guitar
 I shoulda learned to play them drums
 Look at that mama
 She got it stickin' in the camera
 Man, we could have some fun
 And he's up there
 What's that? Hawaiian noises?
 And he's bangin' on the bongos like a chimpanzee
 Oh, that ain't workin'
 That's the way you do it
 Get your money for nothin' and the chicks for free

We got to install microwave ovens
 Custom kitchen deliveries
 We got to move these refrigerators
 We got to move these colour TVs

Listen here, now, that ain't workin'
 That's the way you do it
 You play the guitar on the MTV
 That ain't workin'
 That's the way you do it
 Money for nothin' and your chicks for free
 Money for nothin'
 Chicks for free
 Money for nothin'
 And your chicks for free
 Money for nothin'
 Chicks for free
 Money for nothin'
 And the chicks for free
 Money for nothin'
 Money for nothin'
 Chicks for free
 Get your money for nothin'
 Get your chicks for free
 Money for nothin'
 And the chicks for free
 Get your money for nothin'
 And the chicks for free
 Look at that, look at that
 Get your money for nothin'
 I want my, I want my, I want my MTV
 Money for nothin'
 I want my, I want my
 And the chicks for free
 I want my MTV
 Get your money for nothin'
 I want my, I want my
 And the chicks for free
 I want my MTV
 Money for nothin'
 I want my, I want my
 And the chicks for free

I want my MTV
Money for nothin'
I want my, I want my
Easy money
I want my MTV
I want my, I want my
Easy, easy chicks for free
I want my MTV
Easy, easy money
I want my, I want my
Chicks for free
I want my MTV
That ain't workin'

Money for nothin'
Chicks for free

APPENDIX B

Review of the Atlantic Regional Panel decision in CHOZ-FM re the song “Money for Nothing” by Dire Straits (CBSC Review of Decision 09/10-0818)

The Complaint

The following complaint was submitted via the CBSC webform on February 1, 2010:

station: CHOZ-FM

program: Evening Programming (unsure of host)

date: February 1, 2010

time: 9:25 pm

concern: A song was aired, “Money for Nothing” by Dire Straits, and included the word “faggot” a total of three times. I am aware of other versions of the song, in which the word was replaced with another, and yet OZ FM chose to play and not censor this particular version that I am complaining about.

I find this extremely offensive as a member of the LGBT community and feel that there is absolutely no valid reason for such discriminatory marks to be played on-air.

Broadcaster Response

The station responded on March 4:

We have reviewed the material in question. When determining what musical selections air on our station, we always take content into consideration, and attempt to balance the point-of-view of our listeners with the integrity and authenticity of the musical selections aired.

In this specific case, the song in question has been played countless times in its original form, from its #1 release in 1984 to the present day, and continues to be aired on stations across the country in this form. As this selection has been aired continuously for 25+ years, and the original version is regarded by many as an historically successful and essential rock hit in that form with these particular lyrics, management chose in this specific instance to retain the authenticity of this selection. Below we have some chart stats on the single, [which] support its mainstream acceptance:

1986 Grammy for Record of the Year

1986 American Music Award for Record of the Year

1986 9 MTV Video Music Awards

Billboard #1 single September 21 - October 5, 1985

The abridged version is aired on other stations mainly due to its length, but OZ FM changed formats to Active Rock and at that time it was decided that a number of selections be presented in their authentic format, for example:

The Who - "Won't Get Fooled Again"

Golden Earring - "The Twilight Zone"

Guns N' Roses - "November Rain"

Aerosmith - "Sweet Emotion"

All of these songs, in addition to Dire Straits "Money for Nothing", under OZ FM's previous format, aired from time to time in their abridged form, due to their length. However, under OZ FM's new format all of these songs returned to their original form to provide listeners with authentic cut, as other stations in the market and across the country had done.

We understand the concerns you have raised regarding this particular selection and do apologize for any undue stress caused to you as a listener by the lyrical content of this selection, but based on the above reasoning, we have operated with the understanding that in this specific case, no editing of the material is warranted.

Thank you for your comments and concerns. Regardless of the outcome of this particular matter, the input of listeners is of great value to us, and we appreciate you taking the time to bring this to our attention.

Additional Correspondence

The complainant filed her Ruling Request on March 4 with the following comments:

I have received a reply from [the Senior Vice President], of NTV/OZ FM radio regarding my complaint placed through the CBSC in late February. The complaint regards an uncensored version of the song "Money for Nothing" by Dire Straits which contains the word "faggot" on three occasions. After reading the reply carefully, I still feel as though the reply I received is unsatisfactory.

In the letter, [the Senior Vice President] lists a number of reasons in an attempt to justify his stations airing the uncensored version of the song. One of the reasons given was the awards and acclaim that the original version of the song has received. These include 1986 Grammy for Record of the Year and 1986 American Music Award for Record of the Year. This is comparable to the achievements of Kanye West's 2005 song "Gold Digger" which received 9 Grammy nominations, including Record of the Year, and is certified triple platinum. This song contains another discriminatory slur, not directed towards sexual orientation, but towards race. When played on OZ FM, this slur is censored despite the song's achievements. I fail to see a difference between the two situations.

He also goes on to compare this song to others played in their original format such as: "November Rain" - Guns n' Roses and "Sweet Emotion" - Aerosmith. He states that the aforementioned songs, along with "Money for Nothing," were at one time aired in abridged versions due to their length but are now played in their entirety as the result of a new format. However, that appears to be the only thing these songs have in common as neither of them contain the offensive language which is the subject of my complaint.

I am highly dissatisfied with the response I have received. I do not feel the argument in favour of the unabridged version of the song was valid, and it is certainly not strong enough to justify playing such words on the radio. This word carries an unavoidable connotation of hate. By airing it unapologetically on the radio, this station is indirectly propagating hate. Although I can see the value in a timeless classic rock song in its original form, I cannot help but feel that it does not overshadow the importance of ending discrimination.

APPENDIX C

CANADIAN BROADCAST STANDARDS COUNCIL

ATLANTIC REGIONAL PANEL

CHOZ-FM re the song “Money for Nothing” by Dire Straits

(CBSC Decision 09/10-0818)

Decided October 14, 2010

G. Phelan (Chair), B. A. Jones (Vice-Chair), K. Hicks, B. MacEachern,
R. McKeen, R. Morrison

THE FACTS

Dire Straits is a British rock band and the song “Money for Nothing” first appeared on their 1985 album *Brothers in Arms*. CHOZ-FM (OZ FM, Newfoundland) aired a version of the song on February 1, 2010 at 9:15 pm. The lyrics to that version were as follows:

I want my, I want my MTV
I want my, I want my MTV
I want my, I want my MTV

Now look at them yo-yos
That's the way you do it
You play the guitar on the MTV
That ain't workin'
That's the way you do it
Money for nothin' and your chicks for free
Now that ain't workin'
That's the way you do it
Let me tell ya, them guys ain't dumb
Maybe get a blister on your little finger
Maybe get a blister on your thumb

We got to install microwave ovens
Custom kitchen deliveries
We got to move these refrigerators
We got to move these colour TVs

The little faggot with the earring and the make-up
 Yeah, buddy, that's his own hair
 That little faggot's got his own jet airplane
 That little faggot, he's a millionaire

We got to install microwave ovens
 Custom kitchen deliveries
 We got to move these refrigerators
 We got to move these colour TVs

We got to install microwave ovens
 Custom kitchen deliveries
 We got to move these refrigerators
 We got to move these colour TVs

I shoulda learned to play the guitar
 I shoulda learned to play them drums
 Look at that mama
 She got it stickin' in the camera
 Man, we could have some fun
 And he's up there
 What's that? Hawaiian noises?
 And he's bangin' on the bongos like a chimpanzee
 Oh, that ain't workin'
 That's the way you do it
 Get your money for nothin' and the chicks for free

We got to install microwave ovens
 Custom kitchen deliveries
 We got to move these refrigerators
 We got to move these colour TVs

Listen here, now, that ain't workin'
 That's the way you do it
 You play the guitar on the MTV
 That ain't workin'
 That's the way you do it
 Money for nothin' and your chicks for free
 Money for nothin'
 Chicks for free
 Money for nothin'
 And your chicks for free
 Money for nothin'
 Chicks for free
 Money for nothin'
 And the chicks for free
 Money for nothin'
 Money for nothin'
 Chicks for free
 Get your money for nothin'
 Get your chicks for free
 Money for nothin'
 And the chicks for free
 Get your money for nothin'
 And the chicks for free
 Look at that, look at that

Get your money for nothin'
 I want my, I want my, I want my MTV
 Money for nothin'
 I want my, I want my
 And the chicks for free
 I want my MTV
 Get your money for nothin'
 I want my, I want my
 And the chicks for free
 I want my MTV
 Money for nothin'
 I want my, I want my
 And the chicks for free
 I want my MTV
 Money for nothin'
 I want my, I want my
 Easy money
 I want my MTV
 I want my, I want my
 Easy, easy chicks for free
 I want my MTV
 Easy, easy money
 I want my, I want my
 Chicks for free
 I want my MTV
 That ain't workin'

Money for nothin'
 Chicks for free

The CBSC received a complaint about the broadcast via its webform on February 1, which expressed objections to the use of the word “faggot” in the song. The text of the complaint was as follows:

A song was aired, “Money For Nothing” by Dire Straits, and included the word “faggot” a total of three times. I am aware of other versions of the song, in which the word was replaced with another, and yet OZ FM chose to play and not censor this particular version that I am complaining about.

I find this extremely offensive as a member of the LGBT community and feel that there is absolutely no valid reason for such discriminatory marks to be played on-air.

The station responded to the complainant on March 4, explaining its decision to air this original version of the song:

We have reviewed the material in question. When determining what musical selections air on our station, we always take content into consideration, and attempt to balance the point-of-view of our listeners with the integrity and authenticity of the musical selections aired.

In this specific case, the song in question has been played countless times in its original form, from its #1 release in 1984 to the present day, and continues to be aired on stations across the country in this form. As this selection has been aired continuously for 25+ years, and the original version is regarded by many as an historically successful and

essential rock hit in that form with these particular lyrics, management chose in this specific instance to retain the authenticity of this selection. Below we have some chart stats on the single, [which] support its mainstream acceptance:

1986 Grammy for Record of the Year

1986 American Music Award for Record of the Year

1986 9 MTV Video Music Awards

Billboard #1 single September 21 - October 5, 1985

The abridged version is aired on other stations mainly due to its length, but OZ FM changed formats to Active Rock and at that time it was decided that a number of selections be presented in their authentic format, for example:

The Who - "Won't Get Fooled Again"

Golden Earring - "The Twilight Zone"

Guns N' Roses - "November Rain"

Aerosmith - "Sweet Emotion"

All of these songs, in addition to Dire Straits "Money for Nothing", under OZ FM's previous format, aired from time to time in their abridged form, due to their length. However, under OZ FM's new format all of these songs returned to their original form to provide listeners with authentic cut, as other stations in the market and across the country had done.

We understand the concerns you have raised regarding this particular selection and do apologize for any undue stress caused to you as a listener by the lyrical content of this selection, but based on the above reasoning, we have operated with the understanding that in this specific case, no editing of the material is warranted.

Thank you for your comments and concerns. Regardless of the outcome of this particular matter, the input of listeners is of great value to us, and we appreciate you taking the time to bring this to our attention.

The complainant filed a Ruling Request on March 4, which outlined her continued concerns with the song (the full text of the correspondence can be found in the Appendix):

After reading the reply carefully, I still feel as though the reply I received is unsatisfactory.

In the letter, [OZ FM's Senior Vice President] lists a number of reasons in an attempt to justify his stations airing the uncensored version of the song. One of the reasons given was the awards and acclaim that the original version of the song has received. These include 1986 Grammy for Record of the Year and 1986 American Music Award for Record of the Year. This is comparable to the achievements of Kanye West's 2005 song "Gold Digger" which received 9 Grammy nominations, including Record of the Year, and is certified triple platinum. This song contains another discriminatory slur, not directed towards sexual orientation, but towards race. When played on OZ FM, this slur is

censored despite the song's achievements. I fail to see a difference between the two situations.

He also goes on to compare this song to others played in their original format such as: "November Rain" - Guns 'n' Roses and "Sweet Emotion" - Aerosmith. He states that the aforementioned songs, along with "Money for Nothing," were at one time aired in abridged versions due to their length but are now played in their entirety as the result of a new format. However, that appears to be the only thing these songs have in common as neither of them contain the offensive language which is the subject of my complaint.

I am highly dissatisfied with the response I have received. I do not feel the argument in favour of the unabridged version of the song was valid, and it is certainly not strong enough to justify playing such words on the radio. This word carries an unavoidable connotation of hate. By airing it unapologetically on the radio, this station is indirectly propagating hate. Although I can see the value in a timeless classic rock song in its original form, I cannot help but feel that it does not overshadow the importance of ending discrimination.

THE DECISION

The Atlantic 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 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.

CAB Equitable Portrayal Code, Clause 9 – Language and Terminology

Broadcasters shall be sensitive to, and avoid, the usage of derogatory or inappropriate language or terminology in references to individuals or groups based on race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability.

[...]

- b) It is understood that language and terminology evolve over time. Some language and terminology may be inappropriate when used with respect to identifiable groups on the basis of their race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability. Broadcasters shall remain vigilant with respect to the evolving appropriateness or inappropriateness of particular words and phrases, keeping in mind prevailing community standards.

CAB Equitable Portrayal Code, Clause 10 – Contextual Considerations

Broadcasts may fairly include material that would otherwise appear to breach one of the foregoing provisions in the following contextual circumstances:

- a) Legitimate artistic usage: Individuals who are themselves bigoted or intolerant may be part of a fictional or non-fictional program, provided that the program is not itself abusive or unduly discriminatory.

The Panel Adjudicators read all of the correspondence and listened to the challenged broadcast of the song. The Panel concludes that CHOZ-FM breached Clause 2 of the *CAB Code of Ethics*, and Clauses 2 and 7 of the *Equitable Portrayal Code*. The Panel also found that CHOZ-FM breached Clause 9 of the *Equitable Portrayal Code* and that Clause 10(a) of that Code did not relieve CHOZ-FM of those breaches.

A Preliminary Note about Songs

The CBSC has long established the principle that songs broadcast on the airwaves are as subject to the provisions of the CBSC-administered Codes as any other broadcast content. There is no need to review the various codified standards that have been applied in such adjudications in the present matter; however, there is an aspect of the music-related jurisprudence that is worth noting here; namely, the existence and role of *edited* versions of songs in broadcasting. In *CIGL-FM re a song entitled “The Bad Touch”* (CBSC Decision 99/00-0654, October 12, 2000), for example, the Ontario Regional Panel put the foregoing general principles in the following terms.

Whether it is spoken word or set to music, the same rules apply. Music is, after all, no more or less a form of programming than other dramatic, documentary, news or, indeed, advertising material, all of which must conform to the terms of the various Canadian private broadcaster Codes.

The Panel added some information about the existence of broadcast-suitable versions of music.

It should, moreover, be noted that music recording companies, like distributors of motion pictures, generally create more than one version of their respective products. They understand that, in order to facilitate the responsibilities of broadcasters and to render broadcast markets more accessible to their products, they must provide versions that are susceptible of being aired. While broadcasters themselves frequently edit motion pictures, whether for content or to ensure that there are appropriate breaks for commercials, it is obvious that recorded popular songs are not as readily susceptible of broadcaster intervention. The decision for the broadcaster, when there is no edited version of a song, may, therefore, become, in black and white terms, whether to play or not to play. Knowing that, in order to assure air time, recording companies frequently provide a second version which they consider suitable for radio broadcast.

In another decision on that point, taken at the same meeting of the Ontario Regional Panel, namely, *CIOX-FM re the song entitled "Boyz in the Hood"* (CBSC Decision 99/00-0619, October 12, 2000), that Panel reiterated the above points and noted:

It is also appropriate to add that both the music recording industry and Canada's private broadcasters are aware that there are often edited versions of songs, one for direct sale and the other for radio play. They often, therefore, have the choice of which version of a song to play or, in circumstances where they do not, their choice is reduced to whether the song is or is not suitable for airing in terms of the Codes with which they have agreed to comply. [...] In this case, the Council is unaware whether an edited version of the song was available. That is, however, immaterial. Its decision is made as a function of the song as it was played on the air

The foregoing principles are central to the decision of the Atlantic Regional Panel in the present matter.

Whither the Evolution of Language?

The Atlantic Regional Panel notes that Clause 9(b) of the *CAB Equitable Portrayal Code* is relatively new (March 2008). It was included in that Code because the codifiers were conscious of the fact that the standards they created could apply over an extended period of time, during which the vernacular could itself evolve. As the Clause states, "It is understood that language and terminology evolve over time. [...] Broadcasters shall remain vigilant with respect to the evolving appropriateness or inappropriateness of particular words and phrases, keeping in mind prevailing community standards." The wording does not restrict the direction of the evolution, which may, in some cases, head toward greater permissiveness, and in others greater restrictiveness. Although it is not material to the present adjudication, and without doing any etymological research, the Panel observes anecdotally that words that fall into the category of coarse language or swear words tend to work their way toward acceptability in English language broadcasts, while racially insulting words tend to evolve toward unacceptability. An example from a previous CBSC decision manifesting what today might be viewed as quite "soft" coarse language, namely, the words "damn" and "Goddammit", were challenged in a 1994 radio broadcast [see *CFRA-AM re Steve Madely* (CBSC Decision

93/94-0295, November 15, 1994)]. Most examples from the recent experience of CBSC Panels include one or another of the f-word “family”. That said, in its 2005 decision *CHOM-FM re the song “Locked in the Trunk of a Car” by the Tragically Hip* (CBSC Decision 04/05-0324, April 4, 2005), the Quebec Panel dealt with the issue of coarse language evolution in the following terms:

The Quebec Panel is aware of the fact that language usage is constantly in a state of evolution, both on the French and English sides of Canada’s heritage. Formerly unacceptable language gradually but invariably insinuates itself into more common usage and a review of the old and new practice is merited from time to time. That is likely the case with respect to the f-word and its derivatives, which, after all, appear in noun, verb, adjective, adverb and interjection forms in English. Some of those forms are more aggressive and some are more benign but all are undoubtedly extremely offensive to certain sectors of Canadian society. While the Quebec Panel does not suggest any change to the present CBSC rules, it notes that it may be appropriate that some consideration be given to this group of words and other coarse and offensive language in due course.

In the area of racially-charged terminology, the Panel, once again anecdotally, notes that some words once possibly viewed as acceptable from a broadcasting perspective, even if not in good taste, have merged into a category of unacceptable usage. While the Panel cannot refer to any previous decisions in which any of the following words was viewed as tolerable from a standards perspective, the Panel is conscious of their unacceptability on the basis of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability: “wog” [*CFRA-AM re The Lowell Green Show (Somalia Commission Report)* (CBSC Decision 96/97-0238, February 20, 1998)], “wop” and “guinea” [*CKTB-AM re an episode of the Phil Hendrie Show* (CBSC Decision 02/03-0383, May 2, 2003)], and inferentially “nigger” [*SRC re Bye Bye 2008* (CBSC Decision 08/09-0620+, March 17, 2009)].

The Use of the Word “Faggot”

As to the word under consideration in the matter at hand, namely, “faggot”, the Panel notes that no other CBSC Panel has been called upon to render an opinion, although there are two earlier decisions dealing with the English word “fag”. In the first of these, *CILQ-FM re Parody Skit* (CBSC Decision 95/96-0218, May 8, 1997), the Ontario Regional Panel dealt with a skit entitled “Bob the Fag Man”. The Panel found no breach:

There is nothing complex about the matter under consideration here. The short skit in question is intended as a parody. It plays on the double entendre of the word “fag”, which is used primarily in Britain and its former colonies as a slang term for cigarette, and which has a slang usage in North America to describe a gay man. The sole issue for the Council to consider is whether or not this use of the term was abusively discriminatory vis-à-vis gay men. In the view of the Council, it is not. While possibly an unflattering term, it does not, in the Council's view, rank with certain racial or ethnic epithets (which it

does not wish to repeat here), particularly since members of the gay community use the word themselves from time to time in a non-discriminatory fashion. At worst, “fag” could be considered to be in poor taste, a matter on which the CBSC does not rule. In consequence, the Council finds that there is no breach of the Code.

In the second, namely, *Comedy Network re Comedy Now (“Gord Disley”)* (CBSC Decision 05/06-0290, January 20, 2006), the National Specialty Services Panel dealt with a complaint about the use of the word “fag” in a stand-up comedy routine. The comedian began his joke by saying “I’m not a fag myself” and “homophobia in the year 2000 looks particularly stupid.” He then went on to compare the interior decorating abilities of heterosexual and homosexual men, saying “Fags renovate like a [muted phrase: ‘son of a bitch’]” and suggesting that straight men are not adept at decorating projects. A viewer complained that the word “fag” was an insulting and hateful epithet, and questioned why the station muted coarse language but not that offensive term. The Panel made the following observations about discriminatory humour in general and about this particular broadcast:

Much modern comedy has a discriminatory edge, taking advantage of the propensity of individuals to find humour in difference. The humour may be proposed by individuals poking fun at others or indeed at themselves for the benefit of others. In either case, it is not all discriminatory humour that will be in breach of Clause 2 of the *CAB Code of Ethics*; it is only such humour as goes over the edge. [...] The goal of the Human Rights Clause, of the CBSC and of the National Specialty Services Panel is not to ensure *purity* on the airwaves; it is to protect against *harmful* speech. It is not to avoid *any* tasteless reference on the airwaves, it is to avoid *costly* references. The task of the CBSC is to balance cost and freedom, freedom and cost. It is a difficult endeavour but not a thankless one. When the afflicted are protected, the laughers moan. When the laughers are protected, the afflicted suffer. [...]

In the matter at hand, the humour appeared to be aimed, if anywhere, at straight men, rather than gays, at the creatively-challenged rather than at the creatively adept. To the extent that the decorative barbs were aimed at both groups, the Panel considers that they were, at worst, equally weighted. The Panel finds that the humour was distinctly nasty. The question, then, is appropriateness of use of the word “fag”, which is the cornerstone of the complainant’s concern. Does its presence in the segment colour the skit? Does it turn an anodyne presentation into a heavy-handed, bludgeoning or nasty one? Is the term “fag” the equivalent of some of the well-publicized racial epithets that are *per se* unacceptable? The Panel considers that the word is not the equivalent. [...]

This is not to suggest that there might not be circumstances in which it might be presented in a sneering, derisive, nasty tone but that is not what the Panel considers the present usage to be. It is benign, light-hearted, distinctively tickling. The Panel finds no breach of the Human Rights Clause in any aspect of the broadcast under consideration.

[...]

The complainant’s conclusion was that “the people at the Comedy Network don’t think hatred is as offensive as swearing!” In the light of its own conclusions regarding the word “fag”, the Panel does not agree with the complainant. It does not consider the word “fag” to be either *inherently* hateful, abusive or unduly discriminatory. Based on the Comedy Network’s correspondence, it appears that the broadcaster holds a similar view of the word “fag”. Consequently, there was no reason for it to bleep or mute the word. [...] The

Panel considers that there is no fault to be imputed to the Comedy Network's choice in this regard.

The Panel notes that those two precedents dealt with the shorter form of the word challenged in the present complaint, namely, "fag" rather than "faggot". While the Panel cannot substitute its view of those two decisions for the views of those Panels (in 1997 and 2006), it is aware of the fact that the shorter word has a couple of commonly-known harmless usages in English (although primarily the version spoken in the United Kingdom). The first is the term for a junior who performs duties for a senior in the English public schools tradition. The second is the term for a cheap cigarette or, even more generally, any cigarette. While those are entirely acceptable current usages of the short form, "fag", the use of "fag" as a colloquial term to designate a homosexual was judged acceptable in the two instances just cited. That said, the Atlantic Panel draws no conclusion regarding any possible future decision regarding the use of the word "fag"; its conclusions in the matter at hand relate solely to the longer term "faggot".

In that connection, the Panel does note that there is an acceptable, but less common (in comparison to the frequency of the benign use of the word "fag"), inoffensive usage of the word "faggot" in English (once again principally in the version spoken in the United Kingdom). It is a bundle of sticks, twigs, or small branches of trees, if not also of rushes and herbs, bound together. Since that word has a less frequently encountered inoffensive appearance in ordinary parlance, it is less likely to "benefit" from a benign usage as a double entendre or otherwise, particularly in Canada, and therefore has a greater likelihood than "fag" to be problematic. That said, the Panel acknowledges that the word "faggot", although lightly sarcastic in its application in the song, was not used in a "sneering, derisive, nasty tone", as the *Comedy Now* decision anticipated in its evaluation of "fag".

Still, the Panel concludes that, like other racially driven words in the English language, "faggot" is one that, even if entirely or marginally acceptable in earlier days, is no longer so. The Panel finds that it has fallen into the category of unacceptable designations on the basis of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability. In addition to the terms already so categorized by previous CBSC Panels, there are undoubtedly other racial epithets (not yet the subject of CBSC Panel decisions) that would likely fall into the category of words that are inherently problematic. In any event, the Atlantic Regional Panel concludes that the use of the word "faggot" in the song "Money for Nothing" was unacceptable for broadcast and that, by broadcasting an *unedited* version of the song, CHOZ-FM breached Clause 2 of the *CAB Code of Ethics*, and Clauses 2, 7 and 9 of the *Equitable Portrayal Code*. The Panel notes parenthetically that the song would not otherwise fall afoul of any of the foregoing broadcast standards if suitably edited.

Contextual Considerations

There have been two Panel decisions that have touched on the applicability of the contextual consideration of legitimate artistic usage. In *CFBT-FM re a segment on The Kid Carson Show* (CBSC Decision 08/09-1275, September 24, 2009), the British Columbia Regional Panel was called upon to deal with a typical morning radio program, on which one of the guests made many “outlandish, preposterous, outrageous and unacceptable” statements relating to women. Without reviewing those here, since they and the bulk of that decision are of little relevance, suffice it to say that the B.C. Panel did conclude that Clause 10(a) was

more appropriately applied to dramatic or documentary programming than to a program of the nature of that under consideration here. The Panel fully appreciates that another Panel may encounter a circumstance in which an extension of the application of that provision may be warranted; however, in the matter at hand, it is unnecessary to the B.C. Panel majority’s conclusions.

Similarly, in *CFNY-FM re a “Spencer the Cripple” segment on the Dean Blundell Show* (CBSC Decision 08/09-0650, June 25, 2009), the Ontario Panel noted the likelihood that Clause 10(a) would be likely to apply to “dramatic, documentary or journalistic programming [that] may portray discriminatorily offensive or hate-filled characters or plots without falling afoul of the provisions of the *EPC*.”

The Atlantic Panel agrees with that conclusion. It considers that the primary purpose of Clause 10(a) was to protect longer-form programming in which an idea or context that would otherwise be problematic under one of the negative portrayal provisions of the *Equitable Portrayal Code* was advanced by one or more of the characters or principals of the program. Thus, for example, the broadcast of a film such as *To Kill a Mockingbird* would likely be acceptable despite the significant expression in the film of abusive views of the townspeople in that racially-charged trial of the young black man, Tom Robinson, who had allegedly raped a white woman. In another analogous circumstance that was considered by a CBSC Panel, namely, that of the film *Midnight Express*, the National Specialty Service Panel was called upon to evaluate allegedly abusive content about the Turkish people in *Midnight Express* in *History Channel re the movie Midnight Express* (CBSC Decision 98/99-0203 and 0244, June 17, 1999). Although neither the *Equitable Portrayal Code* nor any equivalent of Clause 10(a) existed then, the Panel, acknowledging its substance, said that

the discriminatory comment does not target the Turkish people or the nation. The bitter discriminatory perspective is limited to injustices perpetrated by the jailers, the lawyers and the judges and this perspective of the system is a legitimate political point of view, one protected by freedom of expression and *artistic license* and, therefore, is not in breach of any Code. [Emphasis added.]

There are, it goes without saying, limitless similar examples of dramatic and documentary films anticipated by Clause 10(a). The Panel is not, however, of the view

that the Clause will generally be of application in the case of a song, in which the exposition of a context is less likely to be present. The Panel certainly does not close the door to that possibility but it does not consider that “Money for Nothing” is such a song. The Panel finds no case for the application of the exception protecting legitimate artistic usage on this occasion.

Nor does the Panel conclude that the history of the recognition of the song in the mid-1980s in any way protects its airplay in unedited form today. The societal values at issue a quarter century later have shifted and the *broadcast* of the song in 2010 must reflect *those* values, rather than those of 1985.

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 Senior Vice President focussed directly on the issue that concerned the complainant. He attempted to justify the airplay of the song based on the public recognition of it more than 25 years before. He was careful to cite specific examples of that recognition and was, he hoped, helpful and convincing to the complainant on that basis. While the complainant clearly did not share the broadcaster’s perspective, that was her 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 CHOZ-FM has fully met that membership obligation in this instance.

ANNOUNCEMENT OF THE DECISION

CHOZ-FM is required to: 1) announce the decision, in the following terms, once during peak listening hours within three days following the release of this decision and once more within seven days following the release of this decision during the time period in which the song “Money for Nothing” by Dire Straits 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 CHOZ-FM.

The Canadian Broadcast Standards Council has found that OZ FM breached the Canadian Association of Broadcasters’ (CAB) *Code of*

Ethics and Equitable Portrayal Code in its broadcast of the song “Money for Nothing” by Dire Straits on February 1, 2010. The song contained a word that referred to sexual orientation in a derogatory way, contrary to Clause 2 of the *CAB Code of Ethics* and Clauses 2, 7 and 9 of the *CAB Equitable Portrayal Code*.

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

APPENDIX D

**Review of the Atlantic Regional Panel decision in
CHOZ-FM re the song “Money for Nothing” by Dire Straits**

(CBSC Review of Decision 09/10-0818)

**Letter from the
Canadian Radio-Television and Telecommunications Commission (CRTC)**



Conseil de la radiodiffusion et des
télécommunications canadiennes

Canadian Radio-television and
Telecommunications Commission

Ottawa, Canada
K1A 0N2

21 January 2011

VIA FACSIMILE AND EMAIL

Mr. Ronald I. Cohen
Canadian Broadcast Standards Council
P.O. Box 3265, Station D
Ottawa, Ontario K1P 6H8
ron.cohen@cbsc.ca
Fax: 613-233-4826

Dear Mr. Cohen

Re: Correspondence involving the song “Money for Nothing” by Dire Straits

This is in reference to the decision of the Atlantic Regional Panel of the Canadian Broadcast Standards Council (CBSC) published on 12 January 2011 which determined that the use of the word “faggot” in the above-mentioned song breaches Codes administered by the CBSC. The Commission has received about 250 letters from all parts of Canada on this topic, most of which have suggested that the CBSC made an incorrect decision, and many of which have urged the Commission to take corrective action. In this regard, the Commission notes that the provisions under which it could review the song in question (such as the abusive comment provision set out in the regulations) contain wording that is similar to that contained in the Code provisions under which the CBSC reviewed the song.

The Commission also notes that many of the letters it has received mistakenly have assumed that it was the Commission, and not the CBSC, that determined that the version of the Dire Straits song containing the contested derogatory word was inappropriate for radio airplay. The volume of letters and perceived overlap of responsibilities between the Commission and the CBSC has created uncertainty for the public and for radio stations requiring information on the continued appropriateness of playing that version of the song.

In light of the national scope of this matter, the strong public reaction to the Atlantic Panel’s decision, and the considerable experience of the CBSC in reviewing such matters, the Commission hereby is taking the following two steps:

Canada

1. We are sending you all the correspondence we have received in respect of this matter since your decision was published.
2. The Commission is of the view that the CBSC should appoint a panel with a national composition to reconsider the matter and review the new correspondence regarding this song.

Such reconsideration should, after seeking submissions from the public by means of a public request for comments via your website, take into consideration all relevant factors, including:

- the context of the particular wording in the song's theme and intended message,
- the age and origin of the song and the date of its performance,
- the prominence of the contested word in the song and the use of that word over time, and
- the length of time and frequency that it has been playing on the airwaves.

It would be appreciated if the CBSC could consider this matter as expeditiously as possible and issue its reconsidered decision promptly.

Sincerely,



Robert A. Morin
Secretary General

APPENDIX E

CBSC Decision 09/10-0818 CHOZ-FM re the song “Money for Nothing” by Dire Straits

The live Dire Straits concerts on YouTube between 1985 and 1995

1985 (July 10)	Superstar Concert Series, Wembley Arena, London
1985 (July 13)	Live Aid, Wembley Stadium, London
1986 (June 20)	Prince’s Trust Rock Gala, Wembley Arena, London
1988 (June 11)	Nelson Mandela 70th Birthday Tribute Concert, Wembley Stadium, London
1988 (October 31)	Rainbow Theatre, Nagoya, Japan
1990 (June 30)	Knebworth House, Knebworth, Hertfordshire
1991 (Sept. 30)	The Ahoy, Rotterdam, Netherlands
1991 (October 11)	Olympiahalle, Munich, Germany
1992 (April 27)	Palais Omnisports de Paris-Bercy, France
1992 (June 28)	St. Jakob Stadion, Basel, Switzerland
1992 (Sept 29)	Arènes de Nîmes, Nîmes, France

The live Knopfler concerts (without Dire Straits) on YouTube after the 1995 dissolution

1997 (Sept 15)	Music for Montserrat, Royal Albert Hall, London
2001 (April 26)	Tower Theater, Philadelphia, Pennsylvania
2001 (May 3)	Massey Hall, Toronto
2005 (May 23)	City Hall, Newcastle, England
2005 (June 5)	Zénith Aréna, Lille, France

2005 (June 10) Palazzetto dello Sport Forum, Milan, Italy

While the Panel expects that there are other videos of live Dire Straits or Knopfler concerts on YouTube in which the word “faggot” is found, only one of those recorded during the life of the band appears to include all three uses of the other f-word; it is:

1992 (May 31) Feyenoord Stadium, Rotterdam, Netherlands

In the other videotaped live concerts (by either Dire Straits or Knopfler alone) on YouTube in which the word “faggot” is used, only one of which was recorded during the life of the band, the song “Money for Nothing” has been edited on each occasion so that the word faggot was only heard once. The list of those videotaped YouTube concerts is as follows:

1986 (April 26) Brothers in Arms tour, Sydney Entertainment Centre, Sydney, Australia

1996 (Apr or May) Golden Heart tour, BBC Building, Royal Albert Hall or Shepherd’s Bush Empire, London

1996 (June) Golden Heart tour, The Ahoy, Rotterdam, Netherlands

2001 (July 29) Sailing to Philadelphia tour, Hartwall Arena, Helsinki, Finland

2005 (June 12) Mandela Forum, Florence, Italy