
APPENDIX B

CBSC Decision 06/07-0908 CHML-AM re the *Bob Bratina Morning Show*

The Complaint

The complainant sent multiple complaints dated March 19, 2007 to the CRTC which were forwarded to the CBSC in due course:

Bob Bratina, the morning show host of CHML, uses his show to present his own political perspectives and criticize and attack others who don't share his views or support him as he would wish. He uses CHML as a political soapbox for his other job as Ward 2 Councillor.

The use of the radio morning show as a political forum for the Ward 2 Councillor Bob Bratina who also works for CHML radio station. His unfair politicization, his unfair comments and his use of the show to showcase his political activities and viewpoints are inappropriate and distasteful.

Dear Sir,

I am writing to express my concern about the use of the CHML morning program as a political forum for, and by, Bob Bratina. I have been on the verge of writing this letter for quite a while now but today's comments by Mr. Bratina, while on air as your morning radio announcer, were so appalling that I am actually taking the time to write to you to make a formal complaint. My complaint is regarding the very ambiguous roles as radio announcer/Ward 2 councillor that Mr. Bratina continues to play on the CHML morning program. If Mr. Bratina wants to be the CHML morning announcer, that's fine. However, if he wants to be the Ward 2 Councillor, then he should not be doing it on the air while employed by CHML as their radio morning announcer.

Using CHML as his own personal soapbox has been an on-going activity for Mr. Bratina for quite some time. It has greatly increased since his election to the position of Ward 2 Councillor. In fact, over the past several years, he has been quite blatant in constantly finding ways to remind listeners about his position and activities as the Ward 2 Councillor. He never seems to be able to resist presenting his own political positions and personal perspectives while on the air, ostensibly, as the radio morning announcer. This behaviour has increased over the past few years. This is, in addition, to regularly commenting unfavourably upon issues, ideas and/or policies that he does not politically support. Somehow, he doesn't seem to realize that not everyone shares his political views nor supports his particular agendas. Nor do most of us want to hear this stuff in the morning anyway! However, that is not the essential point. Whether one agrees or disagrees with him, using the morning show to showcase his political activities and viewpoint is not only irritating and annoying. It is also downright inappropriate to use his time slot on air as a personal forum and this seems to be

something that he doesn't understand at all. And, in fact, I am surprised that this mixture of morning man/politician is something that your corporation allows and supports.

Two weeks ago, Mr. Bratina launched into a rant against the "unfair coverage" of the *Hamilton Spectator* regarding his suggestion for a fountain in the harbour. He re-presented his own arguments from the Council meeting all the while railing at the *Hamilton Spectator's* "attack" on his ideas. He did not, at any time, present any other, alternative viewpoints about the issue. On this program in particular, Bratina spent quite some time attacking the specific coverage by a specific *Spectator* journalist ([A. D.]) who was quite easily identifiable by the comments Mr. Bratina made. Mr. Bratina lambasted the *Spectator* and [the journalist] for what he felt was their "unfair" and "distorted" coverage of the issues before Council. Unfair? Perhaps, because they did not portray things from the Bratina perspective!

Presenting and justifying his own particular policies and position as the Ward 2 Councillor on any issue is not, in my opinion, appropriate on CHML's morning show. The manner in which this was done: an attack on others and a reiteration of his own position and policies, is also not acceptable. Using the morning show is not the appropriate forum for the Ward 2 Councillor's work, rants or otherwise. This is not what I would have thought the CHML morning program was supposed to be about. Also, it is quite unfair to the *Spectator*, [the journalist] and other Council members who don't enjoy this access to the public nor have a chance to respond to the innuendoes and accusations.

After hearing Mr. Bratina, I was concerned and frustrated by that particular morning's comments and planned, as a result, to write to you to complain. Of course, several weeks went by and I decided to hold off. Maybe, I hoped, if he had been warned about that particular broadcast, there was the hope (faint though it was) that he might behave more appropriately in the future. Maybe Shiona could keep him under better control!

Unfortunately, this has not been the case, in fact, quite the reverse! This morning's show demonstrated, yet again, that Mr. Bratina cannot make the distinction between his role as radio morning man and Ward 2 Councillor. It was unfortunate that Shiona was absent today since she might have been able to rein Mr. Bratina in a bit while he was on the air.

Mr. Bratina started his commentary this morning by expressing regret over the treatment of Barbara Amiel by the press. He then made a number of snide comments about the press all the while allying his situation with that of Barbara Amiel. He went on to comment negatively on the "distortions" by the people in the press of himself and others in the public domain. He then commented on how the *Spectator*/reporters use their positions and power to convey "their" messages and how frustrating this was for a poor Councillor like himself. Talk about irony!

Mr. Bratina then went on to castigate the reporter who had interviewed him over the issue of a "red light district" concept because she hadn't written the story the way he wanted it. Since the front page article identifies the reporter's byline, this was a direct attack upon a *Spectator* reporter's competency and veracity. Why such an attack? Well, according to Mr. Bratina, she did not report his words and comments as Councillor "accurately". Again, Councillor Bratina on the air and, I might add, the only with air time on this issue!

Since CHML is not putting the morning show on as a "paid political announcement", why is this kind of behaviour tolerated by CHML? I know that I am not alone in wondering why CHML morning show has allowed their morning show to become so one-sided and so politicized. I hope that this letter will, at the very least, cause you to consider your policies/broadcasting code regarding what is acceptable in terms of a radio announcer's role while hosting a public program. I hope that your station can enforce a policy that will ensure

that your listeners are not subjected to personal political sermons and unacceptable attacks upon other people and groups.

Broadcaster's Response

Since the complainant has originally written to the station directly, CHML responded to the complainant on March 22:

Your email regarding our AM900 CHML morning host, Bob Bratina, was forwarded to me by our communications department. While we certainly acknowledge your concerns, we would like to assure you that AM900 CHML does abide by the regulatory guidelines and broadcast codes that govern our industry in Canada and endeavour to act accordingly. We are a responsible broadcaster, committed to providing a balanced presentation in news, opinion, comment and editorial when reporting on issues to our listeners in the greater Hamilton area. We will, however, address your issues and concerns with Bob Bratina.

Thank you for your letter.

The station re-sent that e-mail on April 9 following the CBSC's notification that it had now received an official complaint.

Additional Correspondence

The complainant sent additional information on April 6:

Dear Sir,

In my complaint, I was remiss in not sending you the *Hamilton Spectator* article which addressed the same issue. I have sent it as an attachment and printed it below.

Bratina blurs line between city hall, radio guy
By Andrew Dreschel
The Hamilton Spectator
(Mar 21, 2007)

We all know that former city councillor Bill Kelly's dual role as elected official and CH TV host periodically drew flak from council colleagues, critics, and opponents on the campaign trail.

Now it's time to apply some of that same heat to CHML morning man and Ward 2 Councillor Bob Bratina.

The fact that Kelly was actively engaged in running the city while hosting a weekday public affairs program that sometimes addressed municipal issues struck many as an absurdly inappropriate conflict of interest. But to the best of my knowledge, Kelly never used his position as a broadcaster to defend, clarify or refute on-air a position attributed to him as a councillor.

I'm told Bratina usually operates in much the same zone. He may touch upon public policy issues on his radio chat show, but normally stays away from discussing his own role as a councillor. But Bratina crossed that line this week.

On Monday he challenged on-air a *Spectator* story saying he believes a red-light district would be better than having body-rub parlours operating in Hamilton neighbourhoods. In an interview yesterday, Bratina argued the story and headline were misleading and incorrect and he had no recourse but to say so.

Spectator Editor-in-Chief David Estok says the paper stands by the story. Estok says it accurately reflects that Bratina, in a leaked city hall e-mail, raised the possibility of a red-light district. Estok also notes Bratina hasn't asked for a correction or clarification. Whether one is warranted or not is another matter.

The issue at hand is whether Bratina abused his media access as a broadcaster to buttress his position as an elected politician. Mayor Fred Eisenberger says this is exactly the kind of situation that an integrity commissioner could tackle, and which needs to be covered in an enhanced code of conduct for councillors. Without commenting on the specifics of the incident, Eisenberger says the city has a part to play in defining the roles and responsibility of a councillor in this type of situation, just as there is a responsibility on the part of a broadcaster.

Let's be absolutely fair. We're talking about a grey area here. As was the case with Kelly and CH, Bratina and CHML are in complete compliance with Canadian Radio-television and Telecommunications Commission (CRTC) regulations. Outside of taking leaves of absence at election time, the only CRTC rules that govern a broadcaster like Bratina and CHML are the normal prohibitions against abusive language, profanity and hate mongering. In short, there are no rules preventing a broadcaster who is also an elected official from feathering his or her political nest on air. Nothing except the organization he or she works for and perhaps that person's own sense of honour.

For her part, CHML general manager Suzanne Carpenter says the station scrupulously maintains its journalistic and broadcast integrity, abiding by all regulatory guidelines and broadcast codes, including its own code of respect and behaviour that all employees have to follow. Carpenter acknowledges the station's code doesn't specifically address employees who may be elected officials, but they respond to any and all complaints against announcers. Carpenter also notes CHML hasn't received a single complaint against Bratina regarding his dual role.

As for Bratina, based on our interview, he seems to be curiously blind to the fact he appears to have crossed a line. "I don't use my program for my own political purposes," he angrily insisted. So how do you describe what you said on-air? I asked. "Defending myself against an erroneous newspaper report." Defending yourself as a politician? "As a broadcaster. Because my listeners, some of them, said 'I was surprised that you would do something like that.'" But aren't you defending yourself for a position that was ascribed to you as a politician, not a broadcaster? "No. No. People say, 'Bob Bratina, I'm surprised that you, of all people, would be in favour of something like this ...'"

Whether he's aware of it or not, Bratina, on this occasion at least, is clearly having a hard time separating his two jobs. Maybe this will help focus his thoughts: What would that same little bit of airtime cost another councillor who doesn't have the luxury of his or her own radio show?

Andrew Dreschel's commentary appears Monday, Wednesday and Friday.

In response to the station re-sending their response on April 9, the complainant wrote back to them:

Your email of April 9th (11:22 am), which I have copied below, is the FIRST time that I have heard from you. My computer is working just fine and your message seems to be the only one that I have not received. I repeat: I did NOT receive any response dated March 22nd as you stated in your email. Also, I am NOT satisfied that you will "address my issues and concerns with Bob Bratina". He has crossed the line over and over again - not just on the occasions that I cited in my letter. Just as there was a public violation of his role as broadcaster, there should also be a public acknowledgement of these violations. So, I am NOT satisfied and I will be pursuing this issue further with the CBSC.

The complainant then submitted her Ruling Request on April 10 with the following note and also re-sent the March 21 *Hamilton Spectator* article (see above):

The General Manager, [S. C.], sent me an email response to my complaint on April 9, 2007. Contrary to her comment that she "responded on March 19th" and was "resending" her answer, I have never before yesterday received any email from her or anyone at CHML. I am not sure why she would state this when it is simply not true.

I also feel that her response does not acknowledge the validity of my complaint and the issues that I raised in the letter regarding Mr. Bratina's use of the air waves for his own particular political purposes and views.

To state that CHML is a "responsible station etc., etc., etc." is not my issue nor the focus of my concern. My complaint is with regard to Mr. Bratina and I have outlined this fully in my original letter to you.

I had hoped that the General Manager would actually address the issues in her response but she does not. To state that "We will, however, address your issues and concerns with Bob Bratina" is a meaningless statement. How will these "issues and concerns" be "addressed"? Is there any acknowledgement of the totally inappropriate behaviour by Mr. Bratina and will there be? Since it was a public violation, will there be a public acknowledgement and apology? All of these questions are left unclear in [the General Manager]'s disappointing "form letter" response.

Needless to say, I do not feel that my complaint(s) regarding Mr. Bratina have even been acknowledged, let alone appropriately addressed, by the General Manager. It is for this reason that I am, therefore, requesting a Ruling on this complaint.

Thank you for your time and attention.

CHML sent a second response on April 24:

The Canadian Broadcast Standards Council (the "CBSC") has asked us to respond to your email of April 4, 2007 in which you raised concerns regarding comments made during the

Morning Show (the "Program") that was aired on CHML-AM (the "Station") on March 19, 2007.

In your email you take issue with comments made by the Program host, Bob Bratina, suggesting that because Mr. Bratina is both a radio announcer and a city councillor, his comments that morning (and on other mornings, you argue), are inappropriate in so far as they constitute a conflict of interest. More specifically, you state that Mr. Bratina went on a 'rant' regarding what he thought was an unfair depiction by the *Hamilton Spectator* of his position on putting a fountain in at the Hamilton harbour.

We have listened to the tape of the Program, and confirm that Mr. Bratina did make comments pertaining directly to this position as city councillor. As a news talk station, we adhere to various rules, regulations and industry codes governing the programming we air, including the Radio Television News Directors Association of Canada's *Code of Journalistic Ethics* (the "Code"), which are administered by the CBSC. Our review of the broadcast you refer to reveals that on this occasion, Mr. Bratina failed to adhere to Article 6 of the Code, which states that broadcast journalists must "govern themselves on and off the job in such a way as to avoid conflict of interest, real or apparent".

Since receiving your email, we have had discussions with the Program host about what constitutes appropriate on-air content. More specifically, we have reviewed the applicable codes and standards with Mr. Bratina, emphasizing the importance of impartiality in the reporting of the news, particularly in light of the dual-role he plays. We strive to ensure that our programming is objective and balanced, and will continue to monitor the Program with vigilance in order to maintain these standards. We regret that you were troubled by our programming, and trust that this letter addresses your concerns. We at the Station recognize the importance of listener feedback and appreciate all comments.

The complainant responded to that letter on April 24:

I do appreciate your personal acknowledgement of my letter of concern and your attachment and this will go a long way in forgiving your previous patronizing form letter. I do thank you for the update re: the CBSC ruling process. I had already heard from them saying that there would be a ruling process. Your attachment, regarding the acknowledgement of some of the violations that I referenced in my letter, is appreciated. However, I do feel that public violations of the code require a public acknowledgement and an apology from Mr. Bratina to his listeners. Again, I reiterate, this is one of many, many occasions where Mr. Bratina has violated his role as a radio broadcaster and, as Station Manager, I am sure that you are very aware of this.

I await the ruling's conclusions on this issue.

The complainant sent another letter to the station on April 24:

Upon reflection, your answer did not address the personal attacks launched by Mr. Bratina against the *Spectator* and, in particular, two reporters who work for the *Spectator*. I do think that these issues amongst others that I raised in my letter also need to be addressed by your station and, particularly, by Mr. Bratina.

The complainant wrote again to the station on April 26:

I want to apologize for my sharp tone in my response to the first correspondence that I received from you. Given my anger at Mr. Bratina's abuse of the air-waves, I was not happy to have my concerns dismissed with comments about CHML being a "responsible station" and that you would "talk to Mr. Bratina." I do know that CHML is a responsible station but that isn't and has never been the issue. Regardless, I should not have taken my annoyance out on you in my response to your email of April 24, 2007.

I do appreciate from your comments that the the "station" has taken the issue very seriously. However, I have no idea as to whether Mr. Bratina fully appreciates the concerns (about far more than just his "geyser comments" by the way) that I expressed in my letter of concern. Nor do I know if he actually understands why his actions were/are an issue. His "voice" has been in none of the correspondence. Perhaps, a public statement from Mr. Bratina to me and/or to the *Hamilton Spectator* would help resolve this issue. This issue needs to be resolved and I hope that, perhaps, you will consider my suggestions.

The complainant wrote to the CBSC again on May 3:

Although there has been a further exchange of correspondence between CHML ([the General Manager]) and myself, my concerns and issues have still not been fully acknowledged nor fully addressed and, in fact, my last correspondence trying to resolve the issue was not answered by CHML's General Manager. Regardless, I do NOT consider that my concerns have been sufficiently addressed and, so, please be advised that I wish that the formal process be continued. I would hope that all of my concerns and issues regarding Mr. Bratina will be addressed.

The program host, Bob Bratina, then wrote to the CBSC National Chair on May 10:

By way of this message I'm requesting the opportunity to speak to the panel dealing with the complaint from Ms. [K. C.], CBSC Ref. C06/07-0908.

I have been in broadcasting for 42 years, and on October 1, 2004 I was first elected to Hamilton City Council, since then performing both jobs. In that time, I have been the subject of only 1 formal complaint. There are other implications that extend beyond review of the commentary in question which I feel have to be taken into account and I am in a unique position to assist in this process.

The CBSC National Chair responded on the same day:

Thank you for your e-mail.

It is not the practice of the CBSC to have any witnesses or *viva voce* participation in its adjudications, whether on the part of the complainant or the broadcaster. This would, of course, mean that no live intervention on your part would be possible. We operate on the basis of the recordings of the challenged programs (which are the best evidence of what was actually said), the full written correspondence from the parties, and our codes and jurisprudence.

That being said, I cannot see a reason why you would not be entitled to send a letter to the CBSC, which could be considered with the other written communications.

I hope this is of help.

Mr. Bratina responded on the same day:

Thanks very much for your reply. I am confident your review of the matter will result in an equitable decision or commentary. I will send a letter as you suggest.

Despite this indication, Mr. Bratina never sent any further correspondence to the CBSC.

The station's parent company, however, sent the CBSC a letter dated October 3:

We are writing in respect of the complaint by Ms. [K. C.] of the *Hamilton Spectator* regarding a broadcast of the Morning Show on CHML-AM hosted by Bob Bratina and Shiona Thompson. We understand that the CBSC will be deciding whether Mr. Bratina and the station have breached certain Canadian broadcasting standards, as administered by the CBSC, and we ask that you take the following into consideration when reflecting on the matter.

In her original complaint dated March 19, 2007, [the complainant] stated that Mr. Bratina, co-host of the Morning Show, as well as Hamilton city councillor for Ward 2, had been using the Morning Show to "showcase his political activities and viewpoint", which she claimed was "downright inappropriate". [The complainant] suggested further that Mr. Bratina had, on certain occasions, used his position on the Morning Show as his personal "soap-box", and that he was therefore confusing his two roles: on the one hand, his role as Morning Show co-host, and on the other, as councillor of Ward 2.

Mr. Bratina has been a broadcaster since 1965, and has been co-hosting the Program since 1989. In 2004, Mr. Bratina decided to run for a position on Hamilton's city council, and was elected councillor for Ward 2 on October 1, 2004. Mr. Bratina was re-elected councillor for Ward 2 on November 14, 2006. Mr. Bratina had informed Corus management of his decision to run for office as well as for re-election, and as required by CRTC policy regarding Election Campaigns and Political Advertising, Mr. Bratina recused himself from his on-air duties during the respective campaign periods.

In our letter to [the complainant] dated April 24, 2007, we acknowledged that Mr. Bratina may have, on the occasion cited by the complainant, breached Article 6 of the Radio and Television News Directors Association's *Code of Ethics* (the "RTNDA Code"). This said, the question remains as to whether the RTNDA Code in fact applies in this case. As discussed in greater detail below, the Morning Show is a public affairs program, not a newscast, and as such, we do not believe that it is subject to the RTNDA Code. As the CBSC has noted, a public affairs show is not constrained by the same need for objectivity as a newscast, and its hosts are entitled to take a point of view on subjects that are controversial, as long as their presentation is fair and balanced.¹ We believe that the Morning Show has, and continues to meet, this objective.

During his 42 years in broadcasting, Mr. Bratina has prided himself on providing high quality programming to his listeners. As co-host of the CHML-AM Morning Show, Mr. Bratina has consistently provided programming that is both entertaining and informative to Hamilton-area residents. Since the Morning Show is more focussed on public affairs than on news, Mr. Bratina routinely comments on topics of local and public interest. While Mr. Bratina has not shied away from expressing his opinion on a number of local matters, including whether the City of Hamilton should build a fountain in the downtown core or establish a "red light" district, the Morning Show routinely offers points of view from across the political spectrum on a variety of issues. In the past six months alone, Mr. Bratina and Ms. Thompson have interviewed a number of municipal and provincial politicians, including Marie Bountrogianni, Liberal MPP for Hamilton Mountain, Andrea Horwath, MPP for Hamilton East, and Ontario PC Party Leader, John Tory. Both Fred Eisenberger and Cam Jackson, mayors of Hamilton and Burlington, respectively, have been guests on the Morning Show on two occasions. Mr. Bratina and Ms. Thompson have also hosted a Morning Show featuring Terry Whitehead, City of Hamilton councillor for Ward 8.

There is little doubt that the potential for conflict of interest exists in a situation where a broadcaster also holds a political office. For that reason, the CRTC enacted a policy regarding Election Campaigns and Political Advertising, to which we have wholly complied. The question here is whether the RTNDA Code should also apply in this kind of situation to mitigate against potential conflict of interest. Given the nature and format of the Morning Show, we submit that it should not, and therefore, that [the complainant]'s complaint does not raise any issue for the CBSC.

The complainant requested updates on the status of her file on July 10, October 11, October 14 and December 6, 2008 as well as March 30 and April 20, 2008. The CBSC also received an inquiry from a reporter at the *Hamilton Spectator* on August 16, asking when this decision would be released.