
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL PANEL**

CKTB-AM re the *John Michael Show* (Middle East Commentary)

(CBSC Decision 01/02-0651)

Decided June 7, 2002

R. Stanbury (Chair), M. Ziniak (Vice-Chair), R. Cohen (*ad hoc*), M. Oldfield,
J. Pungente and C. Reyes

THE FACTS

On March 6 and 7, 2002, CKTB-AM (St. Catharines) broadcast episodes of the *John Michael Show*, as it does each weekday morning from 9:05 am to 12 noon. The two shows in question, which dealt in substantial measure with the conflict between Israel and the Palestinians, raised significant concerns with a listener.

The March 6 Episode

Most, but not all, of the March 6 show dealt with the situation in the Middle East. To jump start that discussion, the host cited a speech that then Ontario Premier Mike Harris had given shortly before his resignation from office took effect. His argument was essentially as follows (a full résumé of the show, including more transcription, can be found in Appendix A):

What a speech, what a speech, I knew I liked the man. What a speech. Now I'm gonna give ya another little -. I'm gonna give you another little -. What did Harris say? Harris says you'd better move quickly. His five principles: uh, uh, let me see, do not seek consensus, do not procrastinate and trust your instincts. Okay, let's move over now to Israel. [...] I said what'cha gotta go in is with the full force of the tanks and the air force and just kaploomb and let's get this thing on. Do not procrastinate; trust your instincts. You know damn well what the Israelis' instincts are, don't you? You know what they should do. Challenge, deconstruct and scrutinize everything that's placed in front of you; risk failure rather than risk nothing. Every single one of Harris' five principles apply to the Israeli situation. Look what's happening now. [...] It's gotten into a complete, utter war of tit-for-tat. You kill mine, I'll kill yours. You kill mine, well I'll kill two of yours, well I'll kill two, I'll kill three of yours. You knock my building down, I'll knock your building. I mean there's, no there's now no end to it. It is now outta

hand. Well let's sit down and talk. Have you ever heard anything as ridiculous as >let's sitting down and talking'? Well we've gotta sit down and talk. In other words, you gotta procrastinate some more. Harris says don't procrastinate. Now you know, listen. Here's the last 24 hours in Israel [the host listed various attacks in Israel].

He then read two letters to the Editor from the *Toronto Star*, one accusing the paper of a bias against Israelis and the other of a bias against Palestinians. He then focussed his position on the issue that troubled the complainant:

So let's go to Premier Harris, shall we? Premier Harris said he has five principles. Do not seek consensus in a crisis. Sharon, go to town with the biggest tanks, the biggest guns, the biggest of everything you got and blow the Palestinians, Yasser Arafat included, to kingdom come and all, and all the places that, just do it pal, just do it. You ain't gonna win doing what you're doing, number one. Number two, is that you have nothing to lose because the only way you're gonna ever lose in Israel is they are gonna wipe you out. That is their goal. 'They' being the Palestinians and the people who hate the Jewish people. That is their goal. There is no compromise. They don't want you around, they don't want you on their land, they don't want you in their area, they don't recognize you, the only Jew is a, the only good Jew is a dead Jew and they teach their children that. They have been doing it for centuries and they're going to continue to do it for centuries and the only way they're ever going to be satisfied is when Israel is non-existent and every Jew there is dead. You've been in a war since day one. So stop talking and get to it.

[...]

I said a few months ago, but I said it very strongly just a few weeks ago that Israel had one option. They're in a war. So get it on. The first thing you do is take out Yasser Arafat. You know where he is, and you take him out. That's a fancy word for 'dead'. You dead him. And the next guy that takes his place, you dead him too. Until people don't really want to take his place because they're going to be deaded. So that's the first thing you do. Now you do it by about two o'clock this afternoon, but the one thing that you don't do is what the Americans have been doing all this time; you don't forewarn them. If I were you, I'd do it at three o'clock this morning.

[...]

All right now, once you take it, now. Sharon give me a call, will ya. Listen pal, I can't speak Israeli or Jewish or whatever, but we can both get along on some form of English, okay. You are at war, sir, you've been at war since day one whether you know it or not, you're at war. This, you're not negotiating. They, the other side, the PLO, the other side, the Arabs, the other side, they consider you to be their enemy. You will never change as long as you're born a Jew, and as long as you live in Israel. They will never change; they consider you to be their enemy and they consider it an honour to kill you. You have been at war; you are now at war. And remember you cannot solve this thing by talking.

Then listeners began calling; some of John Michael's comments to them follow. He said that the Israelis should kick all the Palestinians out and kill any who will not leave or who come back. He also said, on a similar point, but in different terms:

I'd kick out every Palestinian [... and then, speaking in the first person, as though for the Israeli leadership] We are out to kill you. Whenever we see any of your soldiers or people we

will kill them. [...] We will not shoot rubber bullets and if you put your children ahead of your tanks, we will kill your children [...].

He compared the situation to the conflict with Japan in World War II and said: “And if the Arab world all gets together and all those Arabian nations get together and wipe out Israel, so be it.” He added, “You’re gonna have to beat them militarily. Last one standing is the victor.” A caller brought up the Bible and the host responded: “I don’t care who’s right or wrong. [...] I happen to agree with the Israelis more than I agree with the Arab side.” Several callers disagreed with the host’s position, one saying that she was “tired of Zionist Nazis” and accusing him of being ignorant. Some of the dialogue was quite heated and there were circumstances when the host dominated the dialogue, scarcely permitting callers to put their argument cogently and other circumstances in which callers who were critical of the host did the same to him. At some moments, he threatened to use “power of the microphone” techniques to cut off callers but, in those cases, the callers had had considerable opportunity to vent their positions on the subject.

The March 7 Episode

John Michael began by saying that the previous day’s show had been very animated and that everyone at the station “with a title” was getting phone calls. He explained that he does not “sit on the fence” on issues and stated that a talk show’s purpose is to encourage debate, which sometimes requires him to “bait the water”. He added that talk radio is a public forum and that no listener is obliged to agree. He then quoted the CBSC’s policy on controversial public issues (incorrectly referring to it as the CRTC’s position on the subject) and posited the principle that everyone must be biased on most topics. He also insisted that callers must call on air to talk to him because he does not check his voice mail. He added that people who do not like the show have the freedom to turn it off.

The host applied one of the foregoing principles to himself, acknowledging his bias in favour of Israel because, he asserted, Israelis only fight in self-defence while the Palestinians purposely attack civilians. In counterpoint, he mentioned some negative comments he had broadcast in the past regarding things Israel had done and he pointed out that, on those occasions, he had received negative feedback from listeners for saying such things about Israel. He repeated his position of the previous day that the conflict would only be resolved militarily, and not by negotiation but, in the view of the Panel, he was clearly backpedalling. He tried to smooth the edges of certain remarks he had made, and to even recant some of them, perhaps benefiting from the intervening twenty-four hours and reflection on his earlier statements. The Panel, of course, benefits from the logger tape dubs which show *precisely* what was said on each occasion. It should be noted immediately, though, that the fact that the host sought to withdraw or modify certain March 6 comments does not mean that these were, *on that account*, in breach of any broadcaster standards. It only means that the Panel will assess the comments of March 6 as they were made and not on the basis of the revised positions of March 7. The March 7 show will also be assessed on the basis of what was said on that date.

In response to a caller's accusation, for example, John Michael said, "I'm not inciting hatred. I'm telling you to solve a problem. This is my opinion." In response to another caller who disputed Michael's position which he characterized as "might is right", the host explained that it is not necessarily right, but rather the only way to win: "I didn't say let's see if you can annihilate people. Let's see if you can kill as many Palestinians as you can. I didn't say that at all. But if a person comes to attack your house, I think you have every right to kill them."

To another caller (with a British accent), who argued that yesterday's "rhetoric was poisonous" and that the "passion made me sick"; and who said that he would not listen when Michael would be discussing the Middle East, the host responded sarcastically: "I'll give you a warning at the beginning of every program. I'll say 'I'll tell you what, I'm going to talk about the Israeli-Palestinian situation. So for the guy with the English accent, why don't you just turn me off.' [...] What a pile of rubbish. Garbage, absolute garbage." After a few more calls, he concluded the show by saying: "I'll be sure and tell you at 9:05, to the English guy that called, I'll let you know if I'm going to talk about this again tomorrow so you know whether to tune in or tune out."

The Complaint

The complainant tuned into the March 6 show at about 10:00 am and, after also listening to the March 7 episode, sent the following letter to the CBSC, the CRTC and others on the 7th (portions only are cited here; the full text of the entire relevant correspondence can be found in Appendix B):

I grew more alarmed by the moment as he referred to the problems in the mid-east with increasing passion. During the rest of the show he must have intoned the word KILL at least 50 times, if not many more.

His rhetoric became increasingly more offensive, and at times I felt he was espousing and encouraging genocide. Certainly he was encouraging hatred between the combatants and contemporaries. His "KILL until there is only one man standing" oft repeated mantra was egregiously offensive and alarming.

[...]

I felt his rhetoric not only crossed the line of good taste, but violated several frontiers of broadcasting ethics.

The letter then went on to the show of March 7:

He was verbally flailing away at the people who had taken exception to his previous program yesterday, belittling them with words that are to be adduced from the tape of today's (7th March 2002) program. He obviously does not suffer dissent gladly or graciously.

[...]

During this show he decided on a dubious strategy of attempting to relieve himself from his dreadful remarks the day previous. He said he had only adopted the words from a writer in a newspaper published earlier. It was a pitiable visual word picture to see a person artlessly dodging the responsibilities of his actions. The word *disingenuous*, to describe the person's integrity and character springs readily to my mind.

He treated his audience to a reading of that article, which bears only a faint resemblance to his vitriolic remarks of the day before.

[...]

I refer the addressees to John Michael's hostile and abusive remarks to and about the British accented gentleman who chose to call-in and who voiced objection to the program of the previous day. It was unfair (because the caller was abused, also, after he had been released), abusive and vitriolic. A perfect demonstration of unprofessionalism.

The Vice-President and General Counsel of Telemedia, CKTB's parent company at that time, responded on April 9. She said, in principal part:

In your complaint filed on March 7, 2002, you indicated that John Michael is encouraging hatred between the combatants and contemporaries, and that his rhetoric not only crossed the line of good taste, but violated several frontiers of broadcasting ethics.

[...]

In the last few months, there were many incidents of violence between the Jews and Palestinians in Israel. Since the situation in Israel is an important source of concern for many countries the media have been covering such incidents or commenting on them.

In his program aired on March 6, 2002, John Michael referred to certain principles that were applied by Mr. Mike Harris while acting as the Prime Minister of Ontario [*sic*], namely:

1. Do not seek consensus in a crisis.
2. Challenge and scrutinize everything in front of you.
3. Do not procrastinate.
4. Trust your instincts.
5. Risk failure instead of risking nothing.

In reference to the comments made by Mr. Harris in another forum, Mr. Michael wondered if the problem in Israel could be solved through peace talks. Mr. Michael expressed the opinion that it was impossible to solve the conflict between Israelis and Palestinians through peace talks and that a war was the only way to achieve peace even if it might create some injustice.

The debate was on the peace process and he made it clear that he did not care who could win the war. Many listeners phoned in to express their point of view during that program. John Michael tried to restrict the debate to the question referred to hereinabove and indicating that the debate was not the merit of the position of either group involved.

The objective of radio station CKTB-AM is to keep its listeners informed about what goes on in the world and to provide a reasonable opportunity for the public to be exposed to the expression of different views on matters of public concern.

Some people may consider that a debate on that topic is inappropriate and we respect that point of view. The comments made by Mr. Michael may have been distasteful but, in our opinion, with all respect for an opinion to the contrary, they did not encourage hatred towards Palestinians or Israelis. Obviously, his comments have offended you and we regret it because our objective is to inform our listeners, not to offend them.

Dissatisfied with that correspondence, the complainant responded to Telemedia's Vice-President and General Counsel the same day. He said, in part:

You dealt only with one (1) aspect of the remarks, and the remarks to which you refer are and were not in any way offensive. The other remarks and the repetition of the word KILL repeated at least 50 times with mounting fervour, etc, etc, are what amount to offensive broadcasting.

[...]

The follow-up program on 7th March 2002 is likewise extremely informative in that Mr. Michael attempted a weak *mea culpa* by pretending to have plagiarized [*sic*] the entire tirade from a named author. His attempt to transfer blame to the author, to whom he made frequent reference on 7th March 2002, fails.

THE DECISION

The Ontario Regional Panel considered the two broadcasts under the following provisions of the *CAB Code of Ethics*:

Clause 2 (Human Rights):

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, colour, religion, age, sex, [sexual orientation], marital status or physical or mental handicap.

Clause 6, paragraph 3:

It is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of the broadcast publisher.

Clause 7 (Controversial Public Issues):

Recognizing in a democracy the necessity of presenting all sides of a public issue, it shall be the responsibility of member stations to treat fairly, all subjects of a controversial nature. Time shall be allotted with due regard to all the other elements of balanced program schedules, and to the degree of public interest in the questions presented. Recognizing that

healthy controversy is essential to the maintenance of democratic institutions, the broadcast publisher will endeavour to encourage presentation of news and opinion on any controversy which contains an element of the public interest.

The Ontario Panel Adjudicators listened to tapes of the program episodes in question and reviewed the correspondence. The Panel considers that certain elements of the broadcast were in breach of the foregoing provisions.

The CBSC Position regarding Open Line Shows

The CBSC has dealt with open line shows in the past. In one of its earliest decisions on the subject, involving the same radio host whose comments are challenged in the present file, namely, *CKTB-AM re the John Michael Show* (CBSC Decision 92/93-0170, February 15, 1994), the Ontario Regional Panel of the day described the important role such shows can play in a democracy.

[O]pen line programs are a vital part of Canadian broadcasting. They present an opportunity for lively public discussion. They are timely. They are, one might justifiably observe, an *essential* home of public debate in a free democracy. They are also a locus for the expression of conflicting passions, which make for exciting radio. As stated in the *Canadian Association of Broadcasters' Submission to the CRTC in the Matter of Public Notice CRTC 1988-121*,

[O]pen line programs have evolved as the most instantaneous forum for free flowing expressions of views on matters of public concern. In our view they represent an important expression and reinforcement of true democracy and as such are characteristic of only the most secure and mature democratic societies.

While the CBSC neither underestimates nor discounts the importance of all of the foregoing, it is acutely conscious of the fact that open line radio does not come to the public without certain countervailing impediments and restrictions. [...] It is that delicate role of weighing freedom and restriction, lively debate and imperturbable responsibility, which the host must play and which, when offence is declared by a listener, the CBSC must judge.

In *CFRA-AM re the Lowell Green Show ("New World Order")* (CBSC Decision 95/96-0012, April 30, 1996), this Panel considered it appropriate to distinguish the various types of open-line programs available in the broadcast media:

Talk shows do not, however, come in a single flavour. They may indeed not be easily pigeon-holed into a small number of categories, although they may be said to range from the type in which the audience plays the largest role (and the host the smallest) to that in which the host plays the largest role (and the audience the smallest). Generally speaking, the goal of the host of the former type will be to define the subject and encourage *callers* to address that theme as articulately and effectively as possible. The host will in a sense be more of a moderator and, while undoubtedly provocative from time to time, is not likely to be argumentative. It is a *public forum* in the best sense of the term.

In programs of the latter type, the host is less of a moderator and more of a participant. He or she is likelier to be argumentative. The views and opinions of the host become or are the focal point of the program; the callers merely provide a launch pad for more theatrical or aggressive antics on the part of the host. It is less “public forum” than “public theatre”.

There is not one “flavour” that is right and the other wrong. The choice is that of the broadcaster (which has responsibilities to exercise in either event). In the Canadian environment, the public broadcasters appear to choose their call-in programs from the greater audience participation category while the private stations generally choose that form of show involving more aggressive participation by the host. Public radio may be said to aim more at the provision of information while private radio’s talk shows are intended to be livelier and more provocative. To accomplish this goal, the latter are not likely to feature a host without a point of view. The constant central figure does not simply play the role of referee, gingerly guiding the callers around the electronic forum into which they have stepped. The verb which is the root of the French word for host, “animer”, gives a far better sense of the role of such a talk radio host. It is to breathe life into, to communicate ardour, energy, enthusiasm, excitement, passion, to lead, to inspire. Passions invite countervailing passions. Emotion begets emotion. Disagreement and unpleasantness are not strangers to the electronic forum. It is here that more care must be exercised by the host. While he and his callers are entitled to express opinions, it cannot be forgotten that not all opinions are equal. The holder of the microphone and the related electronic controls has a distinct advantage, which must not be exercised irresponsibly. At its best, talk radio must not be arbitrary or a one-way street. Skilled practitioners of the art must be deft, not brutal.

The Treatment of Callers

It follows from the previous section of this decision that the Panel considers that the value of *dialogue* is important. The Panel clearly accepts that some rough-and-tumble on the airwaves is acceptable but it expects that the value and virtue of open line radio is that it truly serves as a marketplace of ideas. Thus, the excessive putting down of individuals or the threats to render half of the electronic boulevard of talk radio inaccessible to a caller by cranking down his or her input to inaudible levels exceeds the bounds of fairness. The foregoing being said, the host is naturally entitled to such mechanisms in the case of obnoxious or unreasonable callers who themselves leave little room on that same boulevard for the host to participate. As noted above, deftness, not brutality, should be the key. Clever argument should be the host’s best tool, not the closing of access to persons who do not merit such cavalier treatment.

The Expression of Political Viewpoints

There is a fine but essential line to be drawn between comments which are unduly discriminatory and those which simply constitute political commentary or the discussion of controversial public issues. The former are in violation of the private broadcasters’ codified

standards. The latter are not. Moreover, it is of the essence of statements that are political that the point of view expressed need not be popular. While democracy is a numbers game in the election of lawmakers, it is not that in the marketplace of ideas. The freedom of expression which flows from the nature of a stable and mature democracy protects the enunciation of minority, even unpopular, ideas. In *CKTB-AM re the John Gilbert Show* (CBSC Decision 92/93-0179, October 26, 1993), the Ontario Regional Panel stated

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.

Then, in *CKTB-AM re the John Michael Show* (CBSC Decision 92/93-0170, February 15, 1994), the same Panel observed:

Mr. Michael expressed his opposition to the official government policy of bilingualism and stated "nor could I give a damn if Quebec stays in this country or not." He added, among other things, that "We no longer wish to kneel and bow to this one province." With these political perspectives, the Council takes no issue. The host also opined that Quebecers control the civil service and generally wielded enormous political power within Canada. These opinions may or may not be sustainable but they are at least legitimately debatable.

In *CHOM-FM and CILQ-FM re the Howard Stern Show* (CBSC Decision 97/98-0001+, October 17-18, 1997), the Quebec and Ontario Regional Panels put the matter in the following terms:

The Regional Councils note the importance of differentiating between insults aimed at identifiable groups and comments related to the political or historical environment in Canada and in France. [...] Those comments relating to the state of radio in Canada, the use of English in Quebec, the value of French culture, Canada as an appendage of the United States, the role of the vanquished French in Vichy France, the issues relating to separatism, and so on, are the host's *opinions* and, unless utterly and irresponsibly uninformed, [...] they are his to espouse.

In *CILQ-FM re the Howard Stern Show* (CBSC Decision 99/00-0717, -0739, June 28, 2001), which involved the host's comments against immigration, and seemed to the complainant to be directed at Haitians in particular, this Panel decided:

While the Panel accepts that Howard Stern does not practise subtlety, it does recognize that his discussion of this issue is political and not racist. He is utterly clear in his position when he says "I am against all immigration into this country." That may be an unpopular position or one unpalatable to the complainant or others; however, that is not the issue. Everyone has the right to express unpopular political positions on the airwaves provided these are not in reality unduly discriminatory commentary, which is prohibited under the human rights provision of the *CAB Code of Ethics*.

[...]

It is nothing more or less than a political perspective regarding both the issue of immigration and, it appears, the question of assimilation. He has made no comment whatsoever suggesting that American citizens of other national or ethnic groups be stripped of their citizenship and returned to their countries of origin. He does not wish *new* immigrants. It is a defensible view in terms of the freedom of expression. The Panel finds no breach in this part of the broadcast.

The Panel supports the right of the host to take either side in the current Israeli-Palestinian conflict. He has chosen the Israeli side. He might have chosen the Palestinian side. That is his right to do. He is also justified in assessing the conflict as one in which negotiation is doomed to failure as a solution, however discouraging that position may be to persons of optimistic spirit, and that the only solution to the conflict will be a military one. The Panel also considers that Michael is entitled to express the perspective that *Amight is right*, that, in other words, the last side standing will be the victor and entitled to see itself as that. While this may be a particularly amoral way to view international politics, the host is entitled to espouse and express the position. It should be noted that the Panel finds that most of the host's commentary during the course of the March 6 show falls into this category, namely, partisan, aggressive but *this side of the line* discussion. Nor should it be forgotten that many of the callers on this show were extremely critical of the host's position and their hostile and negative reactions were broadcast for the audience to hear, thus enabling them to focus their minds on this controversial public issue. As to the show of March 7, the Panel finds the host's commentary considerably toned down and inoffensive. The result was that there was far less passion engendered on the part of the callers as well.

When, however, on three occasions during the March 6 show, he *recommends* that the Israelis engage in *indiscriminate* killing, it is the view of the Panel that he has gone too far. The statement *ASharon, go to town with the biggest tanks, the biggest guns, the biggest of everything you got and blow the Palestinians, Yasser Arafat included, to kingdom come* targets *all* Palestinians. The recommendation later in the opening monologue that Yasser Arafat be *taken out* together with *the next guy that takes his place* utterly disregards the reality of the democratic choice exercised by Palestinian voters. Even if Arafat *personally* has lost the confidence of the international community, the presupposition that his successor would not be both the legitimately elected head of the Palestinian Authority and even acceptable in the international context (to the extent that that criterion is even relevant) is presumptuous. To call for the assassination of either Arafat (a step the Israeli Government even considers inappropriate and, perhaps, illegal) or his successor is excessive and improper. The host's response to the caller Anthony to the effect that the Israelis should kick out all the Palestinians and then *kill everyone who is not their friend* or, paraphrased, *kill any who will not leave or who come back* is the more so excessive. It is not merely an unsubtle stance; it promotes blanket violence against a people and smacks of a genocidal tone. To advocate violence against those who perpetrate terror would be one thing. To propose such a recourse against all persons of a nationality solely on the basis of their sharing that background has no place on Canadian airwaves. It

constitutes an improper and unfair comment or editorial viewpoint, in violation of Clause 6, paragraph 3 of the *CAB Code of Ethics*.

The Human Rights Issue

The Panel also considers that John Michael's blanket condemnation of all Palestinians as hating persons of the Jewish faith and wishing to drive Israel out of existence is excessive. That *some* Palestinians hold such views is undoubtedly true. This does not, however, justify the host in his absolutist perspective, an example of which follows:

That is their goal. >They' being the Palestinians and the people who hate the Jewish people.
That is their goal. There is no compromise. They don't want you around, they don't want you on their land, they don't want you in their area, they don't recognize you, the only Jew is a, the only good Jew is a dead Jew and they teach their children that. They have been doing it for centuries and they're going to continue to do it for centuries and the only way they're ever going to be satisfied is when Israel is non-existent and every Jew there is dead.

There can be no denying that there are Palestinians living in Israel, Canada, the United States and other nations, as well as in Gaza and the West Bank who believe in the right of Israel to exist and of Jewish families to be as secure in their lives as they, the Palestinian families, would wish to be in their own. Consequently, to tar *all Palestinians* with a brush of hatred constitutes, in the view of the Ontario Panel, an unduly discriminatory comment based on their national or ethnic origin. In *CILQ-FM re the Howard Stern Show (APoland@)* (CBSC Decision 97/98-1186, February 3, 1999), Howard Stern made similar comments regarding Polish attitudes toward Jews, which this Panel condemned in the following terms:

In this matter, [...] the comments were directly aimed at the group in question. Stern first used the unattractive term *APolacks@* to describe Polish nationals which in itself is not abusively discriminatory. He then proceeded to accuse Poles, as a nation, of hating the Jews. Without taking into account the historical accuracy of what he stated had occurred during the Second World War, he put the matter into a *current* perspective by stating that, to the Poles, the Jews are *Atheir natural enemy just like dogs hate cats.@* In the course of relatively few seconds, he twice stated that *APoles hate Jews@* and, to the question put by his side-kick, Robin Quivers, about whether the Poles *Aare born hating Jews?@*, Stern's reply was affirmative. In the view of the Council, this accusation of an entire people that *they* hate any other national group, contrary to generally accepted principles, is likely to bring opprobrium on the *Ahaters@* rather than the *Ahated@*. It is in this sense abusively discriminatory vis-à-vis persons of Polish nationality.

The Ontario Panel finds John Michael's comments regarding Palestinian attitudes toward Israel and the Jewish people to be in breach of Clause 2 of the *CAB Code of Ethics*.

Broadcaster Responsiveness

In all CBSC decisions, the Council's Panels evaluate the broadcaster's responsiveness to the complainant. Although the broadcaster is under no obligation to agree with the complainant, it is expected that the station's representatives charged with replying to complaints will address the complainant's concerns in a thorough and respectful manner. In this case, the Panel finds that the broadcaster's corporate owner's response was thoughtful and thorough. It did not deal with every issue raised by the complainant but that is not in and of itself unreasonable. The Panel considers that CKTB has met its responsiveness responsibilities of CBSC membership.

ANNOUNCEMENT OF THE DECISION

CKTB-AM is required to: 1) announce this decision, in the following terms, once during peak listening hours within three days following the release of this decision and once more within seven days following the release of this decision in the time period in which the *John Michael Show* is broadcast; 2) within fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the announcements to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by CKTB-AM.

The Canadian Broadcast Standards Council has found that CKTB has breached provisions of the Canadian Association of Broadcasters' *Code of Ethics* in its broadcast of the *John Michael Show* on March 6, 2002. By broadcasting broad statements advocating the killing of Palestinians and their leaders, CKTB violated Clause 6, paragraph 3, the provision of the *CAB Code of Ethics* which prohibits the use of improper comment. By broadcasting the host's statement that the Palestinian people, as an identifiable national group, hate all Jews and wish to eliminate the State of Israel, CKTB has aired unduly discriminatory comments about the Palestinian people contrary to the human rights provision of the *CAB Code of Ethics*.

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

APPENDIX A

CBSC File 01/02-0651 CKTB-AM re the *John Michael Show*

The following are the relevant portions of the *John Michael Show* which aired at approximately 9:05 am on March 6 and 7, 2002. Each episode began with the disclaimer:

The opinions expressed on the *John Michael Show* are not necessarily those of CKTB, the management or advertisers.

March 6, 2002

- Michael refers to a speech made by then-Premier of Ontario Mike Harris shortly before his resignation:

What a speech, what a speech, I knew I liked the man. What a speech. Now I'm gonna give ya another little -. I'm gonna give you another little -. What did Harris say? Harris says you'd better move quickly. His five principles: uh, uh, let me see, do not seek consensus, do not procrastinate and trust your instincts. Okay, let's move over now to Israel. Does any of Harris' view fit Israel? Yeah, here's [*sic*] the criteria, five principles for managing through a period of change: Do not seek consensus in a crisis. All right, now does that work down, let's think about this for Israel for a moment, can we? 'Cause we've got a crisis over there right now. Do not seek consensus in a crisis; do not procrastinate. Does that fit Israel? What have I been telling you? Oh, that's the other one I said I'd sort your problems out. Take a little longer if Sharon would call me. I said what'cha gotta go in is with the full force of the tanks and the airforce and just kaploomb and let's get this thing on. Do not procrastinate; trust your instincts. You know damn well what the Israelis' instincts are, don't you? You know what they should do. Challenge, deconstruct and scrutinize everything that's placed in front of you; risk failure rather than risk nothing. Every single one of Harris' five principles apply to the Israeli situation. Look what's happening now. Every, it's tit-for-tat. You're never going to real -, you're never ever now going to find out who was right or wrong in the beginning because now it's gotten into a complete, utter war of tit-for-tat. You kill mine, I'll kill yours. You kill mine, well I'll kill two of yours, well I'll kill two, I'll kill three of yours. You knock my building down, I'll knock your building. I mean there's, no there's now no end to it. It is now outta hand. Well let's sit down and talk. Have you ever heard anything as ridiculous as 'let's sitting down and talking'? Well we've gotta sit down and talk. In other words, you gotta procrastinate some more. Harris says don't procrastinate. Now you know, listen. Here's the last 24 hours in Israel [lists various attacks in Israel].

- So let's go to Premier Harris, shall we? Premier Harris said he has five principles. Do not seek consensus in a crisis. Sharon, go to town with the biggest tanks, the biggest guns, the biggest of everything you got and blow the Palestinians, Yasser Arafat included, to kingdom come and all, and all the places that, just do it pal, just do it. You ain't gonna win doing what you're doing, number one. Number two, is that you have nothing to lose because the only way you're gonna ever lose in Israel is they are

gonna wipe you out. That is their goal. 'They' being the Palestinians and the people who hate the Jewish people. That is their goal. There is no compromise. They don't want you around, they don't want you on their land, they don't want you in their area, they don't recognize you, the only Jew is a, the only good Jew is a dead Jew and they teach their children that. They have been doing it for centuries and they're going to continue to do it for centuries and the only way they're ever going to be satisfied is when Israel is non-existent and every Jew there is dead. You've been in a war since day one. So stop talking and get to it. As Harris said, five principles: do not seek consensus; do not procrastinate; trust your instincts; challenge, deconstruct and scrutinize everything that is placed in front of you; and risk failure rather than risk nothing.

I said a few months ago, but I said it very strongly just a few weeks ago that Israel had one option. They're in a war. So get it on. The first thing you do is take out Yasser Arafat. You know where he is, and you take him out. That's a fancy word for 'dead'. You dead him. And the next guy that takes his place, you dead him too. Until people don't really want to take his place because they're going to be deaded. So that's the first thing you do. Now you do it by about two o'clock this afternoon, but the one thing that you don't do is what the Americans have been doing all this time; you don't forewarn them. If I were you, I'd do it at three o'clock this morning. I wouldn't drop leaflets and I wouldn't pre-warn anybody that you're going to blast Yasser Arafat to kingdom come. I'd say between two-thirty and three o'clock in the morning, do it. And then I'll tell you what to do the next time.

All right now, once you take it, now. Sharon give me a call, will ya. Listen pal, I can't speak Israeli or Jewish or whatever, but we can both get along on some form of English, okay. You are at war, sir, you've been at war since day one whether you know it or not, you're at war. This, you're not negotiating. They, the other side, the PLO, the other side, the Arabs, the other side, they consider you to be their enemy. You will never change as long as you're born a Jew, and as long as you live in Israel. They will never change; they consider you to be their enemy and they consider it an honour to kill you. You have been at war; you are now at war. And remember you cannot solve this thing by talking. Good lord, you're saying, are you, am I, listen.

I say, and I'm the lone voice on this, to the Israelis who can hear me: Get it on. Fast and furious and the last man standing is the winner and I suggest that the last man standing should be an Israeli soldier.

A caller asks if Michael means that they should kill all the Palestinians and if so, what would happen after that? Michael responds that the Israelis should kick all the Palestinians out and kill any who will not leave or who come back; they should say "We will kill you"; he repeats his point that peace cannot be achieved by negotiations; "If I've got a gun, I'm right."

And if the Arab world all gets together and all those Arabian nations get together and wipe out Israel, so be it.

- Michael states the position that he thinks the Israelis should take: "As far as I'm concerned you don't come within ten feet of my country. If you do I'll shoot you. [caller agrees] Some guy says if, well if you, if we, if you kill Yasser Arafat, somebody else's going to replace him. Then you kill him!"
- Michael repeats that peace cannot be achieved through negotiations. He compares the situation to Germany and Japan during WWII:

It would fight to the last Japanese citizen until two glorious bombs were dropped in the middle of their country: Nagasaki and Hiroshima. And that's when the Japanese realized militarily they couldn't win. [states that it is the same in the Middle East] You're gonna have to beat them militarily. Last one standing is the victor.
- A caller mentions Zionism. Michael responds: "I'm saying that might is right. [...] If you can beat the Zionists and the terrible Jews, beat 'em." The caller brings up the Bible and Michael says: "I don't care who's right or wrong. [...] I happen to agree with the Israelis more than I agree with the Arab side." The caller asks why and Michael responds: "Because that's the way I personally feel."
- "Are you looking for a War Minister, Mr. Sharon?" Michael repeats his point about the need for military resolution and again brings up WWII:

The Japanese hated us, we hated the Japanese. We called them Japs. We were derisive of these little people with their thick glasses who went around chopping off heads and bayoneting people around the world. They hated us. We were the Westerners, we were coming to rape their women. [...] Finally somebody had enough sense to drop a couple of bombs right up their canooshes. [...] I'm telling you, we gotta get it on. And the last person standing wins and we'll settle this thing in the Middle East.
- They hate Israel, they hate the Jews and they wanna kill them. [...] They should kill everyone who is not their friend. That's it. Get it on.
- First thing you do, is you raze and level and make a rubble and a parking lot into Yasser Arafat's house. He's there right now, so let's put him there and let's give him a going-away grave. Bang, that's it. And then they, I've heard that 'Well, they'll replace him with someone else'. Then you kill him and you keep on killing whoever leads the PLO and people like that. You go after Hamas, you don't play around, you go after the leader.
- Michael says that the PLO kills Jews just because they are Jewish and that the Israelis should have killed the leader of Hamas when he was at a parade: "Why didn't the Israeli army walk in on that parade and take

the guy out? No, don't arrest him. Shoot him." He then says that the media will accuse the Israelis of carnage and goes on to speak as if he were a soldier offering the media a photo opportunity. He presents the image of a soldier standing on the head of someone he has just killed and posing with the body. This includes the phrase "Someone give me a towel, I've been splashed with some blood here." He further states that the Israelis should continue to kill any Palestinian leader: "If his wife and kids are around him, unfortunately they will be dead too."

- A female caller identified as Beverley says she is "tired of Zionist Nazis". She tells Michael that he is ignorant and she reveals that she favours the Palestinian side. She gives her views on the history: "Jehovah, who was Charles Manson on steroids [...]. Read what he did, the blood-thirsty maggot. He's not god of the universe, what b.s. Whoever follows that is mental, okay. [...] This is not anti-Semitism, this is a fact."

After she hangs up, Michael responds:

What I'd like to do with that last caller is sit down with a glass of Magnotta wine. Not red, because I think probably that would, you know, no, we'll try white wine. I think red wine would probably be too, the colour, no. So I'd like to sit down with a Chardonay with her. We should be able to sit down, you and me ma'am, and we should be able to negotiate. We should be able to talk this thing out. We should have two glasses, magnificent glasses of Chard – I'll tell you what I'll do. Because I want peace between you and I, I will get some magnificent Magnotta ice wine. The ice wine that has won more awards than any other ice wine in this country, is Magnotta ice w-. We'll get a bottle. I'll get a bottle. [...] In fact, I saw Gabe Magnotta on a television commercial call it 'sex in a glass'.

Michael explains that his point was made by the caller, that is, that people are too passionate about the issue for rational negotiations to be possible.

- A male caller identified as Sunni says that if they were to apply Michael's approach, it would be the end of Israel. The caller says ""So if you want to bring it on we're ready. We've always said we're ready." He then accuses Michael of bringing up irrelevant points and calls him a coward. Michael comments on the previous two callers, saying if they are so angry imagine what it is like in the Middle East and he imitates the tirades of the callers.
- The only way, the only way things are going to be resolved is the last man standing.
- A female caller quotes a speech by a former head of a security service in Israel. She then says that the Israelis should evacuate their illegal

settlements and that would start the peace process. Michael says that would not work. He cuts her off: "You're gone. Don't you learn when to shut up? [...] Let me just say something to that last mouthy woman." He says that what she said had validity, but would not be possible given the attitudes of both sides. "My point is let's get it on."

- A caller says she agrees with Michael and that the other callers just don't get it.
- Michael says he is not Jewish: "But when I see the people have their throats cut and their head chopped off for no other reason than they are Jewish, that puts me on their side." He also mentioned a Jewish *Wall Street Journal* reporter who was killed and says "You're damn right I'm biased."
- Another caller compliments the program and agrees might is right.
- Michael mentions Osama bin Laden and other leaders: "Do you really believe you can negotiate with those people? You have to kill them."
- Do you think you can negotiate with the likes of Sunni? Do you think you can negotiate with the likes of, who was that other woman? Beverley? Do you think we can sit down and talk a peace plan? Well no, they hate with a venom. What do you think they're doing to their children? Do you think they're saying to their children 'love a Jew'? They are making sure their children hate, they only mix with other people who hate, and they don't hate for any other reason except they're Jewish. No other reason.

March 7, 2002

- Michael begins by saying that the previous day's show was very animated and that everyone at the station with a title was getting phone calls. He explains that he does not "sit on the fence" on issues and states that a talk show's purpose is to encourage debate, which sometimes requires him to "bait the water". He says talk radio is a public forum and one does not have to agree. He quotes the CRTC's policy on controversial public issues. He says everyone must be biased on most topics. He insists that callers must call on air to talk to him because he will not check his voice mail. He also tells listeners it is useless to threaten his sponsors with boycotting their products/services.

Michael then goes on to talk about a speech Jean Chrétien made and Colin Powell's hypocrisy in encouraging peace negotiations between Israel and Palestine, but bombing Afghanistan.

Michael explains that he does not use his voice mail because people rant without the other party having the opportunity to respond; he says if you dislike the show, turn it off.

Michael reads Daniel Pipe's (Director of Philadelphia-based Middle East Forum) article in full (of which he read a portion the previous day).

I'm inciting hatred, am I? [...] I'm not inciting hatred. I'm telling you to solve a problem. This is my opinion.

A caller says that he is concerned about Michael's statement that "might is right". Michael first says that is his opinion, but then takes it back saying that it is not necessarily right, but rather the only way to win: "I didn't say let's see if you can annihilate people. Let's see if you can kill as many Palestinians as you can. I didn't say that at all. But if a person comes to attack your house, I think you have every right to kill them." The caller offers his thoughts on the history of the territory's occupation.

A caller comments on the callers from the previous day and their religious arguments. She says Canadians are too far removed from the reality of the situation.

A caller says that the average person does not have a broad vision of the importance of that area of the world and that one must acknowledge what happened in the past.

Michael says one needs to get past history and look at the facts of the present; Israelis have nowhere else to do, but the Palestinians do.

A caller says he likes the show, but the previous day's "rhetoric was poisonous" and the "passion made me sick". He says he will not listen when Michael discusses the Middle East. Michael responds sarcastically: "I'll give you a warning at the beginning of every program. I'll say 'I'll tell you what, I'm going to talk about the Israeli-Palestinian situation. So for the guy with the English accent, why don't you just turn me off.' [...] What a pile of rubbish. Garbage, absolute garbage."

- Michael says that he is not necessarily right, he just has a point of view.
- Michael concludes show: "I'll be sure and tell you at 9:05, to the English guy that called, I'll let you know if I'm going to talk about this again tomorrow so you know whether to tune in or tune out."

APPENDIX B

CBSC File 01/02-0651 CKTB-AM re the *John Michael Show*

I. The Complaint

The following complaint dated March 7, 2002 was received by the CBSC (the CRTC, various individuals at CKTB and Magnotta Wines were also copied on this e-mail):

Preamble:

I wish to have the opportunity to meet at the radio station with the person-complained-of present so that he may meet his accuser face-to-face. That way there will be no treachery involved. I will make myself available before 22 March 2002 and after 8th April 2002.

Good afternoon Ladies and Gentlemen

J'accuse.

I listened to the John Michael show on 6th March 2002, having joined it about 10:00AM.

I grew more alarmed by the moment as he referred to the problems in the mid-east with increasing passion. During the rest of the show he must have intoned the word KILL at least 50 times, if not many more.

His rhetoric became increasingly more offensive, and at times I felt he was espousing and encouraging genocide. Certainly he was encouraging hatred between the combatants and contemporaries. His "KILL until there is only one man standing" oft repeated mantra was egregiously offensive and alarming.

RES IPSA LOQUITUR*

*Let the facts speak for themselves.

I cannot faithfully enter into a discussion on the contents of the portion of the radio program I heard, because I would need to have a copy of the appropriate tape. After receipt of same I reserve to myself the privilege of laying out evidentiary analysis of his words, in support of my complaint. I would encourage all addressed parties to review – at least – that portion of

the program from 10AM to noon, to determine whether my concerns and complaints are founded in fact.

By copy of this complaint, I respectfully request a copy of the taped portion between 10 am and Noon 6th March 2002.

I felt his rhetoric not only crossed the line of good taste, but violated several frontiers of broadcasting ethics.

I became particularly incensed when he brought in the Magnotta Wine commercial to patronize and castigate a caller who disagreed with his view point, and while holding the lady and her remarks in context made unseemingly comments to her about "sex-in-a-glass". Reprehensible.

Comments on program 7th March 2002.

I joined the program about 9:30 am. He was verbally flailing away at the people who had taken exception to his previous program yesterday, belittling them with words that are to be adduced from the tape of today's (7th March 2002) program. He obviously does not suffer dissent gladly or graciously.

PLAGIARISM

During this show he decided on a dubious strategy of attempting to relieve himself from his dreadful remarks the day previous. He said he had only adopted the words from a writer in a newspaper published earlier. It was a pitiable visual word picture to see a person artlessly dodging the responsibilities of his actions. The word "disingenuous", to describe the person's integrity and character springs readily to my mind.

He treated his audience to a reading of that article, which bears only a faint resemblance to his vitriolic remarks of the day before. – Let the reader refer to the subject tape. Not only did he **publicly confess to being a plagiarist**, but plainly demonstrated he had severely editorialized and embellished it (on both shows).

I'm quite certain the author of the article to which John Michael referred would not readily connect it with the radio program of 6th March 2002.

A plagiarist is a thief by another name. Plagiarists in schools are failed or expelled if not both.

I refer the addressees to John Michael's hostile and abusive remarks to and about the British accented gentleman who chose to call-in and who voiced objection to the program of the previous day. It was unfair (because the caller was abused, also, after he had been released), abusive and vitriolic. A perfect demonstration of unprofessionalism.

N.B.

John Michael

I suggest you seek competent counsel before you use your microphone to disparage a person (me) who has a complaint about you. I refuse to debate you on air for many reasons. I have however asked for a meeting with you, face-to-face, so that you may meet your accuser. That is **your** right under the Constitution act. You have no mandated right to castigate, belittle, or humiliate people who do not have control of a microphone, on air; or who may disagree with your on-air work. Your duties under law, as an announcer, are known to you. I have warned you, as is **my** requirement. Please govern yourself accordingly! I look forward to meeting with you in the near future.

[CKTB Program Director]

We spoke 6th March 2002. You may wish to review with your corporate lawyer and with Mr. Michael an announcer's rights, duties and privileges with respect to usage of the public airwaves. It is a solemn job.

Marketing Manager at Magnotta

We spoke 7th March 2002. I am indeed grateful for the gracious manner in which you handled my concerns, and the information you conveyed to me on behalf of your fine organization.

CBSC and CRTC

Please accept this e-mail as a complaint. CRTC – I accept the stipulations at Step 2 of 5 in your on-line pro forma.

The foregoing is my personal submission. I make no pretense at speaking on anyone's behalf. I have no intention of offending anyone, and now exercise my right of complaint in a respectful manner, to all concerned. There are occasions when a person must speak up. I see the current situation as just such an occasion.

The complainant then copied the CBSC on the following e-mail he sent on March 13 to the Attorney General of Canada:

Dear Sir,

I am forwarding copies of 2 emails to CKTB radio station, with request for action at CRTC and CBSC, respecting my allegations, complaint and requirements dealing with 2 radio programs coming from CKTB on 6th and 7th March 2002.

I respectfully request your assistance in the resolution of the matters attendant to these programs, especially the one of 6th March 2002.

The facts contained in the recordings of these programs will speak for themselves [*sic*], and will support my complaint.

Thank you, Sir, for your assistance.

ATTACHED MESSAGES

May I respectfully thank you for your response to my letter of Complaint, Allegations and Requirements dated 7 September 2002.

A week has passed since my having composed and dispatched that concern, sufficient time for "sober second thought". Today, the complaint stands, as stated, with an escalation of alleged severity of the activities of John Michael.

I am presently under Subpoena as a Crown witness regarding the 1985 Air India Disaster. I worked as Air Canada's liaison officer with the Royal Canadian Mounted Police for several weeks on that disaster. I am acutely aware of matters

dealing with terrorism and world conflict. I carried a Warrant of Appointment under Cabinet Directive 29 for several years when I was with the Royal Canadian Air Force security services. Much of my life has been involved in an active and supportive role in matters dealing with security of information, personnel and material.

I served Canada in some instances on 3 continents, and Air Canada on 5.

The foregoing is to describe a portion of my sensibilities, which have been honed to believe in "the dignity and sanctity of mankind".

Yesterday I was **treated** to the wonderfully gently intoned plea of The Secretary General of the UN, Kofi Annan, wherein he spoke on the need for a desisting and deceasing [*sic*] of all hostilities in the near east.

I believe that speech should be repeatedly played by people of good will.

Compare that to the horror I (we? – an audience of 200,000) endured from the lips of John Michael for at least 2 hours on 6th March 2002 and his attempted trivialization of it the next day – 7th March 2002. In all correspondence I speak on my own behalf only, and make no pretense to speak for others.

His program caused what is referred to in civil court as infliction of mental shock. It is a real and viable head of action.

Criminal Code of Canada

On reviewing certain particulars of the Criminal Code of Canada, and specifically section 318 - Advocating Genocide, and s. 319 - Public Incitement of Hatred, I find myself inadequate to decide as to whether I should let the matter drop.

There is however a provisio [*sic*] in those sections of the CCC which requires the Federal Attorney General be the arbiter as to whether charges should proceed. Accordingly I am writing to the Attorney General to engage the assistance of that office.

Prior to your responding to the CRTC in this case, I would very much appreciate if you would supply me with 110-120 minute audio tapes of the 2 radio programs mentioned. I want to make an evidentiary trial analysis of the contents of the tapes, which evidence will support my preliminary complaint.

Please refer to my email dated 7th March 2002, to [CKTB Management Personnel] of your organization.

Attention John Michael

I promised to keep you advised of all my correspondence, so there will be no treachery.

On April 3, the complainant sent another e-mail, the majority of which dealt with administrative issues. The portion of the e-mail relevant to the complaint is as follows:

In addition to the foregoing I wish to *complain* vigorously about the lack of control CKTB management employed over the content of the show, as it was unfolding. It went on for at least 2 hours!!!

[The Program Director] mentioned they were receiving calls of complaint along with my own. It has become obvious that other listeners were insensed [*sic*] as well.

This program did not cause emotional controversy, rather it caused rational disgust and abhorrence for the program's content.

Surely, at some point, CKTB management has an obligation to cause a standard to be broadcast, and take appropriate action, in mid-stream, so to speak.

[...]

Will you please keep me advised in due course.

II. The Broadcaster's Response

The broadcaster responded to the complainant's letter on April 9 with the following:

Your complaints to the Canadian Radio-television and Telecommunications Commission ("CRTC") about the comments made by John Michael on radio station CKTB-AM on March 6 and 7, 2002 were forwarded to me for attention and reply.

In your complaint filed on March 7, 2002, you indicated that John Michael is encouraging hatred between the combatants and contemporaries, and that his rhetoric not only crossed the line of good taste, but violated several frontiers of broadcasting ethics.

[...]

In the last few months, there were many incidents of violence between the Jews and Palestinians in Israel. Since the situation in Israel is an important source of concern for many countries the media have been covering such incidents or commenting on them.

In his program aired on March 6, 2002, John Michael referred to certain principles that were applied by Mr. Mike Harris while acting as the Prime Minister of Ontario [*sic*], namely:

1. Do not seek consensus in a crisis.
2. Challenge and scrutinize everything in front of you.
3. Do not procrastinate.
4. Trust your instincts.
5. Risk failure instead of risking nothing.

In reference to the comments made by Mr. Harris in another forum, Mr. Michael wondered if the problem in Israel could be solved through peace talks. Mr. Michael expressed the opinion that it was impossible to solve the conflict between Israelis and Palestinians through peace talks and that a war was the only way to achieve peace even if it might create some injustice.

The debate was on the peace process and he made it clear that he did not care who could win the war. Many listeners phoned in to express their point of view during that program. John Michael tried to restrict the debate to the question referred to hereinabove and indicating that the debate was not the merit of the position of either group involved.

The objective of radio station CKTB-AM is to keep its listeners informed about what goes on in the world and to provide a reasonable opportunity

for the public to be exposed to the expression of different views on matters of public concern.

Some people may consider that a debate on that topic is inappropriate and we respect that point of view. The comments made by Mr. Michael may have been distasteful but, in our opinion, with all respect for an opinion to the contrary, they did not encourage hatred towards Palestinians or Israelis. Obviously, his comments have offended you and we regret it because our objective is to inform our listeners, not to offend them.

It is our policy not to provide copies of our broadcast log tapes which are kept in accordance with the requirements of the CRTC. However, the tapes relating to the programs referred to hereinabove were preserved for any future uses that may be required.

We thank you for taking the time to provide us with your comments on this matter.

III. Additional Correspondence

The complainant was unsatisfied with the broadcaster's response and sent the following e-mail dated April 9, on which he copied the CBSC:

May I thank you for your response, preserved hereunder.

With profound personal respect I suggest that you (personally) have not taken the opportunity of listening to the 2 hour (10:00 am to noon 6th March 2002) tape of the program in its entirety. Had you done so I am certain the text of your reply would be totally different.

You dealt only with one (1) aspect of the remarks, and the remarks to which you refer are and were not in any way offensive. The other remarks and the repetition of the word KILL repeated at least 50 times with mounting fervour, etc, etc, are what amount to offensive broadcasting.

In order for you to make a responsible and "due diligence" report to the CRTC and myself I respectfully request and require you personally, or your agent, to listen to those two hours in its entirety, and then respond accordingly. Respectfully I suggest your "due diligence" in this matter has not been fulfilled.

It appears you relied on some other people to put you in position to make your reply.

If so, those same agents have placed you in an undesirable position of not being able to comment factually. (This is far from the first time, of which I am aware, subordinates or clients have left their Counsel to "hang-out-to-dry" for whatever purposes.)

[...]

The follow-up program on 7th March 2002 is likewise extremely informative in that Mr. Michael attempted a weak "*mea culpa*" by pretending to have plagiarized [*sic*] the entire tirade from a named author. His attempt to transfer blame to the author, to whom he made frequent reference on 7th March 2002, fails. - Listen to the tape, please.

You sign the email (reply to which is this email) as General Counsel.

I am therefore certain that you will appreciate my remark that Mr. Michael's deplorable misconduct is covered by the maxim of civil law expressed in Latin, CULPA LATA DOLO AEQUIPARATUR "Gross negligence is held equivalent to intentional wrong".

Again, with profound respect to yourself Counsellor, I cannot, and furthermore do not, nor am I required to, in good conscience, accept your reply, as sent to me this date, 9th April 2002, as being a correct and faithful reply to my allegations of Mr. Michael's misbehaviour, and indeed alleged criminal conduct by Mr. Michael.

I likewise request CRTC and the Minister of Justice hold your initial response in abeyance until such time as you have had an opportunity to (re)visit the facts (tapes), and assure all interested parties that the required "due diligence" has been performed and accomplished.

The allegation of FAILURE of management at CKTB to exercise control of Mr. Michael during his inappropriate tirade STANDS, as you have not addressed that issue either.

The foregoing response contains certain remarks which may be misconstrued as being harsh and even unwarranted. I assure you I intend no offence, but only conclude the remarks are truly warranted, as evidence above.

I refuse your response in the sure knowledge that we both pursue only the truth.

I will make myself available to you, for a discussion of the issues, at your convenience.