
**CANADIAN BROADCAST STANDARDS COUNCIL
BRITISH COLUMBIA REGIONAL COUNCIL**

CFOX-FM re The "Larry And Willy" Show

(CBSC Decision 92/93-0141)

Decided August 30, 1993

Monica Becott (Vice-Chair), Bryan Edwards, Taanta Gupta, Robert Mackay, Gordon
Vizzutti

Since Alden Diehl, the Chair of the British Columbia Regional Council, works for CFOX-FM, he abstained from consideration of this matter.

THE FACTS

As a part of its St. Patrick's Day celebrations, CFOX-FM (Vancouver)'s "Larry and Willy" morning show aired a series of "dead Irish jokes" between March 15 and 19, 1993. They sought the participation of listeners, requesting "dead jokes" or "Irish jokes" and suggesting that the best jokes called in during this week would combine both varieties of humour.

The Canadian Broadcast Standards Council (CBSC) received a complaint dated March 25, 1993 concerning these jokes, which a listener characterized as "anti-Irish racist jokes". He cited (or, more accurately, paraphrased) two of the jokes that he alleged had been aired during the week. The listener, using these as examples of a week of similar humour, characterized that period as a "whole week of 'stupid Irish jokes' which I believe to be blatant anti-Irish racist."

The listener also accused the hosts of using the term "Paddy" to denote the Irish population and asserted that "the racist stereotyping which accompanies the use of the name 'Paddy' depicts Irishmen as stupid, lawless drunks."

Overall, the listener expressed the following view of the week: "I believe the airing of these jokes has an adverse effect on people of Irish birth and descent."

The listener requested a retraction of the jokes and the opportunity for a representative of the Irish community to speak on the show about the Irish people and their history.

The General Manager of the station responded to the listener in writing on April 13, 1993. He emphasized that "none of us here are deliberately racists [*sic*] in any way about anyone." He added that "if it happens that something we do or say on the air offends, then it's our job to fix it."

He detailed the station's course of action as follows. The first action which the station took was to discuss the letter and all the references in it to racism with all of the station's on-air people. The second step which the General Manager took was to offer to the complainant the opportunity to appear on the Larry & Willy Show in person or via representatives chosen by him to "explain your point of view, and discuss some of the background you have provided, and to hear Larry & Willy apologize for inadvertently carrying on the stereotype."

On April 26, 1993, two representatives of the Irish community designated by the complainant joined the hosts on air to read the script which they had prepared on the subject of Irish history and the use of derogatory references to the Irish people over time.

The complainant was nonetheless dissatisfied with the "attitude" of CFOX-FM. The complainant's letter to the CBSC, on the date of the broadcast, accused the program hosts of being "unprofessional with their attitude toward the seriousness of racism on the airwaves" and requested that the CBSC's British Columbia Regional Council consider the matter. Accordingly, the panel of six members, three representatives of the public and three representatives of the private broadcasters, convened to consider the file on August 30, 1993. The Chair of the Regional Council, being the General Manager of CFOX-FM, was replaced *ad hoc* by another representative of the private broadcast industry.

THE DECISION

The CBSC considered the complaint under Clause 2 of the Canadian Association of Broadcasters *Code of Ethics*, the text of which reads as follows:

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, religion, age, sex, marital status or physical or mental handicap.

The CBSC is vigilant in its application of Clause 2 to all forms and levels of programming in the sectors of the industry to which the *Code* applies but it is equally conscious of the countervailing importance to the public of the fullest expression of the freedom of speech. It is not *any* reference to "race, national or ethnic origin, religion, age, sex, marital status or

physical or mental handicap" but rather those which contain "abusive or discriminatory material or comment" based on the foregoing which will be sanctioned.

The Regional Council reviewed all the correspondence and listened to tapes of the relevant on-air programs, including the program on which representatives of the Irish community read their statement.

The Council noted a number of errors in the complainant's report of the hosts' on-air statements. While, in general, each complainant to the CBSC uses his or her best efforts to reconstruct with accuracy the words used by the broadcaster, it is understandably difficult to expect that complainants will be able to supply precise and total recollection of the on-air moment. Regional Council members always have the benefit of logger tapes and the ability to play and re-play the material moments of an allegedly offending broadcast until they have been able to fairly assess the *tone* as well as the actual words used.

On the questions of fact in this case, the Council heard no reference at any time to "stupid Irish jokes" although there were references to "dead Irish jokes". On the tapes, the term "Paddy" was used only once and then not with reference to Irish people. In fact, Council concluded that: there was neither in implicit nor explicit terms any labelling of the Irish people as "stupid" or as "Paddies"; the Irish people were not referred to derogatorily; and the hosts had used no "abusive or discriminatory material or comment" in relation to Irish people. In consequence, the British Columbia Regional Council determined that there had been no breach of the provisions of Clause 2 of the *Code of Ethics*.

The CBSC is equally conscious of the further responsibility which it has beyond the measurement of on-air programming against the standards established in the three voluntary CAB codes to encourage dialogue between the broadcasters and the members of their audiences.

In the CRTC's Public Notice relating to the Canadian Broadcast Standards Council (Public Notice CRTC 1991-90), the Commission noted that one of the three major areas of responsibility of the CBSC was "to provide a means of recourse for members of the public regarding the application of these standards" (p. 5, reiterated in the *Manual* of the CBSC at p. 5) and, in the Conclusion thereto, it stated that it was "pleased to note ... the strong educational role the CBSC has taken upon itself." (at p. 6) It further declared its satisfaction with the complaint-resolution process established by the Council:

The Commission is satisfied that the complaints process that has been established is a useful mechanism for resolving public concerns about the programming broadcast by private Canadian radio and television stations. ... The Council is committed to make every effort to resolve complaints at the level of the local broadcaster.

The extent to which the CBSC has melded the educational and communication processes can be seen in the following part of its section on Guiding Principles in the *Manual*, which provides the following (at p. 9):

Direct dialogue between a complainant and a broadcaster is the best means of resolving a concern. The Council will not consider a complaint until it is satisfied that sincere and demonstrable efforts have been made by both parties to deal with the matter to their mutual satisfaction.

Thus, in the course of complaint resolution, the CBSC considers that it is firmly within its mandate to evaluate not only the complaint itself against the standards established by the various Codes which it administers but also the responsiveness of the broadcaster in dealing with the viewer or listener.

In the present case, the Regional Council considers the steps taken by the General Manager of CFOX-FM to be of a thoughtful and collaborative nature and, indeed, exemplary in the fulfilment of broadcaster responsiveness to a complainant, despite the fact that the station itself did not consider that it had acted in a racist or offensive manner.