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

CHAN-TV re Sportscast

(CBSC Decision 95/96-0108)

Decided December 18, 1996

E. Petrie (Chair), M. Becott (Vice-Chair), S. Brinton, R. Cohen (*ad hoc*),  
C. Murray, G. Vizzutti

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**THE FACTS**

During the course of the early evening news hour on November 23, 1995, CHAN-TV (popularly known as BCTV) included two sports segments. During each of these, segment host Barry Houlihan interviewed two local sports reporters about the state of play of the Vancouver Canucks. During the first three minute item, one of the reporters, Neil McRae, spoke of the team management in the following terms:

It's about bloody time he starts talking the way the fans are talking. They're sick and tired of the crap they're dishing out and charging 62 bucks. ...

About thirty minutes later, Houlihan returned with his two experts and continued on the same subject, namely, the Vancouver Canucks. The same reporter wove the following language into his comments:

John McCaw, the owner, is going to say 'Get your ass in there and start saving me some of my millions that I've invested.'

... They're awful in their own end. They can't break out of their own end. No, I don't see any indications. Now, if they make a trade and kick some ass, then maybe they will but not right now.

**The Complaint**

On November 24, a listener wrote the CBSC about the "gutter language" used by BCTV's "expert" interviewee. He added:

[F]rankly his crude language is completely unacceptable and is setting a very poor example to the younger generation of B.C.

### **The Broadcaster's Reply**

The CBSC forwarded the letter to BCTV for consideration and reply. BCTV's Sports Director replied in turn to the complainant on December 22. In that letter, he said:

I can appreciate your complaint about the on air presentation of Neil Mcrae. Neil is an outspoken individual and definitely adds a controversial dimension to sports broadcasting. He is an experienced and popular broadcaster but unfortunately his approach doesn't always meet the approval of all viewers.

There is no excuse for "Gutter or Crude" language on the air and I will convey your complaint to Neil personally.

The complainant, who identified himself as a senior citizen, found the response unacceptable and, on January 4, sent back his Ruling Request with a covering letter expressing his discontent. He stated that the Sports Director's "letter is an admission that Mr. Mcrae should only go on air or T.V. when younger children are in bed or be replaced!"

### **THE DECISION**

The B.C. Regional Council considered the complaint under the *CAB Code of Ethics*. Article 6(3) of that Code reads as follows:

Article 6(3), *CAB Code of Ethics* (News, etc.)

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.

The Council has also frequently felt it appropriate, in determining acceptable standards of broadcaster actions, to look for guidance to the CRTC's *Radio Regulations, 1986* or *Television Broadcasting Regulations, 1987*. In this case, it is section 5(c) of the *Television Broadcasting Regulations, 1987* which refers to language. It provides that "A licensee shall not broadcast ... (c) any obscene or profane language or pictorial representation."

The Regional Council reviewed the correspondence and viewed the tape of the program in question. For the reasons given below, the Regional Council does not consider that the broadcast breached the Code.

## Inappropriate Language

The words which offended the complainant were, presumably, “crap” and “ass”. The use or misuse of these, in the view of the Council, falls within the purview of Clause 6(3) of the *Code of Ethics*, complemented by Section 5(c) of the *Television Broadcasting Regulations*, as an example of the proper or improper presentation or expression of comment or opinion.

It is, of course, clear that, to the extent the words in question offend the Code, the broadcaster bears full responsibility for them despite the fact that the commentator is not a regular station employee. Broadcasters are, in general, responsible for any programming which they air. This includes programming which they do not originate (see *CKVR-TV re Just for Laughs*, CBSC Decision 94/95-0005, August 23, 1995), advertising (see *CFTO-TV and CFMT-TV re Walk to Work Commercials*, CBSC Decision 93/94-0015, June 22, 1994) and the comments of callers-in to talk shows.

The words in question are not, in the view of Council, attractive, articulate or perhaps even appropriate to the airwaves. They may even be, to use the characterization of the complainant, “gutter or crude” language. They are not, however, in the view of the B.C. Regional Council, either obscene or profane, which is ultimately the test which the Regional Council must apply. To the extent that the question is one of *taste* rather than obscenity or profanity, the CBSC will not interfere with the broadcaster’s choice. In *CHTZ-FM re the Morning Show* (CBSC Decision 92/93-018, October 26, 1993), the Ontario Regional Council stated that “The sanctioning of bad taste, unpalatable as it may be, does not fall within the ambit of the CBSC’s mandate under its Codes.”

Council members are of the view that, however regrettable, the language used in the broadcast in question here may be typical of sports discussions and has probably fallen into everyday English vernacular. In dealing with other purportedly offensive language in *CFRA-AM re Steve Madely* (CBSC Decision 93/94-0295, November 15, 1994), the Ontario Regional Council observed:

In its determination of what constitutes “obscene or profane language”, Council considered that current broad social norms must be applied. The Council also had to face the fact that some language which may at another time have been broadly considered obscene or profane had now slipped into common and marginally acceptable usage. Terms formerly considered blasphemous or irreligious are today non-religious and inoffensive to the population as a whole, even if perhaps in poor taste. In general, the Regional Council concluded that there may be words which ought not to be used in the medium but whose use could not be raised to the level of profanity or obscenity. ... While good taste and judgment might have dictated the non-use of the expression on the public airwaves, it was not a sanctionable usage.

The B.C. Regional Council adopts this view of the words complained of in this instance.

The CBSC also believes it appropriate to point out that *its* responsibility is limited to determining whether or not a program complained of by a viewer or listener has *breached* one of the broadcast Codes which it administers. Broadcasters, on the other hand, do not merely adhere to Codes; they go further. In a broad sense, in the experience of the Council, broadcasters are responsive to the concerns of their audience. Thus, even in circumstances such as those in the present case, where the broadcaster's program is found to be in *conformity* with the Codes to which it adheres, the station may, nonetheless, agree with the listener and take steps to ensure that the situation does not recur. Thus, in this case, the Sports Director did indicate that he agreed with the complainant that such language does not have a place on the air and that he would convey the complaint directly to the sportscaster in question. Consequently, the Council considers it important for viewers and listeners to appreciate that, even where the Council does not find the *breach* of a broadcast code, there may be value and a positive result from their raising an issue of concern with the broadcaster or the CBSC.

### **Broadcaster Responsiveness**

The CBSC always recognizes the broadcaster's obligation, as a CBSC member, to be responsive to complainants. In this case, the Regional Council considers that the response from BCTV's Sports Director, while not lengthy, did comply with the Council's standard of responsiveness.

*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.*