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## APPENDIX

### CBSC Decision 11/12-0323 CFEX-FM re comments about redheads

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#### The Complaint

The following complaint dated October 2, 2011 was sent to the CRTC and forwarded to the CBSC in due course:

To whom it may concern,

I'd like to file a complaint against Matt Berry [*sic*] for discriminatory comments that he made on-air on the afternoon of Sunday, Oct. 2, 2011. Mr. Berry is a music DJ on X92.9 FM in Calgary, Alberta.

He was recounting a recent news story about Cryos International refusing to accept new donations from redheaded sperm donors. He went on to add some of his personal thoughts on the matter, that redheads "creep him out", and that redheaded women are ok, but that the men should just be "weeded out".

What if he had made the identical comments about an ethnic group? Would it have been any more, or any less acceptable?

He may have meant it to be funny, but it was not at all. There was no punchline, and it was not told ironically. It was disgusting.

Because of the nature of this complaint, please respect my privacy in this matter.

The CBSC wrote back to the complainant, explaining that it would need the approximate time of broadcast in order to pursue the complaint. The complainant provided that information on October 4:

Thank you for your reply in this regard. I believe that the time of the offending comments was around 1 pm on Sunday, Oct. 2.

#### Broadcaster Response

The station replied to the complainant on October 17:

The Canadian Broadcast Standards Council ("CBSC") has asked us to respond to your email of October 2, 2011 where you raised concerns regarding comments during Marcello Palombi's show (the "Program") that was aired on \_\_\_\_\_ (the "Station") on October 2, 2011.

### **About X92.9**

As you know, the Station, like many other contemporary music, news and entertainment radio stations can sometimes be controversial in nature. It attracts listeners, in particular adults in the 18-34 age category from a wide variety of listener backgrounds including young professionals, blue- and white-collar workers and university and college students, looking for excitement in their drive to and from work and school and while listening from home. The Station uses a blend of sarcasm, humour and information and has been doing so for the past several years, with a steadily growing audience. In fact, the Station, via its variety of entertainment through music and narrative content, has garnered massive acceptance among Calgary and area listeners.

### **The Complaint**

In particular, your letter sets out your concerns with a comment the host made pertaining to redheads. We regret that the comment offended you or that you felt that it was in poor taste towards the red-haired people. Please be assured that the comment was just that – a comment, and did not seek to attack anyone. It ‘played on’, as you know and pointed out in your letter, a recent story about a sperm bank no longer accepting donations from redheads and how they felt that their genetics were being attacked. He went on to compliment redheaded women but did admit to being “creeped out” by redheaded men admitting he wouldn’t be proposed [*sic*, opposed] to having less redheaded men in the world.

### **CBSC Codes**

We regret that that some of the comments made during the Program offended you or that you felt that they were discriminatory. Please be assured that at X92.9, it has never been our policy to discriminate against any group or segment. Moreover, the CBSC has acknowledged that a program “will not be everyone's ‘cup of tea’ and it assumes that some members of society would be offended... *That is not, however, the criterion by which the program must be judged.*”<sup>1</sup> In previous decisions, the CBSC has clarified that “it is not *any* reference to “race, national or ethnic origin, religion, age, sex, marital status or physical or mental handicap” but rather those which contain ““abusive or discriminatory material or comment’ based on the foregoing which will be sanctioned.”<sup>2</sup> The CBSC has noted, “to exceed that norm, there will need to be evidence of harsh language or imagery, nastiness (even if thoughtless or inadvertent), utter insensitivity or the like.”<sup>3</sup>

Notwithstanding the foregoing, we deeply regret that the Program offended you, for that was certainly not the intent. We have reviewed your concerns internally and, since receiving your email we have had discussions with the Program host about appropriate on-air content and will continue to exercise diligence on such matters. Please be assured that we take our responsibilities as a broadcaster seriously. Our producers and hosts are sensitive to the substance of the various topics presented on X92.9 and we work to ensure all our programming complies with the *Broadcasting Act*, the *Radio Regulations* and the Code and standards required of us as a member of the CBSC.

We trust the foregoing responds to the concerns you raised in your email regarding the Program. At X92.9, we recognize the importance of listener feedback and appreciate all comments. We thank you for taking the time and initiative to share your concerns with us.

<sup>1</sup> *CFJP-TV (TQS) re Quand l’amour est gai* (CBSC Decision 94/95-0204, December 6, 1995)

<sup>2</sup> *CKVR-TV re Just for Laughs* (CBSC Decision 94/95-0005, August 23, 1995)

<sup>3</sup> *CFYI-AM re Scruff Connors and John Derringer Morning Show* (CBSC Decision 01/02-0279, June 7, 2002)

### **Additional Correspondence**

On October 19, the complainant e-mailed the station (with a copy to the CBSC) requesting a transcript of the broadcast. The broadcaster asked the CBSC what it should do and the CBSC replied that the station was not obligated to provide the complainant with a transcript or audio clip, but that it could do so if it wished. If not, the station could tell the complainant that he could pursue his complaint with the CBSC.

The complainant wrote to the CBSC on November 4 indicating his dissatisfaction with the broadcaster's response:

I have not heard anything back yet from [the CFEX-FM Program Director] regarding my request for a transcript of the on-air dialogue I gave complaint to.

Is it possible that you can acquire this? Original correspondence below.

I am not really all that satisfied by the apology offered. It seems like they were basically saying that I'm not part of a group protected by your regulations (an ethnic group or disadvantaged person), so they have no need to be sorry ...

The station wrote to the CBSC on November 8 pointing out that the host in question was Marcello Palombi, not Matt Berry as the complainant had said in his original letter.