
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CFRA-AM re the Lowell Green Show

(CBSC Decision 93/94-0276)

Decided November 15, 1994

M. Barrie (Chair), R. Cohen (*ad hoc*), P. Fockler, R. Stanbury, M. Ziniak

THE FACTS

On the morning of June 4, 1994, CFRA broadcast the Lowell Green Show, a daily open-line show in which the host and his listeners discussed "What's Wrong With Canada Today?" During a part of the broadcast, the host spoke with two callers, a woman and a man, in sequence. The following is a transcript of that part of the show:

Mr. Green: [To previous caller]. Okay, thanks for calling, second woman of the day. Here, we're getting the third woman. Can we have some applause here or something. [Over background sound effects of audience applause.] Third woman. Way to go. Janet, you're making history here.

Female caller: I can't hear you too well.

Mr. Green: You can't hear me too well?

Female caller: Oh, there, now the applause has stopped.

Mr. Green: Yes.

Female caller: Well, I'm a practising Christian, and I know that Canada...

Mr. Green: Oh, oh. Oh, oh ... wait a minute ... when you start off...

Female caller: ... We in this country have turned our backs on God...

Mr. Green: ... OK ... all right ... Get lost. Get lost. Get lost. A preacher again. Sorry ... that ... She doesn't count. Paul, you're on CFRA.

Male caller: Hi.

Mr. Green: Yes, Paul.

Male caller: How you doin'? Oh, forget it. I won't ask. I want to point out...

Mr. Green: After that last call...

Male caller: Yeah.

Mr. Green: When born-again Christians phone me and start preaching before they even take a breath, I get ... time for me to go.

The same day, a listener wrote to the Canadian Radio-television and Telecommunications Commission (CRTC) to protest the host's treatment of the female caller. According to the complainant,

Mr. Green is well known for his aggressive bullying of callers who dare to disagree with his own facile views, but this time he went "over the line" -- away over the line!

He was urging ladies to call and a young lady did, who began by saying she was speaking from the perspective of a "born-again Christian." I was stunned by the brutal verbal assault to which she was immediately subjected by Mr. Green, who snarled before he cut her off, "Oh no -- you born-again Christians are not going to come on my program and preach to me" or words to that effect. Nor did his assault and invective against "born-again Christians" end with her truncated call -- he made a number of demeaning, defamatory retrospective comments during succeeding calls, including "born-again Christians don't count", i.e. "their opinions are unworthy of consideration." Mr. Green's impudent arrogance is exceeded only by his ignorance!!! ... As an aggrieved member of the "born-again" community upon which Mr. Green heaped his calumny, I take umbrage at his words, and his attitude; and at CFRA's ... allowing such slander against a marginalized minority..."

The CRTC referred the complaint to the CBSC, of which CFRA-AM is a member. In accordance with its usual procedures, the CBSC sent the letter to the station for response.

CFRA-AM's News Director responded to the complainant on June 27, 1994. His response included an almost verbatim transcript of the contentious segment (although there were differences between the News Director's transcript and the CBSC's transcript of the tape, these differences appear to have been unintentional and do not, in any event, affect the Council's decision regarding the matter). In that letter the News Director stated that:

In my opinion, [Mr. Green's treatment of the caller] does not constitute "a brutal, verbal assault," as you suggest. Also, in fairness, the point [Mr. Green] was making was that the program was to deal with "what's wrong with this country," (meaning the French-English debate)..and that the discussion of religion was clearly not related to the subject at hand.

Mr. Green did not snarl at the caller as you suggest, but when he tried to interrupt to get the discussion back on topic, she pressed on. Having made reference to the fact that he had a "third woman caller," Green then said "she doesn't count." I'm sorry that you misunderstood him to mean that "born again Christians don't count," but if you listen back to the tape, you will see he doesn't say that at all.

Further, ... it is entirely out of context to single out one comment from one program, without taking our overall programming presentation into account. Lowell has repeatedly allowed people with conservative Christian views onto his program.... We also broadcast (unedited) "Focus on the Family", a Christian values program for 30 minutes each weekday

I don't expect that this note will make you happy. I hope that it will present the situation from the station's perspective, and perhaps open your mind to the role of all our various programming elements and techniques -- which foster discussion and debate. The caller you referred to was not cut off for being Christian, but rather what Mr. Green perceived to be "preaching" to him in a way not related to the topic at hand. When it's germane to the discussion, we always allow Christians and other groups, the chance to have their say. It's only fair.

Shortly after receiving this response, the complainant wrote back to the station, with a cover copy to the CBSC. In his second letter, the complainant defended his position, stating that:

... it is, indeed a brutal assault to be rudely interrupted after only ten introductory words, simply because one identifies oneself as "a practising Christian," which Mr. Green identifies as a "born-again Christian,", who is then told, "get lost!" His interpretive comment to [the next caller] betrays his anti-Christian mind-set... Mr. Green clearly misrepresented a simple act of self-identification as "preaching!"

Contrary to [the News Director's] assertion, the show's content was not limited, for other callers, to "the English-French debate." But we will never know what the Christian lady's comment on even that subject was, because she started (after Lowell's rude interruption) with the observation, "we in this country have turned our backs on God." Mr. Green found this so offensive, he immediately cut her off! What the lady said was not preaching (as Lowell interpreted it to be), but a simple statement of historical fact, framed in layman's language His emotional response to a Christian's attempt to

contribute to his program clearly constitutes discrimination! Your broadcasting of "Focus on the Family" is commendable, but hardly evidence of non-discrimination.

The complainant requested that the CBSC Ontario Regional Council review the matter.

THE DECISION

The Regional Council reviewed the complainant's two letters and that of the CFRA News Director. It also listened to a tape of a portion of the program, as transcribed above. The Council noted that the tape provided by the station consisted of a short segment of the single program in question, and not of the entire program. As a result, the Council could not address the contention, raised by the complainant in his first letter, that the host made further comments about Christian people *later* during the program. Council did consider that the portion disclosed was, however, amply long to enable it to reach its conclusions.

The Regional Council considered the complaint under Clauses 2 and 6 of the Canadian Association of Broadcasters' Code of *Ethics*. The texts of these clauses read as follows:

Clause 2, *CAB Code of Ethics*

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(3), *CAB Code of Ethics*

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.

In its unanimous decision, the Regional Council agreed that the station had contravened both clauses of the Code of *Ethics*. In reviewing the correspondence and the segment of the program provided on tape by CFRA, the Council members noted that the complainant's concern was specifically with the host's abusive treatment of the caller, and with discrimination against Christian people. It was not, as the station suggested in its response, with balance, which, the News Director stated and the Council recognizes, is not necessarily ensured within a single program.

The Discrimination Issue

The members of the CBSC's Ontario Regional Council noted that the female caller was not even allowed to engage in a dialogue with the host. Once she had identified herself as a Christian, she was immediately cut off, as though her religion made her unqualified to speak on the subject at hand. The Regional Council unanimously decided that the host's treatment of the caller, as well as his comments after cutting her off did, indeed, constitute a breach of clause 2 of the CAB Code of *Ethics*, regarding "...abusive or discriminatory material or comment... based on matters of religion."

Full, Fair and Proper Presentation of Opinion and Comment

The Regional Council referred to the third paragraph of Clause 6 of the *Code of Ethics*, which refers to the "full, fair and proper presentation of news, opinion, comment and editorial." The Council was particularly concerned about opinion and comment, the issues of news and editorial not being pertinent to this complaint. The Council was guided, in its interpretation of this general provision, by policy statements regarding open-line programming. As it has done previously (for example, in the CKTB-AM decision released on April 15, 1994), the Ontario Regional Council reviewed the *Proposed Guidelines for Open Line Programs*, Public Notice CRTC 1988-121, the ultimate *Policy Regarding Open-Line Programming*, Public Notice 1988-213, and the Canadian Association of Broadcasters' *Submission to the CRTC in the Matter of Public Notice CRTC 1988-121*.

In Public Notice CRTC 1988-121, the CRTC notes that open line programs "offer... an opportunity for lively public discussion..." by "...[providing] the public with an outlet for the expression of a wide range of differing views." Nonetheless, the Commission identified three areas of concern in this category of programming, namely:

the broadcasting of comments considered abusive on the basis of remarks about race, colour, religion, national or ethnic origin, age, sex, mental or physical disability; failure to provide reasonable, balanced opportunity for the expression of differing views on matters of public concern; and a failure to meet the high standard of programming required of broadcasters. This last issue usually involved personal attacks against individuals or groups, sensationalism, lack of program preparation, inaccurate statements or overall carelessness in dealing with controversial issues.

The role of the moderator is often a determining factor in the quality of open-line programs. Intimidating and insulting callers, cutting off those with different points of view and expressing personal biases are among the abuses that some moderators have committed.

The Canadian Association of Broadcasters' *Submission* regarding the CRTC's Public Notice underlines the role open line programs can play as a home of public debate in a democracy, by stating:

... open line programs have evolved as the most instantaneous, the most natural and the most spontaneous forum for free flowing expressions of

views on matters of public concern. In our view they represent an important expression and reinforcement of true democracy and as such are characteristic of only the most secure and mature democratic societies.

Given the concerns expressed by the Commission regarding open-line programming, and the comments raised by the CAB concerning the role such programming plays in fostering discussion about important public issues, the Regional Council recognized the requirement of broadcasters to balance freedom of expression against abuses of that freedom. In Canada, the freedom of expression as guaranteed in Section 2(b) of the *Canadian Charter of Rights and Freedoms* is not without limitations (see Section 1 of the *Charter*). As the CBSC affirmed in its April 15, 1994 decision concerning CKTB-AM, "it is that delicate weighing of freedom and restriction which the host must accomplish and which, in the event of a listener complaint, the CBSC must judge."

With respect to the program under consideration, the Regional Council members agreed that the host had been rude and aggressive with the caller. This was a function not only of the rapidity with which he had cut her off, but also his derisive tone: "Get lost. Get lost. A preacher again... She doesn't count." After she had identified herself as "a practising Christian", she had only been able to utter *ten* words before being unceremoniously cut off. Her prefatory words "We in this country have turned our backs on God" were quietly stated and were not, in the view of the Council, a statement of an irresponsible nature which would have entitled a responsible, even if somewhat theatrical, host to cut her off.

The Regional Council considered that, by cutting her off on such flimsy and discriminatory grounds, the host had not only infringed her freedom of expression, but had also precluded the "free flowing expression of views of public concern" deemed essential to this type of programming. The host of the program had clearly insulted the female caller and silenced her because he believed that she had a point of view different from his. The Regional Council unanimously agreed that, by limiting debate in this manner and for this reason, the station breached clause 6 of the CAB *Code of Ethics*.

The Standard of Responsiveness

The CBSC has noted in a number of past decisions, the broadcaster's obligation, as a CBSC member, to be responsive to complainants. In this case, the Regional Council felt that the response from CFRA's News Director had been thorough and thoughtful. Therefore, the station did not breach the Council's standard of responsiveness.

Content of Broadcaster Announcement of Decision

The broadcaster is required to announce the decision, in the following terms, during peak listening hours within thirty days of the publication of this decision:

The Canadian Broadcast Standards Council has found that CFRA-AM breached clauses relating to human rights and to the "full, fair and proper presentation" of opinion and comment in the industry's *Code of Ethics*.

During the Lowell Green show aired on June 4, 1994, the host immediately cut off a woman who had identified herself as a practising Christian, and subsequently made abusive comments about her religious views. The Council decided that the host's aggressive treatment of the caller was discriminatory, and precluded a "full, fair and proper presentation" of opinion and comment.

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