



Broadcasting Decision CRTC 2004-271

Ottawa, 13 July 2004

Genex Communications inc.
Québec, Quebec

*Application 2003-1399-0
Public Hearing at Québec, Quebec
18 February 2004*

CHOI-FM – Non-renewal of licence

*In this decision, the Commission **denies** the application by Genex Communications inc. for the renewal of the broadcasting licence for the French-language commercial radio station CHOI-FM Québec.*

In Broadcasting Public Notice CRTC 2004-49, also issued today, the Commission announces a call for applications for broadcasting licences to carry on a new French-language FM station in Québec.

Introduction

Background

1. The Commission received an application by Genex Communications inc. (Genex, the licensee) for the renewal of the broadcasting licence for the French-language commercial radio programming undertaking CHOI-FM Québec, which expires on 31 August 2004.
2. In *Acquisition of assets*, Decision CRTC 97-86, 27 February 1997, the Commission authorized Genex to acquire the assets of CHOI-FM and granted it a licence that expired on 31 August 2002. In Notice of Public Hearing CRTC 2001-14, 14 December 2001 (Notice of Public Hearing 2001-14), the Commission called Genex to a public hearing because of its apparent failure to comply with the *Radio Regulations, 1986* (the Regulations) regarding the submission of logger tapes and the broadcast of French-language vocal music. The Commission added that, during the licence term, it had received several complaints raising a number of concerns and that it intended to discuss at the hearing the content of CHOI-FM's spoken word programming in light of the high standard objective stipulated in the *Broadcasting Act* (the Act). The Commission also stated that it expected the licensee to show cause at the hearing why a mandatory order requiring the licensee to comply with the Regulations should not be issued.

3. Following the hearing in 2002, the Commission issued *Short-term licence renewal for CHOI-FM*, Broadcasting Decision CRTC 2002-189, 16 July 2002 (Decision 2002-189). This decision renewed CHOI-FM's licence for a period of only 24 months due to the licensee's repeated failure to comply with the Regulations regarding, among other things, abusive comment, contrary to section 3(b), the submission of logger tapes, the broadcast of French-language vocal music and the condition of its licence related to sex-role portrayal. The Commission also noted the licensee's failure to meet the objective set out in section 3 of the Act that programming be of high standard.
4. These findings were based, notably, on the Commission's analysis of 47 complaints it had received since CHOI-FM was acquired by Genex in February 1997. These complaints concerned the broadcast of abusive comment, offensive on-air contests, personal attacks and harassment on a daily program aired by CHOI-FM during peak morning hours.
5. In light of the explanations and corrective measures put forward by Genex, including Genex's proposal to adhere to a code of ethics and create an advisory committee, as well as the implementation of a system to preserve logger tapes for three months, the Commission determined that it was not necessary to issue a mandatory order requiring the licensee to comply with the Regulations. Instead, the Commission made CHOI-FM's licence subject to specific conditions of licence requiring, among other conditions, adherence to a *CHOI-FM Code of Ethics* (Code of Ethics), which was appended to Decision 2002-189 and is also appended to this decision, and the creation of an advisory committee. The Commission, however, added the following:

At the same time if, in the future, it considers that Genex has again failed to comply with the Radio Regulations or any of the conditions attached to CHOI-FM's licence, including the code of ethics in Appendix II to this decision, the Commission may call Genex to a public hearing to show cause why the Commission should not issue such a mandatory order or apply any of its enforcement measures including revocation or suspension of the licence of CHOI-FM.

6. In its renewal application dated 7 October 2003, Genex applied to amend CHOI-FM's licence in order to remove the conditions concerning the Code of Ethics, the advisory committee, and the preservation of logger tapes for 90 days. The licensee was of the view that it had satisfied the requirements of Decision 2002-189 and that the Commission should not be concerned about the content of the complaints filed during the current licence term.
7. The Commission conducted three analyses of CHOI-FM's programming during the current licence term, namely during the weeks of 3 to 9 November 2002, 25 to 31 May 2003 and 3 to 9 August 2003. The Commission noted apparent non-compliance with the French-language vocal music requirements during the week of 3 to 9 November 2002. The matter was addressed in correspondence between Commission staff and the licensee regarding the classification of a musical selection that included both English and French

lyrics. The subsequent analyses in May and August 2003 demonstrated that the licensee was in compliance with the Regulations regarding French-language vocal music and Canadian content. The analyses also demonstrated that the licensee was in compliance with its conditions of licence related to the broadcast of English-language musical selections and compilations of musical selections.

8. The licensee had indicated that it would become a member of the Canadian Broadcast Standards Council (CBSC) and did so in September 2002. From the start of the current licence term on 1 September 2002 to January 2004, the Commission received 45 new complaints about the spoken word content of the programming aired by CHOI-FM, 12 of which were forwarded to the CBSC. Of the remaining complaints, five that were virtually identical were grouped together as a single complaint. In the end, 29 complaints were reviewed by the Commission in connection with the public hearing of 18 February 2004.¹
9. In Broadcasting Notice of Public Hearing CRTC 2003-11, 18 December 2003, the Commission noted the apparent failure of the licensee in several instances during the licence term to comply with various provisions of the CHOI-FM Code of Ethics, particularly sections 2, 3, 6, 17 and 18. The Commission also noted the apparent failure of the licensee to comply with section 3 of the Regulations. The Commission therefore directed Genex to appear at the public hearing in Québec, stating:

The Commission expects the licensee to show cause at this hearing why a mandatory order under section 12 of the *Broadcasting Act* (the Act) requiring the licensee to conform to the Regulations and to the condition of licence that requires the licensee to comply with the CHOI-FM Code of Ethics should not be issued.

The Commission also expects the licensee to demonstrate at this hearing why the Commission should not suspend or refuse to renew the licence under sections 24 and 9, respectively of the Act.

Interventions

10. The Commission received 9,468 interventions concerning CHOI-FM's licence renewal application: 9,417 were in favour of the application; 38 were opposed; and 13 were comments.
11. The interveners who supported the renewal of CHOI-FM's licence based their support primarily on the principle of freedom of expression. They also pointed out that the French-language alternative rock musical format offered by CHOI-FM is unique in the Québec market and very popular with young listeners. They noted that the station

¹ In Broadcasting Notice of Public Hearing CRTC 2003-11, 18 December 2003, the Commission stated that a public hearing would commence on 16 February 2004, in Québec, to consider a number of applications. The Commission held a public hearing commencing on 16 February 2004 with a panel composed of three Commissioners who considered several applications. On 18 February 2004, the Commission held a second public hearing with a panel composed of five Commissioners who considered the application for renewal of CHOI-FM's licence.

contributes a great deal to the development of numerous alternative rock bands. Interveners from several of these bands appeared at the hearing to support the station. Some of the interveners drew attention to the fact that jobs would be lost if the licence were not renewed, and to the station's involvement in the community and the services it provides, such as broadcasting, without charge, messages about unwanted pregnancy and the promotion of condom use.

12. Most of the interveners opposed to the application objected to CHOI-FM's licence being renewed under the same terms and conditions, while 11 interveners stated that the licence should not be renewed at all. Both the written interventions and the interventions made orally in opposition at the hearing noted the licensee's numerous apparent failures regarding the spoken word content of programming and argued that corrective measures should be taken. Many of the interveners also said they agreed with the intervention from the mayor of Québec who stated in his comments that the Commission should assume its responsibilities by attaching conditions to the privilege of using the public airwaves and by rigorously enforcing its own decisions, both in letter and in spirit.
13. Some of the opposing interveners suggested a number of measures that the Commission could take to compel Genex to meet its obligations. For example, the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) stated that because of the licensee's violations and the large number of complaints, the Commission should either renew the licence for a short period of two years and issue a mandatory order requiring the licensee to comply with the Regulations or revoke the licence. Cogeco Diffusion inc. (Cogeco) suggested that the Commission should not renew CHOI-FM's licence specifically because Genex continues to defy the Commission through its repeated failure to comply with the rules and principles applicable to broadcasting and through its irresponsible conduct, and because the licensee does not acknowledge the seriousness of the complaints that have been made against it. Cogeco added that if the Commission decides to renew the licence, a suspension of at least six months would be completely justified.
14. Some of the comments submitted to the Commission by the interveners endeavoured to reconcile the notion of freedom of expression in a free and democratic society with the need to prevent some radio personalities who use the airwaves, which are public property, from undermining those same values. The Quebec Press Council acknowledged the Commission's efforts to bring civility to CHOI-FM's airwaves by making it subject to a Code of Ethics, but noted that those measures have not always, and, indeed only rarely, produced the desired results and that more stringent measures may be required. The Québec daily *Le Soleil* supported the licence renewal, but noted that Genex has not satisfied its conditions of licence aimed at setting clearer guidelines for the spoken word content aired by CHOI-FM and proposed, in particular, that the Commission strengthen the provisions of CHOI-FM's Code of Ethics and renew the licence for a limited period of 24 months.

Preliminary motions

15. On 22 January 2004, the licensee submitted a written request asking the Commission to withdraw the complaints from Mr. Robert Gillet and the related correspondence from the licensee's file or to postpone the public hearing. In a letter dated 3 February 2004, the Commission denied the written request, setting out reasons to support its decision.
16. At the beginning of the public hearing on 18 February 2004, the licensee presented a motion arguing, among other things, that the Commission did not have jurisdiction to deal with the complaints, particularly the complaints from Mr. Robert Gillet and Cogeco Radio-Télévision inc. (Cogeco Radio-TV), concerning the remarks made on air on CHOI-FM by hosts Mr. André Arthur and Mr. Jean-François Fillion, and requesting that the Commission not consider the complaints or allow the licensee to make a fuller defence. In addition to raising the jurisdictional issue, the motion presented at the hearing reiterated a number of the elements of the 22 January 2004 request.
17. In keeping with the Commission's standard practices set out in *Complaints and the public examination files*, Public Notice CRTC 1982-36, 18 May 1982 (Public Notice 1982-36), the hearing panel ruled that it had the authority to consider the complaints placed on the licensee's file and all related correspondence. Referring to the Commission's letter of 3 February 2004, the panel also considered the other preliminary requests made in the motion and denied them.

Regulatory framework for dealing with the application

18. The following provisions of the Act, the Regulations, CHOI-FM's conditions of licence, and the *Canadian Charter of Rights and Freedoms* (the Charter) are relevant to the consideration of the application submitted by Genex for the renewal of CHOI-FM's licence.

The Act

19. Section 5(1) of the Act states:

Subject to this Act ..., the Commission shall regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) and, in so doing, shall have regard to the regulatory policy set out in subsection (2).

20. The relevant provisions of Canada's broadcasting policy set out in subsection 3(1) of the Act are:

3. (1) It is hereby declared as the broadcasting policy for Canada that
 - (b) the Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty;
 - (d) the Canadian broadcasting system should
 - (i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada,
 - (ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view,
 - (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society,
 - (g) the programming originated by broadcasting undertakings should be of high standard;
 - (h) all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast;
 - (i) the programming provided by the Canadian broadcasting system should
 - (i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes,

- (iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern.

21. Sections 2(3) and 3(2) of the Act state:

- 2. (3) This Act shall be construed and applied in a manner that is consistent with the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings.
- 3. (2) It is further declared that the Canadian broadcasting system constitutes a single system and that the objectives of the broadcasting policy set out in subsection (1) can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority.

22. Section 9(1) of the Act states:

- 9. (1) Subject to this Part, the Commission may, in furtherance of its objects,
 - (b) issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee
 - (i) as the Commission deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1)
 - (c) amend any condition of a licence on application of the licensee or, where five years have expired since the issuance or renewal of the licence, on the Commission's own motion;
 - (d) issue renewals of licences for such terms not exceeding seven years and subject to such conditions as comply with paragraph (b);
 - (e) suspend or revoke any licence.

23. Section 10(1) of the Act states:

- 10. (1) The Commission may, in furtherance of its objects, make regulations
 - (c) respecting standards of programs and the allocation of broadcasting time for the purpose of giving effect to the broadcasting policy set out in subsection 3(1);

- (k) respecting such other matters as it deems necessary for the furtherance of its objects.

The Regulations

- 24. The Commission has made regulations pursuant to section 10 of the Act. Section 3 of the Regulations states:
 - 3. A licensee shall not broadcast ...
 - (b) any abusive comment that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;

Condition of licence

- 25. Pursuant to section 9 of the Act set out above, and as stated previously in Decision 2002-189, the Commission renewed CHOI-FM's licence for a period of only two years and required, by condition of licence, that the licensee adhere to the Code of Ethics that it had proposed in the proceeding leading to that decision. The Code of Ethics is appended to this decision.

The Charter

- 26. The following sections of the Charter are relevant to the consideration of this application:
 - 1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.
 - 2. Everyone has the following fundamental freedoms: ...
 - (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- 15.(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.
- 27. This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

Balancing freedom of expression and the objectives of the Act

27. The Commission has had occasion to rule on the need to balance freedom of expression against other values set out in the Act on a number of occasions in the past. In *Complaints by the Nishga Tribal Council and Musqueam Indian Band against CKNW New Westminster, B.C.*, Public Notice CRTC 1985-236, 4 November 1985, which dealt with abusive comment about Aboriginal persons made on air, the Commission noted that “the freedom of expression enjoyed by broadcasters does not constitute an absolute licence.” The Commission reiterated the statement it had made previously in *Concerning a Complaint Against CKVU Television, Vancouver, British Columbia, by Media Watch*, Public Notice CRTC 1983-187, 17 August 1983:

... the Commission emphasizes that the right to freedom of expression on broadcasting stations is not absolute. ... it is expressly limited by various laws aimed at protecting other cherished values.

28. In *Les Entreprises de Radiodiffusion de la Capitale Inc.*, Decision CRTC 90-772, 20 August 1990 (Decision 90-772), the Commission made the following observations regarding the handling of complaints about the programming of the licensee of CHRC Québec:

Section 1 of the Charter makes it readily apparent that the rights and freedoms listed therein are not absolute in this country, nor have they ever been for that matter. Freedom of expression in Canada is thus not without restriction. The above-mentioned provisions of the Act unequivocally attest to Parliament’s intent that, in supervising the use of radio frequencies, which are public property and limited in number by the radio spectrum, the greatest possible emphasis be given to the affirmation of the right to freedom of expression, subject to the requirement for programming of high standard and subject to achieving an intelligent harmony with the requirement for balance in the discussion of matters of public concern.²

29. In considering CHOI-FM’s most recent renewal in Decision 2002-189, the Commission stated:

The Commission reiterates that all broadcasters are subject to the requirements of high standard and balanced programming set out in sections 3(1)(g) and (i) of the Act. The Commission reiterates that licensees are solely responsible for selecting their journalists, hosts and guests.

² In *Les Entreprises de Radiodiffusion de la Capitale Inc.*, Decision CRTC 90-772, 20 August 1990, the Commission reviewed the provisions of the *Broadcasting Act, 1985*, Revised Statutes of Canada, chapter B-9. The current *Broadcasting Act* contains requirements that are substantially similar.

The Commission recognizes the right of licensees, through their employees, to criticize and question on air the actions of individuals, groups and institutions in the community. However, the Commission considers that the right to criticize does not give anyone the right to degrade others, to be unduly fierce in their criticism, or to use the airwaves to make personal attacks, as ADISQ found in the programming that was the subject of its complaint of 27 November 2001.

30. Broadcasting licensees enjoy the privilege of licences issued by the Commission to operate undertakings that make use of radio frequencies that are public property. This privilege is granted on the clear understanding that licensees have a responsibility for the programs they broadcast and is subject to the requirements of the Act, the Regulations and any conditions of licence that may be imposed by the Commission pursuant to the Act.
31. In carrying out its mandate, the Commission has recognized the importance of the principle of freedom of expression, which both protects those who express their views and those who hear them. The freedom of expression of broadcasters is thus counterbalanced by the right of listeners to programming that complies with the Act and associated regulatory requirements. In the Commission's view, remarks which are abusive and that risk exposing an individual or a group to contempt or hatred contravene the objectives of the broadcasting policy for Canada set out in section 3(1) of the Act.
32. That policy declares that the programming should be of high standard and that the Canadian broadcasting system should, through its programming, reflect the circumstances and aspirations of Canadian men, women and children, including equal rights, linguistic duality and the multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society. Those principles are reinforced by sections 15 and 27 of the Charter.
33. The broadcast of abusive comment that could expose a person, group or class of persons to hatred or contempt based on race, religion, colour, ethnic origin, sex, mental disability or other grounds referred to in section 3(b) of the Regulations is incompatible with the standards and values of the Canadian broadcasting system and the values in the Charter. The purpose of section 3(b) is to prevent the real harms that such remarks can cause, harms that undermine the objectives of the broadcasting policy set out in the Act, and that have been recognized by the courts.

34. One harm caused by remarks that could expose a person or group to hatred or contempt is the emotional damage caused by the remarks, which may be of grave psychological and social consequences for the person or members of the targeted group. The derision, hostility and abuse encouraged by such remarks have a severely negative impact on the targeted group or individual's self-worth, human dignity and social acceptance within society. This harm undermines the equality rights of those targeted, whereas the broadcasting policy for Canada states that those rights should be reflected in the programming offered by the Canadian broadcasting system.
35. The regulation prohibiting abusive comment that tends or is likely to expose a person or a group to hatred or contempt is necessary not only to avoid harm to the persons targeted, but also to ensure that Canadian values are respected for all Canadians. The broadcast of remarks that could expose individuals or groups to hatred or contempt can attract individuals to its cause and in the process create serious discord between various groups in Canadian society to the detriment of all of Canadian society. This harm undermines the cultural, political and social fabric of Canada which the Canadian broadcasting system is expressly meant to safeguard, enrich and strengthen. It also undermines the multicultural and multiracial nature of Canadian society, which the programming of the Canadian broadcasting system should reflect. Protection from the harms of abusive comment is for the benefit of all Canadians.
36. Similar considerations apply regarding the prohibitions included in the Code of Ethics imposed as a condition of CHOI-FM's licence, particularly those pertaining to personal attacks, harassment and comments that ridicule individuals or breach privacy.
37. The courts have also found that, while it is not specifically mentioned in the Charter, an individual's good reputation represents and reflects his or her inherent dignity, a concept which underpins all of the rights guaranteed by the Charter. Protecting an individual's good reputation is therefore of fundamental importance in our free and democratic society.
38. The Commission is of the view that freedom of expression does not justify the broadcast of abusive comment that is in violation of section 3(b) of the Regulations. Interpreting the right to freedom of expression in a manner that would place no restriction on what can be broadcast on public airwaves would be entirely inconsistent with the other objectives of the Act.
39. The Commission's mandate is to achieve the objectives of the Act, which requires it to strike an appropriate balance among those objectives. Every licensee has a duty to contribute to the achievement of those objectives. To allow a licensee not to meet the requirements of the Act, the Regulations and its conditions of licence would weaken the integrity of the licensing process, lead to more generalized non-compliance by licensees and undermine the objectives of the Act.

Complaints regarding spoken word content on CHOI-FM

The treatment of complaints

40. With regard to the handling of complaints, the Commission stated in Public Notice 1982-36 that it would consider complaints and replies thereto in its assessment of the overall performance of a licensee, at the time of the licence renewal. Since that notice, the Commission has followed the practice, including in the present case, of placing complaints received and related correspondence on the licensee's public examination file and considering them at the time of licence renewal as part of its assessment of the licensee's overall performance.
41. In keeping with its standard practice, the Commission placed all of the complaints against the licensee on the licensee's public examination file. The file also contains all correspondence related to each complaint, including the licensee's written responses and letters from Commission staff responding either to procedural matters raised by the licensee or to the complaints themselves.
42. As stated earlier, during the previous five-year licence term from 1997 to 2002, the Commission received 47 complaints about CHOI-FM. By contrast, the Commission received 45 complaints about the spoken word content in the first 17 months of the current licence term. Twelve complaints were forwarded to the CBSC³ and 29 were reviewed by the Commission. The complaints alleged that the hosts' on-air behaviour amounted to personal attacks and remarks that were offensive, vulgar, blasphemous, malicious, false, discriminatory and intended to ridicule.
43. Prior to the 18 February 2004 public hearing, Commission staff raised serious concerns or identified possible violations related to 11 complaints. In those cases, after analyzing the licensee's written response and listening to the remarks or reading the transcripts accompanying the complaints (stenographic notes), where possible violations or serious concerns were raised, Commission staff wrote to the licensee, with a copy to the complainant, informing it that the complaint might be discussed at the public hearing dealing with its renewal application. Each of those letters describes the nature of the complaint and the arguments made by the licensee in its written response. These letters also form part of the licensee's public examination file. At the public hearing, the licensee was then given the opportunity to add to its responses and expand on its explanations before the hearing panel.

³ During the previous licence term, the licensee was not a member of the CBSC.

44. As was the case in Decision 2002-189, the complaints focussed primarily on the spoken word content of the daily morning show entitled “Le monde parallèle de Jeff” hosted by Mr. Jean-François (Jeff) Fillion aired Monday to Friday. A segment approximately half an hour long co-hosted by Mr. André Arthur and Mr. Jean-François Fillion was added to the program in August 2002. Mr. Arthur is a host on CKNU-FM Donnacona, a station owned and operated by Genex, and the two stations aired the co-hosts’ half-hour segment simultaneously. The licensee’s morning show aired from 6:00 to 10:00 a.m., and the half-segment was broadcast between 8:30 and 9:00 a.m., that is, during the peak listening period, when the potential audience in the Québec region was more than half a million.
45. The Commission notes that, for all of the complaints noted below with the exception of the complaints from Mr. Robert Gillet of Cogeco Radio-TV, Ms. Sophie Chiasson and the complaints related to the promotion of piracy of broadcast signals, the licensee submitted complete recordings containing the conversations and comments that gave rise to the complaints, as requested by the Commission. The complaints from Mr. Gillet, Cogeco Radio-TV and Ms. Chiasson included hundreds of pages of stenographic notes. In addition, Ms. Chiasson and Mr. Gillet sent cassette recordings of the remarks made about them on air by CHOI-FM to the Commission. Copies of these cassettes were sent to the licensee. The Commission listened to the cassettes and is satisfied that they are reliable.
46. With regard to the stenographic notes, the licensee questioned the value of this type of evidence, arguing that one has to listen to the remarks to fully appreciate the content and context. The Commission considers that the stenographic notes were prepared by specialized companies recognized in their field and that the licensee did not seriously challenge their reliability. The Commission further considers that these notes are reliable evidence of what was said on air.
47. The Commission is satisfied that, in all cases, it has received the material needed to consider the context in which the remarks that gave rise to the complaints were made. In this decision, the Commission focuses on 10 of these complaints.

Compliance with section 3(b) of the Regulations

48. On-air comments will contravene section 3(b) of the Regulations where all three of the following criteria are met:
 1. The comments are abusive.
 2. The abusive comments, taken in context, tend to or are likely to expose an individual or a class of individuals to hatred or contempt.
 3. The abusive comments are on the basis of an individual’s or a group’s race, national or ethnic origin, colour, religion, sex, sexual orientation, age or physical or mental disability.

Complaint from Mr. François-Pierre Gauvin, 8 May 2003

49. Commenting on a news story about the mistreatment of a patient in a psychiatric hospital, host Fillion stated the following on CHOI-FM on 8 May 2003: “[translation] Why don’t they just pull the plug on him? He doesn’t deserve to live. The guy’s a freaking burden on society.” A few minutes later, a worker from the treatment centre called the host and said that the wing in which the serious cases, like the one being discussed, was referred to by staff as “the zoo.” After that call, Mr. Fillion added, “[translation] What I think they should do in the zoo is fill up the rooms, and then there’d be a switch, and once every four months, they press the button and just a little bit of gas comes out, and then you go in and pick it all up and put it in bags.”
50. Asked about the complaint at the hearing, the licensee reiterated its written response and refused to admit that there was a problem with the remarks, arguing that they had to be taken in the context of a discussion that lasted 25 minutes and was a debate on social issues. The licensee stated that it did not agree that the remarks violated the Regulations and that they did not in any way expose disabled persons to hatred or contempt. The licensee added that the remarks were made in jest and that a situation was being caricatured in order to raise awareness.
51. At the end of the question period, when the panel took up the matter again, the licensee conceded to the Chairperson of the Commission that the remarks were totally unacceptable and in violation of the Regulations, but added that it had tried to frame them in a context and circumstances that made them “not quite as bad.”
52. Having listened to the excerpt commenting on the news, which lasted approximately half an hour (7:00 to 7:35 a.m.) on 8 May 2003, the Commission notes that the remarks were made in the course of a debate on a controversial public issue, namely euthanasia and human dignity. The hosts were specifically discussing the boundaries of human dignity, euthanasia and the qualifications needed to work in a home for people with mental disabilities. The Commission considers that such issues need to be addressed in a way that allows different points of view to be presented to society.
53. However, while the debate may have focused on important public issues, the Commission considers that the host’s remarks were abusive, degrading, disrespectful and contemptuous of persons with mental disabilities. The Commission considers that, taken in context, the remarks tended to or were likely to expose persons with mental disabilities to hatred or contempt. Indeed, it is hard to imagine a context in which such remarks could be justified.

54. For these reasons, the Commission considers that the remarks violate section 3(b) of the Regulations. Further, the remarks fall far short of meeting the objective of high standard set out in the Act, and their broadcast on public airwaves does not constitute programming that reflects Canadian values. In the Commission's view, the harms that may have been caused to the group in question violate the right to equality reflected in the broadcasting policy for Canada and in the Charter.
55. This was the second complaint of this nature on the licensee's file. The Commission finds it inexcusable that the licensee would broadcast such remarks a second time, given that the Commission had found, in Decision 2002-189, that the licensee was in violation of that same section of the Regulations when, on air, it compared children with disabilities to animals, in reference to the Latimer case, in which a father was charged with murdering his disabled daughter.

Complaint from Laval University received on 9 January 2004

56. Mr. André Arthur stated the following on CHOI-FM, on 3 November 2003:

[translation] All that aside, we're always saying how global we are and taking in foreign students in Québec at the university, especially students from North Africa. Laval University is one of the biggest universities in North Africa.

The problem is, people forget that in Africa, in Muslim countries and countries in Black Africa, the ones who are sent abroad to study are the sons of people who are disgusting, the sons of the people who own the country so that they can govern it better. They're the sons of plunderers, cannibals who control certain Third World countries and can afford to send their children to Quebec to go to school, if it's not outright corruption by companies that want to get access to natural resources in Africa and will pay to have the sons of the disgusting people who govern those countries study in Québec.

But they're still proud in Laval to accept foreign students. They forget to say that those foreign students, by definition, with some exceptions, are all children of the most disgusting political leaders in the world, people who are sucking their countries dry, people who kill to gain power and torture to keep it. People we call cannibals, people who are extremely cruel.

57. The licensee argued that the remarks had to be taken in context and that the host's cultural background allowed him to suggest that his remarks reflected the real situation and were in the public interest. It contended that what the host was trying to do was exaggerate so that people would ask themselves if sons of tyrants, dictators and murderers were attending our universities.

58. At the end of the question period, when the panel took up the matter again, the licensee conceded to the Chairperson of the Commission, that the remarks might be at odds with the Regulations. However, after the hearing, the licensee sent an e-mail dated 27 February 2004 to the Commission that quoted passages of the comments made by Mr. Zylberberg, an intervener at the hearing. According to the licensee, the intervener stated that he had sons of dictators in the courses he taught at Laval University, thus demonstrating that the host's remarks were valid and therefore acceptable.
59. The Commission notes that, in all these arguments, the licensee never addressed section 3(b) of the Regulations and never seemed to understand its purpose. In the Commission's view, it is not a question of determining whether the remarks had any basis in fact, but of determining whether they were abusive and whether, taken in context, they tended or were likely to expose Black or Muslim students at Laval University to hatred or contempt on the basis of race, ethnic origin, religion or colour, regardless of their country of origin.
60. The Commission considers that the licensee violated section 3(b) of the Regulations by broadcasting the above-noted comments, which also did not meet the high standard requirement set out in section 3(1)(g) of the Act, and did not reflect the equal rights and multicultural and multiracial nature of Canadian society referred to in section 3(1)(d)(iii). The comments were also contrary to the values underlying sections 15 and 27 of the Charter.

Complaint from Ms. Sophie Chiasson, 28 May 2003

61. The complainant is a television host on the TVA television network and the two specialty services, MétéoMédia and Canal Vie. In her complaint, she alleged that numerous personal attacks were made against her during the licensee's morning show on 10 September 2002 and 8 October 2002. After listening to the recordings containing the remarks made by on-air personalities on 10 and 27⁴ September and 8 October and reading the stenographic notes, the Commission identified several remarks about the complainant related to her physical attributes, and sexual attributes in particular. There are multiple references to the size of her breasts; [translation] "her incredible set of boobs" and suggested that "the size of the brain is not directly proportional to the size of the bra" and that, "in her case, it might actually be inversely proportional." The participants even wondered about the texture of the complainant's breasts and whether anyone has asked the gropers about them, and whether they "[translation] defied gravity." The host said, "[translation] it's all in the breasts" and that that pair of breasts "did the job on Alexandre Daigle," which is why the host said Daigle chose the complainant over Sheryl Crow.

⁴ The logger tapes also included remarks made during the morning show on 27 September 2002.

62. The participants also referred to the complainant as “[translation] a consummate liar,” “a cat in heat” and “a leech on Alexandre Daigle” and “an airhead; it’s all well and good to have big boobs, a tiny waist and a tight ass, but it doesn’t mean a thing,” “there are some seriously sick people at MétéoMédia,” “the girls that are attractive and look good, are always idiots” and “an idiot could do the weather.” They also said that the complainant “[translation] had been around” and that “it happens behind the scenes” and made a number of remarks which suggested that she used personal relationships and even sex to land contracts as a television host.
63. In response, the licensee alleged that the remarks were an aside in a program on “showbiz” that it always treated as comedy, and that since everything was done in a humorous way that used imagery, the remarks were not personal attacks. According to the licensee, critiquing the body and presentation of a weather channel host is permitted in the context of a public debate because that is the way the person earns a living, before the public.
64. The Commission is of the view that CHOI-FM deliberately ridiculed and insulted the complainant by broadcasting numerous abusive remarks about her physical and sexual attributes and claiming that they are the only reason she is popular and that she otherwise has no talent or intelligence. The remarks were broadcast for several minutes on more than one occasion. They were clearly intended to denigrate and demean the complainant in the eyes of the public.
65. The Commission considers that the remarks made about Ms. Chiasson were abusive and tended to expose her, and women in general, to contempt on the basis of sex, in contravention of section 3(b) of the Regulations. Further, the remarks do not meet the objectives of the broadcasting policy for Canada set out in the Act. The remarks did not meet the objective of high standard of programming required by section 3(1)(g) of the Act.
66. The Commission considers that such remarks do not safeguard, enrich or strengthen the social fabric of Canada, nor do they reflect the status and aspirations of women, particularly in terms of equal rights, as required by section 3(1)(d)(iii) of the Act. The Commission reiterates that equality between men and women is one of the values referred to in section 15 of the Charter and is of the view that programming which substantially undermines that value runs counter to the objectives of the broadcasting policy for Canada and is not worthy of broadcast on the public airwaves.

Compliance with CHOI-FM's Code of Ethics

67. The Commission has recognized more than once⁵ the right of a licensee, through its hosts, to criticize and challenge on air the actions of individuals, groups and institutions in the community. However, as stated in Decision 2002-189 and elsewhere, the Commission considers that the right to criticize does not give anyone the right to degrade others, to be unrelenting in their criticism, or to use the public airwaves to make personal attacks.

68. In *Policy regarding open-line programming*, Public Notice CRTC 1988-213, 23 December 1988 (Public Notice 1988-213), the Commission stated:

The Commission considers gratuitous personal attacks on individuals or groups, unresearched or inaccurate reporting and unprofessional on-air behaviour as examples of failure to meet the high programming standards required of each licensee.

69. These principles are reflected in section 6 of the licensee's Code of Ethics, compliance with which was imposed as a condition of licence in Decision 2002-189. This section specifically states that hosts and journalists should not use the airwaves to launch personal attacks or to obtain personal favours of any kind. Section 17 of the Code of Ethics states that public figures, listeners and formal or informal groups are entitled to respect and should not be harassed, insulted or ridiculed.

70. The Commission received several complaints which demonstrate that the licensee's hosts continued to be relentless in their use of the public airwaves to make personal attacks and to harass, insult and ridicule people.

Complaint from Ms. Sophie Chiasson, 28 May 2003

71. This complaint was reviewed above in connection with section 3(b) of the Regulations. That violation aside, the Commission is of the view that the treatment of the complainant on air and all of the remarks about Ms. Chiasson referred to earlier constituted personal attacks. The Commission considers those remarks to be denigrating and completely gratuitous, particularly those related to her physical attributes as they pertain to her intellectual abilities. They had the effect of ridiculing and insulting the complainant; they were unrelenting and showed a total lack of respect.

72. The Commission considers that the remarks and conduct noted above are contrary to sections 6 and 17 of the licensee's Code of Ethics.

⁵ See *Policy Regarding Open-Line Programming*, Public Notice CRTC 1988-213, 23 December 1988, *Les Entreprises de Radiodiffusion de la Capitale Inc.*, Decision CRTC 90-772, 20 August 1990, *CKRS Short-term licence renewal*, Decision CRTC 96-730, 31 October 1996 and *Short-term licence renewal for CHOI-FM*, Broadcasting Decision CRTC 2002-189, 16 July 2002.

73. The Commission notes that the licensee was found, in Decision 2002-189, to be in breach of a condition of licence requiring it to adhere to the Canadian Association of Broadcasters' (CAB) *Sex-role portrayal code for radio and television programming*. While the condition of licence requiring adherence to this code is suspended as long as the licensee remains a CBSC member in good standing, the Commission notes that the on-air comments related to Ms. Chiasson that have resulted in a violation of section 3(b) of the Regulations and of the CHOI-FM Code of Ethics, are along similar lines to those that resulted in the breach of its condition of licence in the previous licence term.

Complaints from Cogeco Radio-TV, 4 April 2003, and Mr. Robert Gillet, 3 March 2003

74. In a document to which were appended several hundred pages of stenographic notes, Cogeco Radio-TV alleged that Mr. André Arthur repeatedly made remarks about Cogeco and its executives on the licensee's airwaves that were hurtful, insulting, contemptuous and misleading. According to Cogeco Radio-TV, Mr. Arthur had, since 18 December 2002, waged a smear campaign against Cogeco, its executives and CJMF-FM, a station owned by Cogeco Radio-TV that competes with CHOI-FM in the Quebec market. According to Cogeco Radio-TV, Mr. Arthur urged listeners to stop listening to CJMF-FM, urged advertisers and businesses in Québec to stop advertising on CJMF-FM or Télévision Quatre-Saisons (TQS), which is owned by Cogeco Radio-TV, and urged listeners to harass CJMF-FM, TQS and their executives, employees and advertisers in order to serve his own interests and those of his employer, Genex. This complaint from Cogeco Radio-TV was reiterated in Cogeco's intervention concerning the licensee's renewal application that has been placed on the public file.
75. The Commission notes that the remarks were made following the first wave of arrests in the investigation of child prostitution in Québec and that Mr. Robert Gillet, a star host on CJMF-FM, was arrested in connection with this investigation at the end of his program broadcast on CJMF-FM on 17 December 2002.
76. In a complaint based on the same facts as those cited in the Cogeco Radio-TV complaint, Mr. Gillet alleged that the licensee's hosts made false statements and vicious insinuations about him, and that they maliciously spread rumours on the air before his trial that blatantly misrepresented the truth. He alleged that their conduct constituted harassment driven by Mr. André Arthur's expressed desire for vengeance.
77. The licensee contended, among other things, that Mr. Arthur's remarks were examples of questions from journalists or the police and not accusations or facts. It submitted that Mr. Arthur's remarks about Mr. Gillet's trips to places known for child prostitution and his questions about Cogeco executives concerning those trips constituted journalistic activity undertaken in the context of an editorial comment. The licensee also argued that Mr. Arthur had disclosed his personal interest in the matter by explaining that he had been fired from CJMF-FM by Cogeco because of Mr. Gillet. According to the licensee, Mr. Arthur was entitled to speak as he did because the public knew he had a personal interest in the case.

78. The Commission has read the stenographic notes appended to the complaint containing the remarks made on air on CHOI-FM, particularly between 18 December 2002 and mid-January 2003.⁶ It has noted the following examples of problematic remarks made on air on CHOI-FM by Mr. Arthur: “[translation] Then later when ... I decided to go because they [Cogeco] wanted me out; it all came to a head in November 2001, and the real reason I was told was that I had no respect for Robert Gillet, and that’s why that Thursday, if you’d buried me that night ... you would have found me with a great big smile on my face a thousand years later.” and “Driven by my bad feelings. Vengeance is a despicable feeling that I appreciate every day.”
79. In the Commission’s view, CHOI-FM used the public airwaves to repeatedly and relentlessly make personal attacks and unwarranted insinuations of grave misconduct against Mr. Gillet and certain shareholders, executives and employees of Cogeco, including CJMF-FM’s general manager, Mr. Geoff Brown, and Cogeco Radio-TV’s president, Mr. Michel Carter. The following are examples of what can only be described as a smear campaign over several weeks:

[translation] Another question for the executives at Cogeco, whether it’s little Mr. Brown or Mr. Carter, his Mormon priest boss, or the Audet family, why not ask them this: since most people in the community know that Robert [Gillet] has problems, why was he so staunchly defended ... Did anyone in the chain of command owe him anything? Did anyone in the chain of command go on trips with Robert?

[translation] Look, is there someone at FM 93 who didn’t know that Robert [Gillet] made, and still makes, regular trips to two of the most popular places for child prostitution in the world? Namely Thailand, where Robert goes regularly, and Czechoslovakia, Prague.

[translation] [Mr. Gillet couldn’t] get it up with an adult woman any more?

[translation] Who is protecting Robert Gillet at FM 93? Is it Brown? Is it Carter? Who at FM 93 is unable to say no to Robert?

[translation] ... to tell Geoff Brown: you’re good looking, you’re tall, you’re great, you smell good, and I don’t notice when you scratch your ass in front of everyone?

[translation] ... everyone knows that if Geoff Brown farts while he’s walking down a gravel road, it makes a little puff of smoke, it makes a little cloud of dust, because his ass is dragging, you see.

⁶ In making a determination on the Cogeco Radio-TV complaint and the complaint from Mr. Gillet, the Commission considered only the remarks made on CHOI-FM, not those made on CKNU-FM, which is also owned by Genex.

[translation] Should it have come as a surprise to the people at FM 93? I don't think so. They knew that he [Robert Gillet] was going to Thailand; they went with him.

[translation] ... second, Prague is the world capital, the European capital, for young girl prostitutes. Did the Québec police or the journalists go to Voyages Paradis and say, were there FM 93 executives on Robert Gillet's trips? Were there any other accused? ...

[translation] And my question to journalists now is, how come Charles Paradis, who arranged the trips to Prague, was never asked by other journalists about Robert Gillet's role? Was Robert bringing in customers? Did he get a commission when he brought someone in? Did he take anyone there personally? Did any FM 93 executives go on those trips to Thailand or Prague? And did any sales representatives or business managers from FM 93 or Cogeco go on those trips?

[translation] Oh, I don't know. I think there are personal connections. I think there are true friendships, but there's also the fact that there are executives at FM 93 who went to Thailand with Robert Gillet. I know things are said ... that they were allowed to advertise trips to Prague, with Voyages Paradis on FM 93, trips to the European capital for young girl prostitutes. I know that Robert was drumming up business for Voyages Paradis, which was his job. I don't know, but I ask Québec journalists: when are you going to do your job? When are you going to go to FM 93? When are you going to go to Voyages Paradis and ask, who here went on trips with Robert? But I know that there were Cogeco executives who went to Thailand with Robert Gillet. Child prostitution is more widespread in Thailand, Bangkok, than in any other country in the world.

80. The Commission considers that the above comments, taken together and in context, constituted personal attacks on certain shareholders, executives and employees of Mr. Arthur's former employer, Cogeco, in violation of section 6 of the Code of Ethics. The comments were disrespectful, insulting and ridiculing, in violation of section 17 of the Code. The Commission further finds that the remarks were relentless, insidious and unacceptable attacks on individuals, made for personal reasons on public airwaves, which in its view is incompatible with the high standard requirement and the Canadian values that are to be reflected in programming that is broadcast.
81. The Commission notes that the licensee read a written apology on air on 12 March 2003, after Cogeco Radio-TV threatened a civil lawsuit. This text was preapproved by the two parties and was read on the air, accompanied by sarcastic remarks from Mr. Arthur. The Commission is of the view that where hosts make inappropriate remarks on air and are thus heard by hundreds of thousands of listeners, apologies cannot reverse the harm that the remarks have already caused.

82. The Commission recognizes the public's right to information, the fact that Mr. Gillet is a public figure and the fact that the charges by the police against him were a matter of public concern that is of interest to listeners. However, as stated in Public Notice 1988-213, that does not justify a smear campaign against the accused, and his employer and colleagues.
83. The Commission considers that in the present case the conduct by Mr. Arthur, is aggravated by the fact that he expressly stated on the air that he was motivated by a spirit of vengeance.

Complaints from Ms. Joncas/Ms. Brazeau dated 14 April 2003 and from Mr. Ricky Arsenault dated 3 October 2003

84. The Commission also examined two other complaints that raised issues it considers are in contravention of CHOI-FM's Code of Ethics. These complaints were filed by Ms. Joncas/Ms. Brazeau and Mr. Ricky Arsenault.
85. Ms. Joncas and Ms. Brazeau appeared, with their faces hidden, in a televised report about an erotic golf tournament where they mentioned that CHOI-FM had sponsored the event. In their complaint, Ms. Joncas and Ms. Brazeau alleged, among other things, that the host, Mr. Fillion, had violated their privacy by asking CHOI-FM listeners on air for personal information about them so that he could track them down, and by subsequently announcing their names and e-mail addresses on air.
86. In response, the licensee alleged that having the host look for comments from witnesses and trying to communicate with the complainants are well-known journalistic practices. The licensee argued that the complainants' right to privacy was respected and that the circumstances never justified hiding their face and identity from the public.
87. The Commission considers that this use of the public airwaves was abusive and malicious and that the behaviour of host Fillion was in contravention of both section 3 of the Code of Ethics on respecting the right to privacy and section 6 of the same code on using the airwaves for personal ends.
88. The complaint from Mr. Ricky Arsenault related to a contest held on CHOI-FM asking listeners to denounce, on air, neighbours who did a poor job of maintaining their property and who were "disgusting." The licensee then went to the residence of a family named by listeners and carried out a live remote broadcast without ever revealing to the occupants the true nature of the contest and the fact that both the hosts and persons calling the station were ridiculing their way of life on CHOI-FM.
89. At the hearing, the licensee mentioned that, when it realized that the contest was becoming a denunciation, and that this could lead to abuses, it stopped the contest. The licensee maintained, however, that the way that this family was treated did not constitute an invasion of privacy, given that the employees were wearing vests that identified the station prominently and that the employees had arrived in a large truck that also identified the station.

90. The Commission considers that the licensee violated section 3 of its Code of Ethics by using deception to reveal this family's private life on air. In this case, as in the case of the complaint filed by Ms. Joncas and Ms. Brazeau, the Commission notes that the public's right to information or persons who are public figures was not involved.

The licensee's discharge and understanding of its responsibilities

91. In its examination of the licensee's understanding of its responsibilities, the Commission considered and took into account the licensee's reaction and response to complaints, both in writing and at the public hearing. The Commission also considered the licensee's response to the treatment of complaints by the CBSC, the industry self regulatory body, the responsibility exercised by the licensee regarding the behaviour of its on-air hosts, and the responsibility exercised by Genex's controlling shareholder, sole director and chief executive officer.

Genex's responses to the complaints

92. The licensee hired an in-house Counsel in September 2002 to deal with complaints, respond to them in writing and perform other duties. In keeping with the Commission's practice, the licensee's responses were sent to the complainant with copies to the Commission. During the licence term, the licensee, through its in-house Counsel, filed approximately 15 procedural motions with the Commission regarding several of the complaints. These motions asked, among other things, for clarification, suspension or dismissal of the complaint, or a finding of inadmissibility. The motions for dismissal were made on the grounds that the complainant used a Hotmail or Yahoo e-mail address and therefore could not be identified; that the facts in the complaint were the subject of a civil court action; or that the licensee no longer had the recordings of the programming in question. Letters setting out staff positions and/or Commission determinations on the merits of the motions were sent in each case, reiterating the Commission's duty to deal with complaints and offering the licensee another opportunity to respond to the complaint.
93. With respect to complaints received by e-mail, the Commission considers that the lack of a complete address for the complainant does not mean that the licensee or the Commission can ignore such complaints. With respect to complaints that are the subject of a civil court action, the licensee was reminded that the Commission is required, under the Act, to deal with complaints regarding the broadcasts even where the issues dealt with in the complaints are also the subject of such actions. In the case of complaints where the licensee's recordings of the programming in question are no longer available, the Commission considers that recordings and stenographic notes provided by complainants can, and in the cases discussed in this decision did, provide an accurate record of the material that was broadcast.

94. The Commission considers that the large number of requests by the licensee related to form or procedure only served to delay, by several months, the licensee's responses to the substance of the complaints and the Commission's ability to deal with the complaints.
95. When the licensee did fully respond to the substance of the complaints, while its responses were much more detailed than the form letter used during the previous licence term, there was rarely any acknowledgement of the legitimacy of the complainant's concern, but only a lengthy statement of why the complaints were without merit or that the on-air remarks were not problematic.
96. When questioned at the hearing about the most serious complaints, the licensee, in virtually all cases, denied that a problem existed and expressed its disagreement with the apparent failures to comply identified by Commission staff prior to the hearing. The main argument put forward by the licensee in most cases was that the Commission was not considering the remarks in context and that the context justified what was said. The licensee also argued that the Commission could not rely solely on stenographic notes of the remarks in question to determine if the complaints were justified. The licensee further submitted that, in several cases, the Commission did not have recordings that would allow it to listen to the remarks that gave rise to the complaints. The licensee used those arguments to deny that there was any foundation to the complaints or any problem with its conduct.
97. At its previous licence renewal hearing in 2002, the licensee acknowledged that some of the language used by its hosts had no place on the air, conceded the merit of several complaints and affirmed its determination to improve its performance. In contrast, throughout the current renewal process, the licensee simply denied that any of the on-air comments were inappropriate or wrong. Indeed, the licensee claimed to have improved its performance since the last licence renewal.
98. For example, the licensee was asked if it would do the programs broadcast between 18 December 2002 and 13 January 2003 on the Gillet matter in the same way if it had to do them over. The licensee did not answer the question directly, but said that everything that was broadcast during those programs was justified. In response to the Joncas/Brazeau complaint, the licensee added that it would be willing to again disclose personal contact information on air if it "served the public interest."
99. The Commission considers that, in both its responses to the written complaints and to questions at the public hearing pertaining to them, the licensee adopted and maintained an inflexible and unresponsive position. The Commission regards the licensee's answers to the complaints throughout its licence term to be unsatisfactory with regard to discharging its responsibility for what is broadcast, accepting that responsibility, and dealing with complaints in a responsive and respectful manner.

Role of the advisory committee

100. Genex established an advisory committee composed of three individuals. The advisory committee's mandate was to study complaints against CHOI-FM and to make recommendations to the licensee with respect to its Code of Ethics and all other regulatory obligations. The advisory committee was also required to write reports concerning complaints that had already been dealt with by Commission staff or the CBSC, including its recommendations to the licensee and to file them with the Commission. Before the public hearing, three reports were filed with the Commission and were placed on the licensee's public file.
101. The reports show that, as of 1 December 2003, the advisory committee had examined 23 complaints about the licensee that were dealt with by the CBSC or by the Commission. These reports show that the advisory committee made very few recommendations and that, it nearly always supported the licensee's written responses to the complaints. However, in its reports to Genex, the station's advisory committee warned the licensee that it should be more careful with its factual research and presentation during its programs and that it should use a higher standard of language when discussing sensitive or taboo subjects. In all, the Commission considers that the advisory committee was not effective in curbing or restraining spoken word content broadcast by the licensee.

CBSC decisions following complaints about CHOI-FM

102. As one of the corrective measures proposed by Genex at the time of its last licence renewal, as noted in Decision 2002-189, the licensee became a member of the CBSC.
103. The Commission notes that the CBSC, in response to a complaint it had received, rendered Decision 02/03-0115 on 17 July 2003 finding the licensee in violation of the CAB Code of Ethics. The CBSC wrote:

The Quebec Panel considers that host Fillion was anything but deft. He was crude and offensive. He spouted ugly and generalized epithets, comprehensible only in their flailing nastiness and not because a serious listener might have actually understood what his competitor did, if anything, to merit criticism. Thus, for example, the Quebec Panel finds that "conceited asshole", "that worthless piece of trash", a "loser", a "piece of vomit", a "shit disturber" and a "tree with rotten roots" fall into this category, whereas focussed comments such as the accusation that Tétrault was "a poor communicator" who had lost most of his listeners are fair game.

Fillion demonstrated an utter lack of respect, not only for the competitive host, but also, more important, for the audience he *ought* to serve. ... [italics were in the original text]

The Panel considers that the terms “hostie de prétentieux”, “hostie de pas bon”, “un vomit” and “un chieur” all fall clearly within the ambit of either coarse or offensive language and that the broadcast of these terms by CHOI-FM constitutes a breach of Clause 9(c) of the *CAB Code of Ethics*.

104. At the hearing, the licensee stated that it took issue with the CBSC’s findings. In the Commission’s view, the licensee’s membership in the CBSC has not prevented the broadcast of remarks that were deemed to be unacceptable under the codes that reflect the standards to which Canadian broadcasters have agreed to adhere.⁷

The responsibility of the licensee for the on-air remarks of hosts

105. Section 3(1)(h) of the Act states:

all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast;

106. In March 2003, Astral Broadcasting Group Inc., the Bell ExpressVu Limited Partnership (Bell ExpressVu) and Cogeco Radio-TV complained that host Jean-François Fillion promoted piracy on the air by urging his listeners to pirate Bell ExpressVu and Vidéotron Itée signals and that the host was thereby seriously and deliberately undermining the Canadian broadcasting system. Several pages of stenographic notes were appended to the complaints, which contained six comments to the following effect:

[translation] How many times have I told you that it’s a good thing to pirate Bell ExpressVu ... the message is loud and clear.

[translation] Listen, I’m going to tell you again what I told you yesterday: Keep on scamming the system and pirating signals, either Vidéotron or Bell ExpressVu; they haven’t got the message.

[translation] Keep on going to the store, you know, the one that supplies the stuff you need to pirate Bell ExpressVu. You’re doing the right thing.

107. At the hearing, the licensee was asked in a general question to give examples of remarks made on air that constituted deviations or departures from broadcasting standards. The licensee gave only one example, related to the promotion of piracy. The licensee stated, however, that the point of the discussion was not to promote piracy, but to discuss matters related to the distribution of satellite video channels, a legitimate subject for an exchange of ideas. While acknowledging that the host’s words were totally unsatisfactory and even illegal, Genex insisted that the host’s statements were not what he meant, and that Genex did not encourage listeners to engage in piracy.

⁷ The Commission also notes that in a more recent decision (decision 03/04-0018, 22 April 2004), the CBSC once again found Genex in violation of the CAB Code of Ethics. The CBSC ruled that during the morning show of 3 September 2003 hosted by Mr. Fillion, which was during the current licence term, CHOI-FM contravened the provision of the code that prohibits the broadcast on radio of all content that is unduly sexually explicit.

108. The Commission considers that this case is an example of the licensee's approach of saying that what the host said is not what the host meant. The Commission notes that the host's intent is immaterial; what matters is what is said on the air and what thousands of listeners hear. The licensee cannot avoid taking responsibility for remarks broadcast by stating, after the fact, that the remarks were not what the host meant.

Accountability for the licensee's statutory and regulatory obligations

109. Questioned at the hearing about the licensee's responsibilities under the Act, Mr. Patrice Demers attempted to distance himself from these responsibilities, as the following extracts from the transcript illustrate:

[translation] ... you seem to be blaming me personally for everything ...

[translation] But that responsibility falls to Genex, I share it with a number of people ...

[translation] ... you seem to still be holding me personally responsible; Genex is the licensee. It's Genex who bears that responsibility....It's a responsibility I can't bear alone, because it is also based on the good faith and the good will of our managers throughout the company ...

[translation] It can't be based on just one person ... It's based on everyone involved.

110. The Commission recognizes that, as is generally the case, the licensee of CHOI-FM is Genex, a corporation or legal person, and that the corporation has employees who have areas of responsibility for operating the licensed undertaking. Mr. Demers, however, is the controlling shareholder, sole director and chief executive officer of Genex. As such, it is predominantly, if not exclusively, his responsibility to ensure that the licensee adheres to its statutory and regulatory obligations. In the Commission's view, Mr. Demers has not only failed to discharge that responsibility in respect of the spoken word content of CHOI-FM, but also appeared to be completely unwilling to accept or even understand that responsibility.

Corrective measures proposed by Genex

111. At the hearing, the licensee stated that the situation at CHOI-FM had improved considerably as a result of the corrective measures it took during the current licence term, that the Commission should not be alarmed by the content of the complaints, and that Genex had met all of the Commission's requirements. To illustrate the success of its efforts, the licensee pointed to its compliance regarding some of the more technical matters that were identified as problems in Decision 2002-189, such as the broadcast of short versions of musical selections, the broadcast of musical montages, incomplete logger tapes, the promotion of the consumption of alcoholic beverages and the use of English on air.

112. Genex argued that the measures it has taken or, that it plans to take in the future, would be sufficient to better manage its morning show and to prevent problems with spoken word content. Those measures are:
- the hiring of an in-house lawyer in September 2002;
 - the hiring of a programming director;
 - the hiring of a new news director the week before the hearing who is specifically responsible for the morning show;
 - the hiring of a second in-house lawyer in the weeks preceding the hearing who handles corporate matters, allowing the other in-house lawyer to focus more on programming;
 - the creation of a voice mailbox and e-mail address to enable listeners to provide daily feedback;
 - the re-imposition, by condition of licence, of the Code of Ethics with the proposed changes;⁸
 - a condition of licence requiring the use of a mechanism allowing broadcasts to be delayed up to 8 seconds.
113. The licensee specifically stated that it was not trying to censor, gag or muzzle hosts and that guidelines and training for hosts are the only effective means of managing spoken word content. The Commission notes, however, that based on the statements the licensee made at the hearing, it did not take any disciplinary measures as a result of the numerous concerns and apparent failures to comply that were brought to its attention by Commission staff and in response to the numerous complaints received from the public.
114. The Commission notes that it is unable to assess the long-term impact the recent hiring of new staff at CHOI-FM will have on the morning show. It notes, however, that despite hiring a full-time lawyer in September 2002 to oversee the application of legal and regulatory requirements, Genex has not managed to keep its hosts in check and thus prevent the broadcast of comments that contravene the Regulations and the Code of Ethics. The Commission concludes that this measure has not been sufficient to prevent further failure to comply with regulatory obligations. Further, the repeat offences brought to light by the complaints, as well as the licensee's conduct at the hearing, which

⁸ In its licence renewal application, Genex had requested that the condition of licence requiring adherence to its Code of Ethics be removed. However, at the public hearing, the licensee agreed to that condition of licence being retained, with certain changes that it proposed.

consisted in arguing that all of the remarks made on air were appropriate and justified and refusing to admit that there was a problem with these remarks, offer little hope that new staff will be able to prevent similar remarks being made in the future. Finally, the Commission has no assurance that these measures will remain in place since it does not regulate radio stations' staffing decisions.

115. Regarding the creation of a voice mailbox and e-mail address to allow listeners to reply, the Commission stated in Decision 2002-189 that Genex's offer to provide a right of reply to persons who have been criticized is an appropriate measure. The Commission notes, however, that this is an after-the-fact mechanism implemented once injury has been caused. As stated in *Licence renewal for CKRS*, Decision CRTC 94-665, 23 August 1994, the Commission considers that abusive comment or content that contravenes the Act or the Regulations cannot be justified by offering air time to offended parties. For example, the Commission cannot accept racist programming, which would violate section 3 of the Regulations, merely because air time was provided for a reply.
116. Another of the corrective measures proposed by Genex at the hearing is the reimposition, by condition of licence, of its Code of Ethics, with some changes. The licensee proposed deleting sections 4, 18, 19 and 20 on the grounds that they are difficult to enforce. It also proposed five new sections and changes to other sections. While the Commission does not object in principle to some of the proposed changes, it considers that most of them, in particular the addition of five new sections, would dilute the requirements of the Code of Ethics and reduce the licensee's obligations.
117. Questioned at the hearing about the use of a delay mechanism to monitor the remarks made by the hosts of its morning show, Genex stated several times that such a practice would be very difficult, if not impossible. It stated that much of the content of its morning show is based on live interaction with listeners or outside contributors and that a delay mechanism would make such live interaction impossible. The licensee also emphasized that it would be difficult to apply such a mechanism, which would require the person in control to have impeccable judgement and extraordinary powers of concentration in order to be able to take effective action within the permitted delay.
118. The Commission discussed with the licensee the effectiveness of delays ranging from 8 seconds to 8 minutes or longer. Regarding the option of imposing an 8-minute delay, Genex argued that a delay that long would affect the immediacy of on-air discussions, which it considers crucial. It added that the technology needed to produce an 8-minute delay is not currently available.
119. At the final reply stage of the hearing, Genex proposed to add a requirement, by condition of licence, to use a broadcast delay mechanism during its morning show, even though it had argued earlier that such a measure would be ineffective and very difficult to apply.

120. In a letter to the Commission dated 27 February 2004, the licensee confirmed that the device it currently owns allows only an 8-second delay, not a 16-second delay as it had stated at the public hearing. It claimed in the letter that an 8-second delay would be sufficient to prevent the broadcast of remarks that would breach the Regulations. It also stated that the device would be an additional tool and that Genex would rely first and foremost on the hosts' sense of responsibility and the effectiveness of the guidance provided by station management.
121. The Commission notes that the 8-second delay proposed by the licensee would only be enough to delete a few vulgar words here and there. It would be ineffective in handling long problematic passages like those which gave rise to the complaints from Laval University, Ms. Chiasson and Mr. Gauvin.
122. The Commission also notes that the standard practice in radio is to use a delay mechanism to monitor calls from listeners during open-line programs or interviews. It further notes that the reservations expressed by Genex at the hearing are similar to those expressed by other licensees that share the view that a delay mechanism alone is not enough to control the remarks hosts make on air, because the person running the mechanism cannot effectively delete the hosts' remarks. According to the statements it made at the hearing, the licensee has had a broadcast delay device for almost two years and has used it very little.
123. The licensee was asked at least three times during the hearing if there were mechanisms or conditions of licence other than those already discussed that could be used to control the spoken word content of programs before they are broadcast. The licensee replied that it had put in place the best mechanisms possible to guide hosts and that there was no specific condition it could think of at that point. As a result of that statement, the Commission had to gauge the effectiveness of the measures proposed by, or discussed with, the licensee. As stated above, the Commission concluded that it could not be confident that those measures would be effective.
124. In light of the licensee's behaviour throughout its licence term, including the licence renewal proceeding, the Commission is not persuaded that the licensee has demonstrated sufficient acceptance or understanding of its responsibilities or a firm commitment to intervene at the appropriate time.

The Commission's conclusions

125. The spoken word content aired on CHOI-FM since its licence was last renewed in 2002, together with the licensee's conduct with respect to its regulatory obligations during the licence term, and throughout this current proceeding to renew its broadcasting licence, leave the Commission with few options.

126. The Commission notes that it took measures to give Genex numerous warnings of the possible consequences of its actions. Firm, unequivocal notices of regulatory measures that might be taken were included in Notice of Public Hearing 2001-14. In Decision 2002-189, the Commission renewed CHOI-FM's licence for only two years, far short of the maximum seven-year term allowed under the Act. The Commission stated that it was deeply concerned about the licensee's repeated failure to comply with the Act, the Regulations and its conditions of licence. The Commission added that, during the two-year renewal period, it would closely monitor the licensee's fulfilment of its obligations, in particular its compliance with the Code of Ethics, which was appended to Decision 2002-189 as a condition of licence. As noted earlier, the Commission warned Genex that if it committed further breaches, the Commission might call it to a public hearing to show cause why it should not issue a mandatory order or apply any of its enforcement measures, including revocation or suspension of CHOI-FM's licence.
127. After receiving a large number of complaints in the first 17 months of the short renewal period established in Decision 2002-189, and observing new apparent failures to comply regarding the spoken word content broadcast by CHOI-FM, the Commission decided to call Genex to the public hearing held in Québec in February 2004. In Notice of Public Hearing 2003-11, the Commission again warned the licensee that it would have to show cause at the hearing why the Commission should not issue a mandatory order or suspend or refuse to renew CHOI-FM's licence.
128. The Commission also notes that, in the correspondence with Genex during the current licence term, there were several apparent failures to comply and the licensee was warned, that, in keeping with the Commission's long-standing practice for handling complaints, Genex should be prepared to discuss the complaints at the hearing.
129. The Commission notes that the spoken word content, that was the subject of the complaints received, does not reflect isolated incidents, but appears to be part of a pattern of behaviour by the licensee that continued and even grew worse, over the course of two consecutive licence terms despite clear, unequivocal warnings from the Commission, the CBSC and even, on occasion, its own advisory committee.
130. After a comprehensive review of the licence renewal file and all of the circumstances surrounding the programs that gave rise to the complaints, the Commission concludes that the remarks made on CHOI-FM during the morning show constituted new serious, repeated failures to comply with the Act, the Regulations and one of the licensee's conditions of licence.
131. The Commission also cannot rely on the licensee's good will to implement other proposed measures, such as adherence to the revised Code of Ethics, some of the requirements of which it proposed to dilute, or a delay mechanism, which the licensee itself considered would not be effective.

132. The Commission notes that, barely a month after the release of Decision 2002-189, in which the Commission expressed serious concerns and warned the licensee that new violations could lead to its licence being suspended or revoked, Genex signed an agreement with Mr. André Arthur⁹ to have him co-host CHOI-FM's daily morning show. This decision by Mr. Demers was discussed on CHOI-FM on 16 August 2002.¹⁰ Asked to explain Genex's actions, Mr. Demers specifically stated on air on CHOI-FM:

[translation] ... I think that the ratings that André Arthur has drawn through his career and the ratings that CHOI generates are what really count.

133. The Commission considers that all of the above calls into question the credibility of Genex and its controlling shareholder, sole director and chief executive officer, Mr. Patrice Demers, regarding Genex's ability to understand and exercise its responsibilities under the Act as the holder of a broadcasting licence. The seriousness and frequency of the violations noted, the fact that they were not first violations, the licensee's general attitude of denial, and the stall tactics that the licensee used in dealing with complaints throughout the current licence term have persuaded the Commission that Genex does not accept its regulatory obligations and is not committed to meeting them.
134. The Commission has reviewed the various measures it could adopt to ensure that broadcasting licensees meet their obligations where it finds that they are in repeated non-compliance. Those measures range from a short-term licence renewal, to the issuance of a mandatory order, to the suspension, revocation or non-renewal of the licence. The latter measures are rarely used, and in the Commission's view, should generally be confined to cases where it is satisfied that none of the other available measures would be effective.
135. When questioned at the hearing about the additional measures the Commission might take to ensure that Genex fulfils its obligations in the future, Genex maintained that it had done everything it could and that the corrective measures it had put in place or proposed were sufficient. As to the prospect of a mandatory order, the licensee stated, "[translation] whether you issue a mandatory order or not won't change our view of the equation, which is that we're making every effort to comply with our conditions of licence."

⁹ The Commission has had to deal on more than one occasion with problematic remarks made on radio by this host. See *Capital Radio Broadcasting Operations Inc.*, Decision CRTC 88-888, 23 December 1988, and *Policy regarding open-line programming*, Public Notice CRTC 1988-213, 23 December 1988, decisions *Les Entreprises de Radiodiffusion de la Capitale Inc.*, Decision CRTC 90-772, 20 August 1990, and Decision CRTC 91-434, 8 July 1991, and *Métromédia CMR Montréal inc.*, Decision CRTC 99-93, 29 April 1999.

¹⁰ This discussion is included in the stenographic notes attached to the complaint by Cogeco dated 4 April 2003.

136. The Commission notes that the only purpose for issuing a mandatory order would be to ensure that the licensee complies with what is already required of it by the Regulations and its conditions of licence. For this measure to be effective, however, the Commission must be satisfied that the licensee understands its obligations and is committed to meeting them. The Commission considers that, in this case, Genex has not shown that it understands its obligations, or that it is committed to meeting them, and has not demonstrated any real desire to change. The issuance of a mandatory order would not, in the Commission's view, be an effective measure to fulfil the objective in the circumstances.
137. The Commission issued only a short-term renewal to Genex in Decision 2002-189. This measure was ineffective in compelling the licensee to take the necessary measures to rectify the violations contained in the spoken word content of the programming broadcast by CHOI-FM. The failure by the licensee to establish sufficient parameters for its hosts and the ineffectiveness of the proposed new corrective measures lead the Commission to conclude that another short-term renewal of CHOI-FM's licence would not attain the intended objective either.
138. Suspension of the licence would be another option. The licensee stated at the hearing that a licence suspension would have an immediate impact on several employees. It added that a suspension during a ratings period would have a negative long-term impact on the station and would lead to a loss of listeners. The licensee concluded by mentioning that it was a question of money.
139. The Commission considers that a suspension would only be effective if the evidence showed that the licensee's behaviour might change as a result. In the circumstances, however, there is no reason to believe that such a change would occur. The Commission is of the view that the problems identified in Decision 2002-189 and in this decision can reasonably be expected to persist, even if the licence were suspended for a period of time. The Commission considers that it cannot be concluded in this case that suspension of the licence would have the desired corrective effect of ensuring compliance with the Act and regulatory requirements. In fact, the statements made by Mr. Demers at the hearing, his reluctance and his apparent lack of understanding of his responsibilities under the Act lead the Commission to think the opposite.
140. The Commission acknowledges the concrete measures put in place by Genex to respond to other concerns raised in Decision 2002-189 with regard to the broadcast of short versions of musical selections, the broadcast of musical montages, incomplete logger tapes, the promotion of the consumption of alcoholic beverages, and the use of English on the air. It further recognizes the contribution the licensee makes to musical diversity through its alternative rock format and its contribution to the promotion of bands that play such music and the station's involvement in the community. The Commission also

recognizes that the licensee provides employment for a number of people. Nevertheless, the Commission is of the view that these factors do not come close to outweighing the gravity of Genex's repeated violations of the Regulations and its condition of licence related to the spoken word content, its inability to recognize or to accept responsibility for such violations and to implement the necessary corrective measures.

141. Ultimately, in view of the licensee's inflexible behaviour, its lack of acceptance of its responsibilities and the lack of any demonstrated commitment to rectify the situation, the Commission cannot reasonably conclude that Genex will comply with the Act, the Regulations and its Code of Ethics if its licence is renewed. The Commission also concludes that the measures available to it, such as another short-term renewal, the issuance of a mandatory order, or the suspension of the licence, would not be effective in overcoming the problems that have been identified. Consequently, the Commission **denies** the application by Genex Communications inc. for renewal of the licence of radio programming undertaking CHOI-FM Québec. Broadcasting by CHOI-FM must therefore cease by 31 August 2004.
142. In keeping with its mandate, the Commission must ensure the integrity of the licensing process and the public's right to programming that complies with the Act and the Regulations. It cannot permit the broadcast of abusive comments that contravene the Regulations, or programming that does not reflect the broadcasting policy set out in section 3(1) of the Act. Furthermore, the Commission cannot allow anyone to use the public airwaves to pursue his or her own agenda without regard for the rights of others.

Call for applications for a new radio licence in Québec

143. In Broadcasting Public Notice CRTC 2004-49, also released today, the Commission invites interested persons to submit an application to operate a new French-language radio programming undertaking in Québec that will serve to maintain the diversity of radio service in the Québec region and, at the same time, comply with the Act and the regulations made thereunder.
144. This invitation is extended to any person interested in operating a broadcasting undertaking who can demonstrate the ability to fully assume the responsibilities of the licensee of a broadcasting undertaking that makes use of a public frequency, including full compliance with the provisions of the Act and the regulatory requirements.

Secretary General

This decision is available in alternative format upon request, and may also be viewed at the following Internet site: <http://www.crtc.gc.ca>

Appendix to Broadcasting Decision CRTC 2004-271

CHOI-FM Code of Ethics

As a broadcasting undertaking operating within the Canadian broadcasting system, Genex Communications inc. (Genex) recognizes its responsibilities and obligations under the *Broadcasting Act* (the Act) and the *Radio Regulations, 1986* (the Regulations) and the conditions to which its licence is subject.

The principles underlying information at Genex relate to the accuracy, objectivity and impartiality of the information, the integrity of employees and balance in the presentation of varying points of view.

Genex recognizes that it is responsible for the radio programming it broadcasts and is responsible for respecting the freedom of opinion and freedom of expression of its employees and its listeners.

No clause in this code of ethics or Genex's internal policies shall, either in wording or in interpretation, be construed as an infringement or restriction of the fundamental rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms* and Quebec's *Charter of Human Rights*.



1. In accordance with the Act, the Regulations and its conditions of licence, Genex will, inasmuch as possible and in a balanced and reasonable manner, ensure that its programming is a forum for the expression of differing points of view on matters of public interest.
2. Genex will make every effort to ensure that its programming is of high standard and that no person, class of persons, association, or formal or informal group is exposed to contempt or hatred based on ethnic or national origin, race, colour, religion, age, physical or mental disability, sex, sexual orientation or family status.
3. Genex recognizes that every person has the right to privacy. Should that right conflict with the public's right to information, the right to information shall prevail where the person is a public figure or a public office holder and information about his or her private life is useful in better understanding the way that their public responsibility is carried out or in understanding the person's behaviour. The right to information shall prevail where a person makes public aspects of his or her private life, or when private acts are conducted in a public place.

4. Genex will endeavour at all times to broadcast information programs, viewpoints, commentaries and editorials that demonstrate integrity, accuracy, objectivity and impartiality.
5. Hosts, journalists and guests will always disclose any personal interests they may have in an issue being discussed or commented on during a program. Commitment to a cause shall not under any circumstances lead to facts being distorted or presented in a non-objective or biased manner.
6. Similarly, hosts and journalists will not use the airwaves to launch personal attacks or to obtain personal favours of any kind.
7. A host may offer his or her opinion on subjects being discussed on air and even defend that opinion. A host may express his or her views even if they conflict with those of a guest, a caller to an open-line program or a public figure, whether or not he or she is physically present, provided it is done with respect.
8. A host or journalist may, and in some cases must in the public interest, raise the validity of remarks made by a speaker in the course of a program in order to ensure balance and representativeness.
9. Listeners have a right of reply which allows any person, group, association, business, etc. to reply if they feel offended by an observation, commentary, interview, statement or report pertaining to them. Any person who wishes to exercise this right of reply may contact the general manager of the station, who will then work with the person making the request to determine the appropriateness and validity of the request and establish the terms and conditions of the reply. These terms and conditions will cover the form of the reply, the time of broadcast and the placement of the reply in the program schedule.
10. By broadcasting open-line programs or any other programs involving listeners' participation, Genex wishes to give the public the opportunity to participate in debates on current affairs and present a diversity of viewpoints on matters of public interest. To permit the presentation of quality programs, Genex will set up production teams responsible for choosing subjects, approaches, guests, if any, and other means likely to make the programs dynamic.
11. Hosts and journalists are members of the production team and in that capacity endorse the choices made. They also share responsibility for ensuring compliance with these rules.
12. The production team will verify the intentions and interests of guests or participants (listeners) on programs.

13. Without limiting freedom of expression or the free flow of ideas and opinions, the production team will carry out the necessary checks to ensure that organized groups do not take control of programs.
14. During an open-line or other program, the production team will screen calls using as its main parameters the seriousness and value of the comment, respect for public order and broadcasting standards, and balance and diversity in the points of view being expressed.
15. Through its internal policies and programming choices, Genex will strive for balance in the programs it airs and in its overall programming.
16. Hosts and journalists will demonstrate respect for the integrity and veracity of the information they broadcast and will conduct a reasonable check of the facts before they are broadcast.
17. Participants in an open-line or other program, public figures, listeners, and formal or informal groups are entitled to respect and should not be harassed, insulted or ridiculed.
18. Coarse or vulgar remarks have no place in programming.
19. Contests produced and broadcast will meet the same standards as spoken word content broadcast by the station.
20. Hosts, journalists and other participants in information programs will ensure that their remarks, comments or reports do not interfere with any person's right to a fair trial.