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**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL COUNCIL**

CFRA-AM re Brian Henderson Commentary

(CBSC Decision 95/96-0234)

Decided May 8, 1997

A. MacKay (Chair), R. Stanbury (Vice-Chair), R. Cohen (*ad hoc*),  
P. Fockler, M. Hogarth, M. Ziniak

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**THE FACTS**

On August 1, 1996, CFRA-AM (Ottawa) broadcast a Commentary by regular contributor Brian Henderson which focussed on a comment made by actor Jack Nicholson during the course of a film production. The text of the Henderson Commentary follows:

Well, here's a news tip from the week-end you may have missed. Hollywood reporters covering the filming of Danny DeVito's new flick about Jimmy Hoffa saying that star Jack Nicholson is so friendly on the set that he's freely mingling with many of the 1,200 extras in the cast. One of them, retired history teacher Bob Morowski confiding that when he and Jack were chatting about the recent birth of Nicholson's son, Jack slapped him on the back and guffawed, "We guys can still roll, can't we?"

Jack Nicholson is a great actor, some say even a sex symbol (which certainly gives the rest of us a boost) but, when it comes to biology and baby birthing, apparently he doesn't have a clue. "We guys can still roll" would still seem to suggest that some men still believe that it's the guy who makes the baby when, in truth, the guy doesn't do anything but water the seed. She plants it; she nurtures it; she harvests it; she feeds it. And, in most households, it's mostly hers to care for.

The child-rearing process is getting a little more progressive, more of a shared responsibility. But making babies is women's work. And any man who boasts about his part in the process is an idiot. It's like an injection and the length of the needle has nothing to do with it. So I'll be darned if I know why men still puff up and cock-a-doodle-do, look at *me*, I'm a stud, Jack, and I can still roll. Certainly a blow to the male ego to discover that their part in the life-creating process is only about 30 seconds in duration. But it's true.

And for a long time now, some women, thankfully only a few, have been searching for a way to eliminate the launching pad altogether. Now it's like a dating service. Pick your portion from a suitable donor and the rest of the impregnating process is purely clinical. From there on, it's all up to her, just like it's done when it's *au naturel*. Remember a couple of weeks ago when Mike Tyson was found guilty of rape, at the sentencing hearing, Tyson again professing that he hadn't done anything wrong, the judge shaking her head and responding "You just don't get it, do you?" A sad indictment in more than one way against more than one man. I'm Brian Henderson.

## The Letter of Complaint

The complainant took issue with the Commentary, viewing it as "a personal affront as well as a blatant violation of your gender policy." His letter of August 1 also stated

The commentator took a comment by actor Jack Nicholson that "we men can still roll" and built a wild and angry attack on fathers' participation in creating and nurturing kids. He extended this to all men and fathers. He stated that men's participation was only 30 seconds, suggested that fathers were unnecessary and stated that any man who was proud his part [*sic*] in raising children was "an idiot". He further made an analogy, suggesting that men creating children were like a rapist who "just doesn't get it". This is gender hatred and I am offended by his use of the public air waves to demean and belittle fathers in their children and in the eyes of society.

...

Children know the importance of the presence of a caring father with pride in their growth. CFRA apparently is not as aware. I am offended by the bias and gender attack on fathers in these comments on public airwaves.

...

It is only anti-male bigots who feel that the health and nurturing of the father is unimportant. It is only anti-male bigots who feel that child poverty can be solved without the presence of a proud, responsible and caring father. If gender bigots used hatred and humiliation on the radio to silence women about their part in child raising would you not act?

... I feel that these comments are clear violation of the spirit and the letter of your code and that the station and commentator should be required to provide equal air time and resources for a positive portrayal of fathers.

## The Broadcaster's Response

The News Director of the station responded to the complainant on August 20. His comments were as follows:

The commentator's perception is that some men feel it is men who handle the biggest responsibility in the development of the fetus. He addresses the pre-birth development of the child when he says some men "still believe that it's the guy who makes the baby." ...

You are absolutely wrong in suggesting that the comment “built a wild and angry attack on fathers’ participation in creating and *nurturing* kids.” In fact, he said just the opposite. He said “the child rearing is getting more progressive, more of a shared responsibility.” You are also absolutely wrong when you claim he said “*that any man who was proud his part [sic] in raising children was an idiot.*” He said no such thing. You were also absolutely wrong in claiming he said “men creating children were like a rapist who just doesn’t get it.” The reference to “just doesn’t get it” was citing the judge’s comments when Mike Tyson was convicted of rape, but repeatedly said he “hadn’t done anything wrong.” Surely, Mr. ..., you are not condoning Mr. Tyson’s actions?

Your lengthy use of the unattributed statistics and “evidence” is not relevant to this issue. Your topic change to the relevance of men in nurturing of children, and your further non sequitur [regarding anti-male bigots] are out of the blue and make it abundantly clear that you have a private agenda which is not relevant to this radio broadcast or this radio station.

Mr. ..., you have repeatedly taken on-air comments out of context, and attempted to twist their meaning to include some kind of broad attack on all men. ...

... [Y]ou have very strong views on the issues you address. We must now strongly protest...because you are unfairly targeting CFRA in your personal agenda.

The viewer was unsatisfied with this response and requested, on September 30, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

## THE DECISION

The CBSC’s Ontario Regional Council considered the complaint under the *Sex-Role Portrayal Code* of the Canadian Association of Broadcasters (CAB).

### *Sex-Role Portrayal Code, Clause 2: Diversity*

- (c) Television and radio programming shall respect the principles of intellectual and emotional equality of both sexes and the dignity of all individuals. Television and radio programming should portray women and men as equal beneficiaries of the positive attributes of family or single-person life. Women and men should perform in a range of occupations and function as intellectual and emotional equals in all types of thematic circumstances. This should be the case for both work and leisure activities requiring varying degrees of intellectual competence.

*Guidance:* Women and men should be portrayed as working toward a comfortable existence through mutual support, both economically and emotionally, and in both public and private spheres. Despite the problems of societal systemic discrimination, television and radio programming should reflect an awareness of the need to avoid and overcome discrimination on the basis of gender.

The Regional Council members reviewed a tape of the program in question as well as the correspondence. The Council concludes that the broadcaster did not breach Clause 2(c) of the *Sex Role Portrayal Code*.

## **The Content of the Broadcast**

The complainant has tried, without foundation, to build a case against this broadcast on the basis of gender discrimination. He targeted this Commentary despite the fact that it was based on and reflective of reality and despite the fact that the content did not reinforce negative stereotypes. By highlighting the role and importance of women in procreation, these comments actually counteract negative stereotypes which frequently tend to minimize the positive attributes and contributions of women. As was discussed in *CFRA-AM re PSA* (CBSC Decision 95/96-0149, October 21, 1996), it is the Council's view that Code violations based on discrimination require an element of unfair or unjustifiable negativity.

[T]he question for the Council to address is whether the pointed portrayal is unjustifiably negative or degrading. The notion of equality which is proposed in Clause 2(c) does not mean congruence or absolute identity in all respects. It implies rather the principle of equitability, that is, an equality of treatment and the equality of application of standards to both sexes. It implies that it may in circumstances be appropriate to draw attention to differences between the sexes, provided that those conclusions are based on and reflect reality. The fact that a portrayal may have some negative implications does not mean that it will be in breach of the Code. For that result to occur, the portrayal must be unfairly or unjustifiably negative.

The Council finds the complaint to be utterly without substance.

## **A CBSC Concern: Frivolous, Vexatious or Harassing Complaints**

The purpose of the Canadian Broadcast Standards Council is to be responsive to the serious concerns of individuals who have been troubled by a newscast, commentary, drama or other radio or television program to which they have been exposed. To this end, the Council assists in the resolution of complaints by encouraging or facilitating communication between the audience member and the broadcaster. It is only when this process fails that the complaint is adjudicated by the appropriate CBSC Council, which will evaluate the program in question against the terms of one or more of the Codes it administers in the light of the accompanying correspondence.

While it not unexpectedly occurs that some individuals are the source of more complaints than others, this does not mean that the habitual complainant will be viewed as unjustified in his or her written concern by reason of the *frequency* of the complaints. Where, however, the recurrent complainant returns time and again with complaints which repeat a theme on which the Council's position is clear, and known to the complainant, the complaints may justifiably be seen as vexatious or harassing. To treat *such* complaints with the care and attention which are characteristic of the process becomes unfair both to

the broadcaster and to those other complainants whose *serious* concerns must then await the resolution of a *frivolous* matter.

The case at hand is, in the view of the Ontario Regional Council, just such a frivolous or vexatious matter. It harps on a theme already dealt with by the CBSC in numerous earlier decisions, including those in *CTV re F.A.C.E. PSA* (CBSC Decision 95/96-0140, April 30, 1996), *CFRA-AM re International Women's Day* (CBSC Decision 95/96-0157, October 21, 1996), *CFRA-AM re Family Fortune* (CBSC Decision 95/96-0145, October 21, 1996), *CFRA-AM re PSA* (CBSC Decision 95/96-0149, October 21, 1996) and *CFRA-AM re Dr. Tomorrow* (CBSC Decision 95/96-0152, October 21, 1996), as well as in matters dealt with at this very meeting of the Ontario Regional Council, namely, *CIII-TV re an Episode of Seinfeld* (CBSC Decision 96/97-0074, May 8, 1997) and *CIII-TV re Canadian Heritage Spot* (CBSC Decision 96/97-0236, May 8, 1997). Moreover, the complaint on this occasion clearly takes aspects of the Commentary out of context, distorts others and generally attempts to make of the Commentary something which it is not. The letter is not a complaint; it is an argument, and one which attempts to turn a rather straightforward Commentary on the relative roles of men and women in procreation and child-rearing into a diatribe.

### **Broadcaster Responsiveness**

In addition to assessing the relevance of the Codes to the complaint, the CBSC always assesses the *responsiveness* of the broadcaster to the substance of the complaint. In this case, the Council considers that the broadcaster's letter responded fully and fairly to each of the issues raised. While the Council notes that CFRA's News Director clearly expressed the station's frustration at being inundated by complaints of a nearly identical nature from a single complainant, the Council also notes that he managed to resist any temptation to dismiss the complaint out of hand, no small feat in the circumstances. Nothing more is required.

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