
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CKTB-AM re the John Gilbert Show

(CBSC Decision 92/93-0179)

Decided October 26, 1993

Marianne Barrie (Chair), Al MacKay (Vice-Chair), Susan Fish, Paul Fockler,
Don Luzzi, Robert Stanbury

THE FACTS

During the course of the John Gilbert Open Line Show on CKTB-AM in the afternoon of June 3, 1993, the open line host either made statements, or permitted callers to make statements, on two distinct subjects which a listener found offensive.

The listener's letter of June 21, 1993 was sent to both the CRTC and the CBSC.

The first matter raised in that letter concerned the Japanese reparations offered to Korean women used as "comfort women" by the Japanese armed forces during the War. A caller expressed the view that if "they [evidently the Japanese] can give reparation to all these prostitutes that the Koreans, the Korean prostitutes that they used as women of comfort, then I kind of think they can give something to our guys ..." The host interrupted the caller to state, "I've never thought of them as women of comfort; I thought they were just whores."

The caller disagreed with Gilbert's use of the term: "If you're involuntarily used that way, I can't see you can be classified as a whore."

The listener thought the host's comment unjustified. In her letter to the CRTC and CBSC, she stated: "Many of these women were shot through the head and forced into prostitution."

With respect to the second matter, the complainant was not specific as to the words used by a caller but was sufficiently precise as to the time of the comments so as to permit identification of the allegedly offending remarks. She stated, in general terms, that "remarks that I consider offensive regarding Franco Ontarians ... were allowed to be made by callers to Mr. Gilbert's show. ... If these lies and rumours are allowed to be aired and go

unchallenged I believe it will result in more hatred being directed against French Canadians."

Although the listener had not described the offending remarks in detail, in its review of the tape there were a couple of remarks made which the Council considered as the potentially offensive remarks to which the complainant had referred: the first of these related to the policy of bilingualism and the second to the treatment of anglophones at francophone clinics in Ontario. In general, the caller referred to the policy of bilingualism "in this country [as] an absolute farce" and stated that "they are building French hospitals for French people only; they are building French clinics for French people only; whereas a clinic that is open for so-called anglophones can take any type of person that speaks any kind of language." He cited two specific cases of anglophones not being able to be served in francophone clinics. He also referred to the dominance of Anglo-American culture which has made English a world language, ranking only second to Chinese in terms of the numbers of people speaking it. "And yet," he said, "in Canada, they are cramming French down our throats, John, a language we cannot afford."

The station's lengthy response to the listener was sent July 26. In it, the General Manager explained why, in his view, neither of the issues raised contravened either Clause 2 of the Canadian Association of Broadcasters *Code of Ethics* or Section 3(b) of the *Radio Regulations, 1986*, a provision not raised by either the complainant or the CBSC.

Code of Ethics, Clause 2:

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

Radio Regulations [under the Broadcasting Act], Section 3, in pertinent part:

A licensee shall not broadcast

[...]

(b) abusive comment that, when taken in context, tends 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 [...]

The General Manager stated generally that the "remarks simply represent the opinions of the host or the callers on a variety of topics of public concern, and whether or not such remarks may be rebutted, they are well within the ambit afforded freedom of expression on broadcast media."

With respect specifically to the first matter, he acknowledged that the term "whore" was a harsher synonym for the term "prostitute" "but given the nature of the circumstances

described, this is not a subject-area that has to be sugar-coated." He noted further that the host had gone "out of his way to commend the caller on a call that challenged his own views. This is the essence of a free-wheeling open line show."

With respect specifically to the second matter, the General Manager stated that the "caller's comments were all opinions on matters of public concern. Callers are free to disagree with other callers or Mr. Gilbert on points such as these or to call into question the accuracy of specific statistics, and they frequently do. None of Mr. Gilbert's comments could be construed as abusive to a group on the basis of race, national or ethnic origin."

THE DECISION

The CBSC considered the complaint under Clause 2 of the Canadian Association of Broadcasters *Code of Ethics*, the text of which is cited above. Insofar as the section of the *Radio Regulations* is concerned, it is not, of course, the CBSC which administers either the *Broadcasting Act* or the *Regulations* established thereunder by the CRTC. The body responsible for their administration is the CRTC. The CBSC does consider, where appropriate, that it may apply these in its decision-making to the extent that they elucidate or explain broadcasting standards which necessarily serve as the background to the Codes which it administers. These Codes have after all been adopted, albeit voluntarily, by the Association grouping the private broadcasters which are statutorily bound by the *Broadcasting Act and Regulations*.

The Regional Council reviewed all the correspondence and listened to the tape of excerpts of the relevant on-air program.

With respect to the first matter, the Regional Council did not consider that the characterization of the Korean women as "whores" could constitute a violation of Clause 2 of the *Code of Ethics*. There has been an international controversy over the apparent conscripting of Koreans as "comfort women" by the Japanese army and ultimate recognition by the Japanese head of government of the role of Japanese soldiers in these acts during the Second World War. The issue may not, however, be free of contention to all people and it is not every misconception or error of fact which will give rise to a sanction under the *Code*. It is only such error or errors as exude or reflect abusive or discriminatory attitudes based on matters of race, national or ethnic origin which are prohibited. The characterization in this CKTB-AM case, even if in error, did not constitute abuse or discrimination at all, much less abuse or discrimination based on race, national or ethnic origin. Furthermore, the host had conceded that "that was a good call" even though the caller's view of the characterization had differed from his own.

With respect to the second matter, the Regional Council considered that an opinion on the government *policy* of bilingualism constituted an *opinion* on that issue and was not *racially* driven. Nothing can be more fundamental to the principle of freedom of speech enshrined

in the *Charter* than the entitlement of an individual to express a differing view on a matter of public concern, including government policy. This is not to say that there may not be limitations to this principle. One of these occurs when the difference of opinion becomes abusive or discriminatory and is based on a matter of race, national or ethnic origin. In the view of the Regional Council, this was not the case here.

Although it had no evidence before it that the allegations regarding the question of service rendered to English-speaking citizens in so-called francophone clinics was incorrect, the Regional Council viewed this matter, in its worst interpretation, as a mistake of fact which did not amount to abuse or discrimination at all, much less abuse or discrimination based on race, national or ethnic origin.

This decision is a public document upon its release by the Canadian Broadcast Standards Council and may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.