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**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL COUNCIL**

The Comedy Network re "Comedy Club 54"

(CBSC Decision 97/98-1242)

Decided February 3, 1999

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

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**THE FACTS**

On June 10, 1998, starting at 11 p.m., The Comedy Network aired two half-hour episodes of "Comedy Club 54", a showcase of stand-up comedians. The second episode included an act by two Canadian comics known as Molton & Hamilton. Their routine went in part as follows:

Molton: *Les Québécois* wanted to separate by cutting off the province and floating it out into the ocean.

Hamilton: They'll never make it. The Newfies are blockin' the channel with their island.

Molton: We're not knockin' the Newfies.

Hamilton: (slurring his speech in an effort to imitate a Newfoundlander accent) Don't knock the Newfies.

Molton: Now if there's any viewers in the United States that don't know what a Newfie is...

Hamilton: Well, it's like a Polack but not quite as smart. (Laughter) Naw, we're kidding.

Molton: If you've ever looked on a map of Canada, there's an island on the East Coast called New-found-land.

Hamilton: (to a member of the audience) Do you recognize that, Mikey? It's the one with the finger pointing North so they know which way to look.

Molton: Now if you say New-found-land very quickly it becomes Newfinlan. So people that live there would be called Newfies.

Hamilton: Or Newfs.

Molton: They're not the most intelligent people in the world.

Hamilton: They're not too swift.

Molton: As a matter of fact, there's a couple of Newfies who froze to death last winter. Right here at the drive-in theatre.

Hamilton: Yeah, they went to see "Closed for the Season".

Molton: What a tragedy that was.

Hamilton: They found them frozen on their Ski-doo's with popcorn stuck all over the visor.  
Molton: What a mess.  
Hamilton: Put a hook in the helmet and dragged them off before the heads thawed out. Now we've got two Ski-doo's all gassed up with nowhere to go.

Another segment of this same set by Molton and Hamilton went as follows:

Molton: You've gotta watch the Oriental people. They're beautiful people. Are there any Oriental people here tonight? They're beautiful people. You've gotta love 'em. But in the Orient, they've got quite a ritual they go through to name their child.  
Hamilton: (Taking on the role of a "pretend" translator) Oh-deh-sa-kah.  
Molton: This is how it goes when the child is born...  
Hamilton: *mock translation*  
Molton: The father of the child...  
Hamilton: *mock translation*  
Molton: He goes back to wherever they live...  
Hamilton: *mock translation*  
Molton: Now this could be an apartment, a house or one of those [junks] on the river.  
Hamilton: *mock translation*  
Molton: He goes into the kitchen...  
Hamilton: *mock translation*  
Molton: And he gets all the utensils they use to cook with...  
Hamilton: *mock translation*  
Molton: And he throws them up in the air!  
Hamilton: *mock translation*  
Molton: And how they come down on the kitchen floor is what they name the kid.  
Hamilton: (imitating the sound of the utensils falling to the ground) Ching Ping Pong Pong Pang Chang. If there's food in it, his last name is "Fung". If they have a dog, they call it "Chow". If it's constipated, they call it "Hung Chow".

Both episodes were rated "18+" and an on-screen icon to that effect appears at the beginning of each episode.

## The Letter of Complaint

On July 17, 1997 a complaint was registered with the CBSC stating that:

I am writing to complain about a program I viewed on *The Comedy Network* that was blatantly bigoted and racist. This type of humour is, in my opinion, unacceptable in a society that pledges to be "fair and just", for it breeds further bigotry, inhumanity and, eventually, murder. Though the network and the comedians have a right to freedom of expression, they also have a responsibility to all others to understand history and apply this understanding to our vision of the future.

It was either the evening of June 10, 1998 or the morning of June 11, 1998, I am not sure. I don't know when exactly it started, or what it was called, but I will describe it in the hope that it may be identified and investigated. I turned on the television sometime around midnight, it was channel 43 on Rogers Cable, *The Comedy Network*, and viewed the program already in

progress. There were two male, Caucasian stand-up comedians on a large, decorated stage in front of a large audience. From the nature of their subject matter the comedians were apparently Canadian, and may have been addressing an American audience. The comedians were not young. Together they launched into a bit describing Newfoundlanders as "Newfies" and explained that they were educating the audience to the fact that "Newfies" were dumber than "Polacks". They proceeded with a series of old-fashioned "Newfie" jokes, which of course were degrading. They then continued with a long bit making horrible fun at the way Japanese Canadians talk, mocking their accent to no apparent purpose other than degradation. Needless to say, I was infuriated and did not continue watching the show.

I do not support censorship, and I want to make it clear that this is not a call for censorship. I do, however, want to express my distaste for this type of humour to the Comedy Network, to the comedians themselves and to any persons at large.

### **The Broadcaster's Response**

On July 28, the Vice President of Programming at *The Comedy Network* requested an extension of their response time.

On July 24, 1998, the Canadian Broadcast Standards Council forwarded to us a copy of your letter dated June 20, 1998, with the proviso that we respond to you within 14 days of the receipt of your letter.

As you were unable to provide us with the name of the program you were watching, we will have to view all programs which aired around the time you mentioned to identify the particular segment to which you objected. As this may be a lengthy process, (which involves requesting the logger tapes from the library, booking a screening room, viewing the tapes, etc.), we have asked Lucie Vincent of the CBSC for an extension of the response time period. This was granted and she instructed us to advise you of our request. We will make every attempt to respond within the specified time period but if this is not possible we will try not to exceed the extension beyond one week.

On August 6, the Vice President of Programming at *The Comedy Network* replied to the complainant with the following:

This is further to our letter of July 28 concerning your complaint about the content of a program that was broadcast on *The Comedy Network* on Wednesday, June 10, 1998. The program was entitled *Comedy Club 54* and aired between 11pm, and midnight.

From the beginning *The Comedy Network* has set out to present a program schedule that is adult, irreverent, politically incorrect and alternative to much of the mainstream that is available on conventional broadcasters. As a consequence, our programming tends to be more risqué and controversial.

We are sorry that the ethnic jokes offered by the two performers on the Comedy Club 54 show met with your distaste. We have viewed the segment in question and are of the opinion that the performers intended neither to degrade nor denigrate any ethnic groups. In the context of this program, it is clear that these two comics are performing a routine to elicit laughs from their audience. We believe that viewers of the show would not interpret their comments as social commentary nor serious intent.

Having said that, we also acknowledge that reactions to comedic material are subjective, and what one person finds offensive, others do not. While we appreciate that yours is not a censorship call, we believe comics and program makers should be allowed to express themselves without censorship or editorial prerogative. Comedy has consistently drawn material from all aspects of society and we support this approach.

The opinions of our viewers are taken seriously by us. We compile viewer feedback and consider trends and suggestions and are interested in understanding what our audience likes and dislikes. We make our programming choices or adjustment with this knowledge in mind.

We appreciate the time that you have taken to express your concerns and thank you for your comments. We hope you may find entertainment value in other programs in our telecast schedule.

The complainant was unsatisfied with the broadcaster's response and requested, on August 20, 1998, that the CBSC refer the matter to the appropriate Regional Council for adjudication. With her request, the complainant added a lengthy note which further explained her position.

I am flabbergasted by the response from the Comedy Network regarding my complaint about objectionable material on the program identified by them as "Comedy Club 54" that aired June 10, 1998. This response, received by me on August 19, 1998, compels me to proceed with the ruling request.

I have no objection to a program schedule that is, "...adult, irreverent, politically incorrect, and alternative." In fact, the wild nature of the network is why I watch this channel more often than others. Unfortunately, it is becoming a trend to use this position as a rationale for bigotry. While I believe wholeheartedly in the rights of anyone to say anything, and I do not believe swear words should be bleeped for example, it is my position that there is no excuse for comments which degrade or discriminate. This is an area that lies beyond the realm of artistic expression, and that becomes a breeding ground for abuse and scapegoating of which the inevitable end is murder and genocide.

The Network's response is that they are, "... of the opinion that the performers intended neither to degrade or denigrate any ethnic groups" and said that, "... it is clear that these two comics are performing a routine to elicit laughs from the audience." They also stated that, "... the viewers of the show would not interpret their comments as social commentary nor serious intent." These statements only indicate that the Network, or representatives of the Network, are bigots themselves. It is the intent to elicit laughs from the audience with this material that is the basis for my complaint. The fact that people find it funny only illustrates the prejudice and narrow-minded insensitivity of the audience. I find it shocking to receive these kinds of rationalization when the result of the material is obviously degrading no matter what the intent.

I find it equally shocking that the network would infer that it is only my personal sensitivity which they offend, therefore shifting the blame onto me. I realize that I am responsible for my reaction to the program which is why I have spent the time to complain about them. His insinuation, and the fact that others do not find this material offensive insults me, and only strengthens my resolve to make an issue of it.

I must also add that I am not Polish, a Newfoundlander nor Asian, and my response is not a subjective one, but rather motivated by an intellectual concern for the future of our society, our children and the human race.

## THE DECISION

The CBSC's Ontario Regional Council considered the complaint under the *Code of Ethics* of the Canadian Association of Broadcasters (CAB). The relevant clause of that Code reads as follows:

### *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, marital status or physical or mental handicap.

The Regional Council members viewed a tape of the program in question and reviewed all of the correspondence. While the Council considers that the program in question does not violate the aforementioned provision of the Code, it does have some comments to make regarding the delicate issues of discrimination raised by the complainant.

### The Content of the Program

The complainant in this case is of the view that the material in the stand-up comedy routine in question was "blatantly bigoted and racist". As it has noted in past decisions, the Council acknowledges that such ethnically based humour may be discriminatory but, for the reasons given below, it is not of the view that it rises to the level of a breach of the Code. In the Council's view, while the ethnic humour contained in the "Comedy Club 54" episode in question poked fun at specific groups on the basis of their national, provincial or ethnic origin, and in this sense was *discriminatory*, none of what was said was so hateful, demeaning or degrading as to be considered to be *abusively* discriminatory, the test under the Human Rights provision of the *CAB Code of Ethics*. In *CFTO-TV re "Tom Clark's Canada"* (CBSC Decision 97/98-0009, February 26, 1998), the Council stated that

Clause 2 of the *CAB Code of Ethics* requires a weighing of competing values. In *CHTZ-FM re the Morning Show* (CBSC Decision 92/93-0148, October 26, 1993) the Council noted that "it must balance the right of audiences to receive programming which is free of abusive or discriminatory material ... with the fundamental right of free speech in Canadian society." The application of this balancing act in various CBSC decisions evolved into an "abusiveness criterion"; i.e. the establishment of a "test" whereby a comment must not merely be *discriminatory* to constitute a breach of Clause 2, it must be *abusively* so.

Moreover, contrary to the complainant's contention that "there is no excuse for comments which degrade or discriminate", the Council has drawn a distinction between "acceptable" and unacceptable forms of ethnic humour in *CHUM-FM re Sunday Funnies* (CBSC

Decision 95/96-0064, March 26, 1996) and, in so doing, has acknowledged that ethnically based humour may be acceptable on the air.

[H]umour is commonly based on national, ethnic, racial or gender traits, as often as not related to background matters best-known to the comedian. Even stereotypes are not unknown in such a context. Such issues cannot *alone* be the cause of a broadcast sanction. They must be *coupled* with another defining criterion; namely, they must be abusive or discriminatory.

...

The issue, ultimately, is to decide *when* a humorously intended comment may *reasonably* be viewed as having gone too far.

In *CHFI-FM re the Don Daynard Show* (CBSC Decision 94/95-0145, March 26, 1996) the hosts told a series of “light bulb” jokes, including one which asked, “How many Jewish mothers does it take to change a light bulb?” A viewer did not take this “joke” as lightly as the host as suggested and felt that it was anti-Semitic and offensive. The Council concluded that there had been no violation of the Code, and stated that

the Jewish mothers light bulb joke, while ethnically pointed, was neither demeaning nor abusive. It was told in the context of a series of light bulb jokes aimed at feminists, Marxists, surrealists, accountants, etc. It poked fun but did not bludgeon. It tickled but was not nasty.

The Council commented that it is not reasonable to expect “that the airwaves will be pure, antiseptic and flawless when society is not.” Furthermore, the “Council’s duty is to put a potentially offensive ethnic joke on its societal scale and determine whether it could *reasonably* be viewed as having gone too far.”

In *CILQ-FM re Parody Skit* (CBSC Decision 95/96-0218, May 8, 1997), the Ontario Regional Council dealt with a skit entitled “Bob the Fag Man”. The Council found no breach.

There is nothing complex about the matter under consideration here. The short skit in question is intended as a parody. It plays on the *double entendre* of the word “fag”, which is used primarily in Britain and its former colonies as a slang term for cigarette, and which has a slang usage in North America to describe a gay man. The sole issue for the Council to consider is whether or not this use of the term was *abusively* discriminatory *vis-à-vis* gay men. In the view of the Council, it is not. While possibly an unflattering term, it does not, in the Council’s view, rank with certain racial or ethnic epithets (which it does not wish to repeat here), particularly since members of the gay community use the word themselves from time to time in a non-discriminatory fashion. At worst, “fag” could be considered to be in poor taste, a matter on which the CBSC does not rule. In consequence, the Council finds that there is no breach of the Code.

To give an example of an ethnic “joke” which the Council considered had gone too far, in *CKTF-FM re Voix d’Accès* (CBSC Decision 93/94-0213, December 6, 1995), the on-air host told a “Newfie” joke in which Newfoundlanders were described as “trous de cul” (“assholes” in English), which the Council found totally unacceptable.

What may constitute the limits of acceptability in each challenged case will need to be appreciated in its context. Certain cases will clearly fall on one side or the other of the boundary. Others will lie uncomfortably on the line. The matter at hand was, however, free of doubt; the depiction of “Newfies” as “assholes” was clearly unacceptable. Whether intended seriously or in jocular fashion, the use of that term in reference to this or any ethnic, racial, national or other discernible group was derogatory, abusive and discriminatory and in violation of clause 2 of the *CAB Code of Ethics*.

While the humour in question was pointed and may even have been tasteless, the Council does not find that any of the “jokes” overstepped the boundaries in this case. In its words earlier cited here, “It poked fun but did not bludgeon. It tickled but was not nasty.” By not finding it in breach of the Code, the Council should not be understood as *supporting* the humour in question and broadcasters which are concerned by audience reaction are always free to take steps to comply with audience concerns even when there is no Code breach involved. They may do so but they need not. It is their choice in the end just as viewers may choose to go elsewhere when programming offends them.

### **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 response addressed the issues raised by the complainant, albeit not as the complainant would have wished. Consequently, the broadcaster has not breached the Council’s standard of responsiveness. 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.*