
**CANADIAN BROADCAST STANDARDS COUNCIL
PRAIRIE REGIONAL COUNCIL**

CKRD-AM re Focus on the Family

(CBSC Decision 96/97-0155)

Decided December 16, 1997

S. Hall (Chair), D. Braun (Vice-Chair), K. Christensen, D. Dobbie,
V. Dubois, D. Ish

THE FACTS

On February 9, 1997, during its *Weekend* program, CKRD-AM (Red Deer) broadcast highlights from three of the daily episodes of the syndicated show *Focus on the Family* from the previous week which dealt with the subject of homosexuality. The highlights opened with the following quotation:

Anthony, you have prayed for many years to be released from the bondage of homosexuality. I have given you all that is necessary to leave it behind and the rest is up to you.

The host then offered listeners resources from *Weekend* including cassettes of the entire program "Homosexuality: Fact and Fiction" as well as a free information sheet entitled *Help for the Homosexual*. The host then thanked listeners for their assistance, financial and otherwise, enabling *Focus on the Family* to be "dealing with a variety of topics, including very difficult ones such as this."

The host, Dr. Dobson, began the highlights by

reminding our listeners that this conversation is not suited for younger children. If parents would like to busy those little ears somewhere else for the next few minutes, I think it would be an excellent thing to do.

In introducing *Focus on the Family*, the host established the attitude of the program toward the subject and set the tone of the show by the use of the following language: "[W]e want to continue our discussion of the homosexual activist movement itself, *what it is attempting to do, what its motives are and how it is going about that.* [Emphasis added]" His guests on this

program included Dr. Jeff Sandover, a psychiatrist and author, and a member of the Physicians Resource Council at *Focus on the Family*; Bob Knight, Director of Cultural Studies at the Family Research Council in Washington, D.C.; Linda Page Lemaire, an educational consultant, writer and former school principal and teacher; and Anthony Falzerano, Executive Director of Transformation Ministries, an outreach organization based in Washington which was targeting men and women who want to leave the “homosexual lifestyle”.

Anthony Falzerano, as an ex-homosexual, was invited to give his personal story. He summarized his life as that of a middle class youth who had not gotten the attention he needed from his father. At 9 he had been sexually abused by a male relative and at 17 he became actively homosexual. At one point, he encountered a Christian man who told him that this lifestyle was sinful and that God did not want him to be a homosexual. He then described his three year struggle to get out of this lifestyle and how, ultimately, through Ex-Gay Ministry and the Church, he discovered that he had a choice and a way out of homosexuality.

The panel then discussed the difficulties and conflicts which homosexuals face when trying to leave the homosexual lifestyle and the apparent conspiracy that the gay movement is mounting against Christianity and the Church. Excerpts of this discussion which the Council considers relevant follow:

Dr. Dobson: Bob, you talked earlier about the myths and about the *false use of statistics in research* to validate the point. Another one has to do with, gay teen suicide. Speak to that. [Emphasis added.]

Bob Knight: That’s one of the greatest weapons that activists use *to get the homosexual agenda into the schools*. They reason that a third of all gay teens will try suicide or they’ll say that a third of all teen suicides are gay related. These statistics come from a single study by a gay activist named Paul Gibson who wrote a highly polemical essay (it’s not even a study; it’s an essay) in 1989 that he submitted to the President’s Task Force on Youth Suicide. It became an appendix in that report, but Health and Human Services Secretary at the time, Lewis Sullivan, rejected it and said “I don’t agree with its premises.” [Emphasis added.]

Dr. Dobson: Now it’s a foundational study, quote unquote.

Bob Knight: Well, *like all gay science, it really has very flimsy foundations* and yet it is used as a battering ram. [Emphasis added.]

Anthony F.: Gays are using the AIDS epidemic *to push the gay agenda onto our country* right now and in essence it is really the spirit of anti-Christ because what they are doing is they are trying to get the secular government to accept homosexuality and put it on the same level as being black or being a woman or being Jewish. In other words, they are trying to bring homosexuality up to the level of a civil rights cause. They can change it in the civil government and then the ultimate target is the Church, where they can come after the Church and say, “Look, the secular government says that homosexuality is okay and, unless you hire me in this Roman Catholic Church or this Protestant Church, I am

going to sue you or we are going to have the government take away your 5013C status." [Emphasis added.]

Dr. Dobson: To make it illegal to speak in certain terms about homosexuals as it is in Canada today.

The ongoing panel discussion about the current political situation included the following statements, among others:

This is already happening in America, wherever you find gay rights laws you find the Church being the ultimate target. I call it the "Criminalization of Christianity" because if you redefine bigotry as being opposed to homosexuality or failing to affirm it, and then you bring the full power of these civil rights apparatus to bear, you are talking about some pretty heavy government coercion directed at Christians. We're sitting in the middle of the bull's eye right now.

I've got an example, that there was a judge named John Farrow in California, who volunteers for the Boy Scouts. And he was told by some of his colleagues that he ought to step down from the Bench because of a proposed new rule of judicial ethics that would ban judges from involvement with organizations or groups that discriminate on all sorts of grounds including sexual orientation, would include the Boy Scouts, because they won't have homosexual Scout masters.

So he is a judge is not qualified to sit on the bench because he's identified with the Boy Scouts?

That's right, he's morally unfit to be a judge because he's a volunteer of the Boy Scouts. That's where we're heading and it's all about coercion. I try to tell people that the gay rights movement is not about tolerance, *it's about harnessing government and corporate power to affirm homosexuality and persecute those who oppose it.* [Emphasis added.]

The Letter of Complaint

In a letter of complaint, a listener wrote

On Sunday, February 9, 1997 while listening to CKRD Radio in Red Deer Alberta, I had the opportunity to listen to a *Focus on the Family* broadcast that I found very disturbing and offending. The particular broadcast was a summary broadcast of their week of programming. CKRD does not carry *Focus on the Family's* daily program but does carry their summary program on Sunday. I received from *Focus on the Family* the complete series of three programs and it is in reference to these as well as the summary program that aired on CKRD that I lodge my complaint.

During this broadcast the commentators for *Focus on the Family* made many disparaging remarks regarding homosexuality and gay people in general. I do not believe that such statements should be allowed on the public airwaves.

[There were numerous examples cited in the letter, most of which were from the complete series of three programs. Not having formed a part of the actual broadcast in question, these were not taken into consideration by the Prairie Regional Council.]

I am shocked that in Canada a person can be assaulted with such hate mongering. I ask you if the word Jewish or Catholic or Black was substituted for homosexual in the above statements, would I have to be writing this letter. No, because it would never have been allowed on the air.

I provided a copy of the program to a neuro-psychologist so that she could analyse their comments with regards to the statistics and discussion surrounding the genetic basis of homosexuality. After peeling her off the ceiling, she summarized their comments with the word "crap". Statistics are often misquoted to support their slant and their attempt to explain heritability [*sic*] was severely flawed but would be considered very impressive by the lay people listening to the program.

The Broadcaster's Response

The General Manager wrote to the complainant on April 10.

After reviewing the program, I called *Focus on the Family* to explain my concerns. I informed them that Radio 7 carried this program to enhance our family oriented programming. Some of their comments were contrary to our programming philosophy and most probably the CRTC as well.

Focus on the Family explained to us that they are aware of CRTC policy and the differences in the United States. They have assured our station that there is a more intensive screening policy now in place to screen programs airing in Canada as they obviously want their program to continue being aired on Canadian radio stations.

I thank you for listening to our radio station and appreciate you bringing this to our attention. Should you have any further comments, please call me at any time.

The complainant was unsatisfied with this response and requested, on April 13, that the CBSC refer the matter to the appropriate Regional Council for adjudication. At that time, the complainant wrote the CBSC an additional letter, which included the following comments:

While I believe that it was not CKRD's intent to broadcast hate, they have taken no ownership of the offence, they have assigned all blame to *Focus on the Family*.

The onus for proper behaviour has been left with *Focus on the Family* whose only remorse over the offending program is that Canada has differing guidelines than the United States so they have to be more careful in what they say. Their beliefs stay the same, they just have to be trickier at stating them.

The fox has been allowed to guard the henhouse. *Focus on the Family* cannot be trusted to protect my human rights.

There is no mechanism in place to guard against future offensive programming on CKRD by *Focus on the Family*. There needs to be a screening process, perhaps Canadian wide if not only in Red Deer, to make sure repetition does not occur.

CKRD has not apologized to those it has offended by airing this broadcast.

THE DECISION

The CBSC's Prairie Regional Council considered the complaint under Clauses 2 and 6 of the *CAB Code of Ethics*, which read as follows:

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, marital status or physical or mental handicap.

Clause 6 (News), 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.

The Regional Council members listened to a tape of the program in question and reviewed the correspondence. The Council considers that the program in question is in breach of the above-cited clauses.

Sexual Orientation and Clause 2 of the *Code of Ethics*

Before dealing with the fundamental questions raised by the broadcast, the Council notes that, although sexual orientation is not one of the enumerated groups in the text of Clause 2 of the *Code of Ethics*, previous interpretation of the human rights provision of the Code has led to its inclusion as a protected ground. Most recently, the Ontario Regional Council reviewed the CBSC jurisprudence in *CHCH-TV re Life Today with James Robison* (CBSC Decision 95/96-0128, April 30, 1996). While the Prairie Regional Council will not review all of those decisions again, it will only note that it was this Council in *CHQR-AM re Forbes and Friends* (CBSC Decision 92/93-0187, August 8, 1994), that first adopted that interpretation of Clause 2 of the *CAB Code of Ethics*. It stated there that

Although Clause 2 does not contain a specific reference to "sexual orientation", the Regional Council considered that the term "sex" could reasonably be understood as being broad enough to include "sexual orientation".

Lengthier expositions of the rationale are provided in *CJRQ-FM re Opinion Poll* (CBSC Decision 94/95-0135, March 26, 1996) and the *Robison* decision noted above. The Council also notes that the Supreme Court of Canada has recently read sexual orientation into Section 15 of the *Canadian Charter of Rights and Freedoms* in *Egan v. Canada* [1995] 2 S.C.R. 513. In that decision, Mr. Justice La Forest stated:

I have no difficulty accepting the appellants' contention that whether or not sexual orientation is based on biological or physiological factors, which may be a matter of some controversy, it is a

deeply personal characteristic that is either unchangeable or changeable only at unacceptable personal costs, and so *falls within the ambit of s. 15 protection as being analogous to the enumerated grounds*. [Emphasis added.]

The Content of the Program

The orientation of the challenged program is sufficiently similar to *Life Today with James Robison* that the Council considers it worthwhile to incorporate some of the introductory language of that decision here. The Ontario Regional Council there stated

that *Life Today* hosted by James Robison is a program which, by its very nature, involves the presentation of opinions and presupposes a moral bias. It does not purport to be objective, as is made clear by the introduction reproduced above. Accordingly, such a program should not, indeed, *cannot* be judged using the criteria of accuracy and fairness that would be applied to news or public affairs programming. Rather, when dealing with the expression of opinions, the Council must merely determine whether these opinions are expressed in a manner that is abusive or discriminatory.

The Council went on to explain that there is a fine line to be drawn between comment which may constitute the simple expression of opinion and that which is abusively discriminatory and thus a breach of Clause 2 of the *Code of Ethics*. They put that issue in the following terms:

The host's message was that monogamous heterosexuality was the "right" lifestyle. He expressed the view that a proper interpretation of the Bible leads to the conclusion that homosexuality is an unacceptable lifestyle (as is also the case with adulterous heterosexuality, according to his interpretation). It is not the Council's mandate to determine the correctness of the views presented, but only whether the views were presented in a non-abusive, legitimate manner. In a contrary circumstance, they would be in breach of the Code; however, in this case, the Council finds that the host's statements were expressed as his moral position, presented in a legitimate manner and not at all as hateful commentary.

The Council also considers it appropriate to weigh these issues in the context of the CRTC's *Religious Broadcasting Policy* (P.N. CRTC 1993-78, June 3, 1993). In that Policy, under the heading "Recognition of Alternative Values", the Commission made it clear that the need to ensure more religious programming on Canadian airwaves included a balancing component relating to content:

While the Commission is of the view that a more flexible approach to the licensing of religious programming services is warranted, it also considers that this flexibility must be accompanied by *rigorous* guidelines on ethics to assist broadcasters of religious programming and to guard against egregious intolerance and exploitation.

Those Guidelines include the following provisions:

All licensees who broadcast religious programs will be expected to adhere to the following guidelines on ethics.

The purpose of these guidelines is to serve as an effective guide to program development, production, acquisition and scheduling, and to protect viewers and listeners against intolerance and exploitation, ...

These guidelines recognize and support the freedom and rights of individuals and groups to state their beliefs freely and clearly, and are intended to enable individuals and groups to communicate these beliefs in an appropriate and meaningful manner. The Commission, however, expects that programming of religious nature, like any programming, must demonstrate tolerance, integrity and social responsibility.

These guidelines apply to all Canadian and non-Canadian religious programs broadcast by Canadian licensees.

Then, under the heading “Programming Practices”, the Guidelines become precise:

Licensees who broadcast religious programs should ensure that the following practices are observed:

1. No programs shall have the effect of abusing or misrepresenting any individual or group.

...

3. While groups and ministries are free to express their views about activities that they deem to be “sinful”, they shall not call into question the human rights or dignity of any individual or group.

The relevance of the Commission’s *Religious Broadcasting Policy* to the matter at hand is that the Policy provides specific indications of the limits of religious broadcasting. Religious programming does not, after all, have any inherent entitlement to say *whatever* it wants in the name of religion. The CBSC’s understanding of “full, fair and proper presentation of ... opinion, comment and editorial” is defined by elements such as those provided in the CRTC’s *Religious Broadcasting Policy* and it is here that CKRD’s broadcast of this segment of *Focus in the Family* falls afoul of that provision.

While *Focus in the Family* is free to describe the homosexual lifestyle as sinful, as did *Life Today with James Robison*, the program under consideration here has gone much further. It has treated support for the movement as “flimsy” and has disparaged that support (see, for example, the dismissal of a study authored by a gay activist with the general statement that “like all gay science, it really has very flimsy foundations”). Moreover, it has attributed to the gay movement a malevolent, insidious and conspiratorial purpose, a so-called “agenda”, which, in the view of the Council, constitutes abusively discriminatory comment on the basis of sexual orientation, contrary to the provisions of Clause 2 of the *CAB Code of Ethics*.

Broadcaster Responsiveness

The CBSC always recognizes the broadcaster's obligation, as a CBSC member, to be responsive to complainants. In this case, the Regional Council considers that the response from the broadcaster did not really deal in any depth with the issues raised by the

complainant. While the complainant expressed the concern that the broadcaster had assigned all of the blame to *Focus on the Family*, the station had, however, acknowledged that some of the show's comments were contrary to the station's programming philosophy "and most probably the CRTC as well." In the view of the Council, the station did not breach the CBSC's standard of responsiveness.

CONTENT OF THE BROADCASTER ANNOUNCEMENT

The station is required to announce this decision forthwith, in the following terms, during prime time and, within the next thirty days, to provide confirmation of the airing of the statement to the CBSC and to the complainant who filed the Ruling Request.

The Canadian Broadcast Standards Council has found that CKRD-AM breached the provisions of the Canadian Association of Broadcasters' *Code of Ethics* in its broadcast of a segment of *Focus on the Family* on February 9, 1997. The program attributed to the gay movement a false and flimsy intellectual basis and a malevolent, insidious and conspiratorial purpose which, in the view of the Council, constitute abusively discriminatory comment on the basis of sexual orientation, contrary to the provisions of Clause 2 of the *Code of Ethics*.

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