

The Canadian Broadcast Standards Council

A Successful Experiment in Self-Regulation

Notes for Remarks by

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Madame Chair and Honourable Members of the Committee, Good evening. Thank you for the invitation to appear before you today. My name is Ron Cohen. I am the National Chair of the Canadian Broadcast Standards Council. With me are John MacNab, the Executive Director of the CBSC, and Teisha Gaylard, the CBSC's Director of Policy.

It is my intention to provide you with a brief overview of the history, mandate, structure and modus operandi of the CBSC and its record and to reply to any questions you may have.

There is, however, no better way to *begin* than by reporting to you that, *in world terms*, Canada's private broadcasters have established a particularly effective, responsive and advanced set of broadcast content standards and a self-regulatory process for ensuring their respect. The standards reflect Canadian values. The enforcement tools are Canadian (that is to say, effective without being heavy-handed). The Council reaches out into all corners of Canada's great multi-cultural environment by publicizing those standards and audience entitlements in English, French and 38 other languages, both in print

and on the CBSC website. And the Adjudicating Panels, about which I will say more shortly, reflect that diversity as well.

May I add that the 38 languages of comfort reflect Canada's American hemispheric communities – Spanish and Portuguese; Canada's indigenous communities – examples include Inuktitut, Cree, Ojibwe and Mohawk; Canada's Eastern and Western European communities – examples include Ukrainian, Polish and Italian; Canada's African communities – examples include Arabic, Somali and Amharic; Canada's Near Eastern communities – examples include Farsi, Dari and Pashtu; Canada's Far Eastern communities – examples include Chinese, Japanese, Korean and Tagalog; and Canada's South Asian communities – examples include Hindi, Urdu and Punjabi.

Let me now tell you something about the Council and how and why it works.

The History

Originally conceived in 1986 by the Canadian Association of Broadcasters to encourage high standards and professional conduct, a concrete proposal was presented to, and accepted by, the CRTC, which noted in Public Notice CRTC 1988-159 that “this voluntary action on the part of the CAB and its members reflects the sense of responsibility and maturity of the broadcasting industry in regard to social issues of public concern.”

Then, in August 1991, in Public Notice CRTC 1991-90, the CRTC advised broadcast licensees and members of the public of their endorsement of the CBSC to receive and adjudicate complaints regarding programming on its member stations.

The Mandate

The Council's mandate is to oversee the administration of the Canadian private broadcaster Codes. These currently include the *CAB Sex Role Portrayal Code* and the *CAB Violence Code*, both of which are conditions of licence for all broadcasters in Canada (the latter only for television broadcasters), the *CAB*

Code of Ethics and the Radio and Television News Directors Association of Canada (RTNDA) *Code of (Journalistic) Ethics*.

In the exercise of that mandate, the CBSC receives complaints, encourages their resolution by broadcaster dialogue with the complainants, and, when this does not lead to complainant satisfaction, adjudicates those complaints via Adjudicating Panels, made up of equal numbers of public and industry representatives.

There are five Regional Panels (Atlantic, Quebec, Ontario, Prairie and British Columbia) and two National Panels (Specialty Services and Conventional Television Broadcasters). Biographies of every Adjudicator are publicly posted on the CBSC web site.

The private broadcasters' self-regulatory process is predicated on full disclosure and the publicity of all decisions, whether rendered for or against the broadcasters. Consequently, the press release announcing every decision is forwarded to the print media, the broadcasters and every person in Canada or elsewhere in the world wishing to be on the recipient list. More than 360 decisions rendered since 1991 are, with their full written reasons, posted on our web site. They form an extensive and thorough body of jurisprudence, dealing with the widest possible range of content issues.

Membership

There are, as of today, 581 broadcaster members, covering the radio, television and specialty service areas. Of these, 425 represent radio broadcasters (155 AM, 270 FM), 88 conventional television broadcasters, and 68 specialty services.

The Challenges

In the exercise of its mandate, the CBSC faces particular challenges. One challenge relates to the legitimate public concern regarding censorship. Another relates to the regulation of content within the acceptable limits of freedom of expression.

Censorship

In its origins, the censor was one of two magistrates in ancient Rome who were charged with the supervision of public morals. More recently, as the *Oxford English Dictionary* says, the censor is the “official whose duty it is to inspect books, journals, plays, etc., *before publication*, to secure that they shall contain nothing immoral, heretical, or offensive or injurious to the State [emphasis added].”

In order to avoid any whiff of censorship, the CBSC does not initiate complaints or monitor programming in the absence of a complaint. It is complaints-driven, reactive and responsive to public concerns. It does not presume them.

Freedom of Expression

In dealing with the question of freedom of expression, the CBSC, by its nature, faces challenges on two ideological sides. There are those who believe that the principle of freedom of expression as enshrined in the Charter should be viewed as absolute.

There are those, on the other hand, who believe that expression on the airwaves should be restricted so that all matters unpleasant and distasteful, and worse, should be prohibited.

The CBSC takes an intermediate position. It is, first, that the underlying principle that should govern broadcast speech is that it should be free. The private broadcasters have, however, agreed that the interests of their audiences are better served by the creation of professional standards to which all of their members will adhere.

Second, then, the CBSC considers that the codified standards created by the broadcasters should balance freedom of expression with other important societal values.

Third, though, matters involving taste alone but no breach of actual Code provisions are considered to be best regulated by the marketplace, that is, the intervention of the viewer or listener via the channel or station changer or the on/off switch.

Fourth, there are extensive special provisions regarding programming intended for young children (under 12 years of age).

Fifth, in order to assist television viewers, and in accordance with the broadcaster Codes, there is a Watershed hour (which runs from 9:00 pm–6:00 am), before which no programming intended for adults, whether by reason of violent, sexual or other mature content, can be shown. Viewer advisories and classification icons are also required, even after the Watershed, so that audiences may avoid programming which they do not consider appropriate for themselves and their families.

Sixth, there is a prohibition against gratuitous or glamorized violence on the airwaves at any hour of the day.

The Track Record

Since there are 363 decisions posted on the website, the CBSC jurisprudence has the effect of constituting a definition of what broadcasters can and cannot air. While decisions relating to one-off programs or newscasts are as important as those relating to entire series, the latter tend to attract more attention, both within Canada and internationally. Examples include the *Mighty Morphin Power Rangers*, the Laura Schlessinger show, the Howard Stern Show, the Jerry Springer Show and so on.

On a day-to-day basis, the 35+ formal decisions rendered every year help to shape the parameters of acceptable content on an ongoing basis, whether in the talk show, news, drama or other areas.

Conclusions

The CBSC works very hard to ensure that the results of its decisions are known to all who are affected by them. Its volunteer Adjudicators on both the public and industry side are dedicated to the emergence of a set of principles that will fairly circumscribe public expectations. It is a mark of the thoughtfulness and impartiality of the Adjudicators, both public and industry, that, with the exception of four of the 363 decisions, they have been rendered unanimously, whether in favour of, or against, the broadcasters.

It is a mark of the success of the Canadian private broadcasters' self-regulatory system that it does not require the huge financial penalties of the American regulatory process to work. The system works because the broadcasters have committed themselves to the process. They created it. They support it financially. More important, they support it morally. After all, they live in the communities in which they broadcast. It makes good sense, good Canadian sense.

Thank you for your time and attention. We are available to answer your questions.