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**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL COUNCIL**

CJCL-AM re the "Stormin' Norman" Show

(CBSC Decision 93/94-0073)

Decided June 22, 1994

Marianne Barrie (Chair), Ron Cohen (*ad hoc*), Susan Fish, Paul Fockler, Don Luzzi,  
Robert Stanbury

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**THE FACTS**

During a CJCL-AM (Toronto) open-line show hosted by on-air personality "Stormin' Norman" Rumack, on October 30, 1993 between 6:30 p.m. and 7:00 p.m., a caller apparently telephoned the show to discuss the level of violence in hockey.

A listener wrote to the Canadian Radio-television and Telecommunications Commission (CRTC) on November 10, 1993, regarding the program. The letter was referred to the Canadian Broadcast Standards Council (CBSC) on November 24, 1993. According to the listener, during the program in question,

a gentleman caller complained about the amount of violence in hockey.  
Norman's response: "Sir, were you born in this country?"

Born in this country? Since when is the basis of anyone's comments or arguments in our multicultural and immigration-based country ... hinged on their place of origin? Is he suggesting that anyone born outside ... our borders (including a large percentage of his multi-ethnic listeners in Toronto) is prohibited from making negative comments regarding anything "Canadian"?

I am a Canadian who was born elsewhere and am totally offended by anyone suggesting that perhaps I may not be qualified to comment on hockey or other things "Canadian".

He continued his statement by reminding everyone how young he was the first time he laced up his skates and finished by screaming at the guy that: "Sir, you are so full of it, it is coming out of your ears."

.... I respect the freedom of anyone's speech as long as it is not done with malice and is not intended to offend others.

The CBSC sent the complaint to the station for response. In his response to the complainant, dated November 29, 1993, the Station Manager wrote,

... It is the policy of THE FAN 1430 to allow a balanced view of all issues to be expressed on air. Let me assure you that the issue you refer to has certainly been addressed and dealt with here at the station.

Out of context, a question such as Mr. Rumack asked might seem problematic, but after reviewing the tape of the show in question, we feel that Norm's intention was definitely not to infer a racial bias. His intention was to try to express the point of view that a person who grew up playing hockey from a very early age might understand the game better than someone who did not. Norm's choice of words or manner expressing that intention may not have been the clearest, but he did not intend to suggest a racial prejudice. I fully understand and share your concern for freedom of speech and want to assure you that anyone is free to express his or her opinion on our station at appropriate programming times.

The complainant was unsatisfied by this response and resumed his signed waiver form to the CBSC on December 13, 1993. While the CBSC had requested, at the time of receiving the complaint (and within the time frame in which broadcasters are required to do so), that the station retain the logger tape of the program in question, the station was unable to provide the logger tape for Regional Council scrutiny when the CBSC Secretariat requested it by telephone in January, March and May, 1994. The CJCL Program Director wrote to the CBSC on June 1, 1994 to explain the absence of the tape, and stated that,

The station makes a point of recycling cassette tapes on a regular basis and it is our belief that the tape in question was mistakenly recycled. Steps have been taken to ensure this incident is not repeated.

The Program Director added in his letter to the CBSC that,

May I reiterate, in this case, Norm Rumack's choice of words and manner of expressing his intention may not have been the clearest, but he did not intend to suggest a racial prejudice. We have spoken to Norm about his on-air approach and handling of callers. In addition, we have held separate meetings with the on-air staff to review this case and similar concerns.

## THE DECISION

The Regional Council, composed of three public members and two members from the broadcasting industry (Mr. Al MacKay being absent) met on June 22, 1994 to consider the matter. The Regional Council would have considered the matter under Clause 2 of the Canadian Association of Broadcasters' *Code of Ethics*. The text of that clause reads as follows:

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.

In the absence of the logger tape, however, the Regional Council members felt unable to consider whether, in fact, the station had contravened the *Code* during the program in question. They referred to their previous decision in *CJSB-AM re the Wendy Daniels Show* (CBSC Decision 92/93-0219, February 15, 1994), in which they noted the broadcaster's responsibility to retain logger tapes of programs under consideration by the CBSC:

...broadcasters are required, as a component of their Responsibilities of Membership (pp. 38-39 of the *CBSC Manual* ), to

2(f) Co-operate fully whenever a complaint is received, by:

Retaining air-checks and other relevant materials...

This is also the responsibility of broadcasters under the CRTC's *Radio Regulations, 1986 ...*

It is clear that, as in the *CJSB-AM* decision, *CJCL-AM* (The Fan 1430) had failed to respect one of its Responsibilities of Membership, namely, that of retaining logger tapes. The Regional Council members further noted that the CBSC's own requirements regarding logger tape retention are no less stringent than those which the broadcaster must respect under the CRTC's *Radio Regulations*. The loss of tapes was, in this case, without justification and tape retention should have been viewed by the broadcaster as a normal broadcaster responsibility. The loss of tapes of a program under Regional Council consideration is, in the view of the CBSC, a serious breach of standards inherent in the conditions of CBSC membership.

The Regional Council was therefore unable to determine whether the station had contravened the industry *Code of Ethics* . The Council nonetheless decided that *CJCL* failed to adhere to its standards of responsibility of CBSC membership, as established in the *CBSC Manual* . In these circumstances, the station is required to announce this

decision, in the following terms, during peak listening hours, within 30 days of the release of this decision:

The Canadian Broadcast Standards Council has found that CJCL (The Fan 1430) has breached one of its responsibilities of membership in the Council, by not retaining a tape of a program against which a listener had filed a complaint. Because the station failed to retain the tape, the Council was unable to determine whether the Stormin' Norman show of October 30, 1993 breached the industry *Code of Ethics*.

*This decision is a public document upon its release by the CBSC.*