
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CHCH-TV re *Life Today with James Robison*

(CBSC Decision 95/96-0128)

Decided April 30, 1996

A. MacKay (Chair), R. Stanbury (Vice-Chair), R. Cohen (*ad hoc*), P. Fockler,
M. Hogarth, M. Ziniak

THE FACTS

Life Today is a religious program hosted by James Robison which airs on CHCH-TV (Hamilton) at 5:30 a.m. On January 16, 1996, the episode entitled "Looking for Love" dealt with homosexuality. The host introduced his topic in the following way:

Welcome. We do welcome you to Life Today. I'm James Robison. Betty is here with me and we really have a very serious subject this week: Looking for Love. But we're going to be dealing in particular with homosexuality, with the gay life and we're going to be talking to homosexuals, those who have been trapped, or at least, in the lifestyle - some would not consider it being trapped at all, some would consider it acceptable and normal and some would say "Well it's just the way I was born and the way I was made and so forth."

We're going to be talking about it all week and I would really like you to understand that we are not speaking from a point of criticism. Betty and I both happen to be professing Christians; that means we say we are Christians. A lot of people say they are Christians but they are anything but Christ-like. We profess to be Christian, whether we are Christ-like can be determined by our life, as Jesus himself has said "By the fruit of the life you know the individual." Hopefully our lifestyle communicates some of the attributes - and I hope, I know Betty does anyway - communicate many of the attributes of Jesus.

But we are speaking of this issue and dealing directly with it out of love and concern. We'll be speaking to people who are in this audience, who have family living the gay lifestyle, some who have lost family members to AIDS because of a gay lifestyle, by their own acknowledgment. We will be talking to some who are right now dealing with the stark news - just as far as they are concerned - if they have children who are in this lifestyle. And I want to say to all of you. We are talking about it today for just one reason: because we really care.

For the most part, the program consisted of an interview with a man referred to as “John Doe” who admitted to having once been a homosexual but who now proclaimed “to have found Jesus” and left “the gay lifestyle”. The host questioned him on a range of topics from what led him to “the gay lifestyle” in the first place to how he reacted to preachers saying that “homosexuality is a ‘most despicable lifestyle’.” Mr. Robison also discussed the perceptions the gay community had of the religious community:

James Robison: We in the Christian community, we hear the word homophobia a lot. It seems that if anyone says that we don’t believe that homosexuality is an acceptable lifestyle (we believe it is in fact a sin, like heterosexual adulterous lifestyle), well, you’re homophobic. Doesn’t that seem a little extreme, coming from the gay community back toward the religious community, when someone simply says “I don’t think that’s right”. I don’t think that makes a person homophobic, do you?

John Doe: I don’t either and, if you look at the word phobia, it means extreme fear. If I were homophobic, I’d be completely schizophrenic because I wouldn’t be able to deal with myself and ... extreme fear means ... it’s like your claustrophobia. They will die to go into an elevator, but phobia ... homophobia is an extreme word but we need to get to conviction. I have a conviction that homosexuality is sexual sin.

James Robison: You say this as someone who has lived in the gay lifestyle.

John Doe: Right.

The Letter of Complaint

On January 16, 1996, the complainant wrote to the CRTC and this letter was in turn forwarded to the CBSC. The letter stated, in part,

This episode was blatantly anti-homosexual and was in the poorest of taste.

Our host went for the opposite of the fire and brimstone approach so many TV evangelists use. Instead we are given a mystery man who claims to be an ex-gay who changed his lifestyle for God. Yet this guest had to have his face blacked out on TV. However, the real disgusting part was at the end of the interview. Mr. Robison implied that a hardline approach against homosexuals was not the same as a similar approach against other minorities (gender, religion, race, etc.). He went as far as to state that the latter was not warranted. This can only mean that the bigoted Mr. Robison thinks Gays and Lesbians should not be treated fairly as human beings too. Hate should not be protected under the guise of religious broadcasting.

The complainant sent another letter to the CBSC five days later, on January 21, adding three more episodes of this program to his complaint, thereby including the remainder of the week in which Robison dealt with homosexuality. While the Council acknowledges that the complainant sought to broaden his complaint, the Council finds that this additional letter again only focussed on the episode of Tuesday, January 16 (the letters were virtually

identical), and therefore considers it appropriate to limit its adjudication to the specific complaint relating to the January 16 episode.

The Broadcaster's Response

The station's Executive Vice-President and General Manager responded to the complaint by letter dated February 6. The station took the position that it was Clause 14 (which deals with the treatment of religious programs) of the *Code of Ethics* of the Canadian Association of Broadcasters (CAB) which applied in this case and tailored its response accordingly. The letter read in part as follows:

Broadcasters have the requirement to "...make available to the community adequate opportunity for presentation of religious messages..." and the responsibility that these broadcasts "...shall not be used to convey attacks upon another race or religion". I believe there is no fundamental inconsistency in widening the description of those to whom there should be no attack to include the gay community, among others.

We convened our internal screening committee to address the specifics of your comments. Your comments begin with your statement that the program in question was "blatantly anti-homosexual". Several of us have reviewed the program many times, and do not come to that opinion. James Robison began the program and continued throughout to espouse the view that he was reaching out to those "in a homosexual lifestyle." Robison was very direct in stating his beliefs that gays could be aided if their aim was to no longer be a practising homosexual, and that aid would come in the form of a relationship with God. This is a belief that he, as a minister of a Christian faith, has the right to disseminate.

You also stated that Robison "...implied that a hardline approach against homosexuals was not the same as a similar approach against other minorities. In this section of the program it appeared to us that Robison was very inclusive in his comments so that it would not be perceived as being anti-gay. In this context, Robison stated he believes that a homosexual lifestyle is a sin to the same extent that it is a sin for a heterosexual man to have extra-marital sex. In both instances he declared that he believes God does not agree with him saying it's all right for someone to do whatever he wants. As a minister of a Christian faith, it is his responsibility to preach the fundamentals of that faith, and a belief that all humans have choices to make regarding their lifestyles is one of those articles of faith. It is not necessary that either you or I agree with his position, only that it be presented so that it does not convey hate upon another group.

The complainant was not satisfied with the broadcaster's response and requested that the matter be referred to the appropriate Regional Council for adjudication.

THE DECISION

Although the broadcaster considered Clause 14 of the CAB *Code of Ethics* to apply to the complaint, relying for the most part on the prohibition against using religious programming to "convey attacks upon another race or religion", which it was applying by analogy, the CBSC believes that the more appropriate provision, particularly in light of its interpretation

of the human rights clause as including sexual orientation, would be Clauses 2 and 6 of the *CAB Code of Ethics*, which read as follows:

Clause 2 (Human Rights):

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 (News):

It shall be the responsibility of member stations to ensure that news shall be represented with accuracy and without bias. The member station shall satisfy itself that the arrangements made for obtaining news ensure this result. It shall also ensure that news broadcasts are not editorial. News shall not be selected for the purpose of furthering or hindering either side of any controversial public issue, nor shall it be designed by the beliefs or opinions or desires of the station management, the editor or others engaged in its preparation or delivery. The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening, and to understand events so that they may form their own conclusions.

Therefore, nothing in the foregoing shall be understood as preventing news broadcasters from analyzing and elucidating news so long as such analysis or comment is clearly labelled as such and kept distinct from regular news presentations. Member stations will, insofar as practical, endeavour to provide editorial opinion which shall be clearly labelled as such and kept entirely distinct from regular broadcasts of news or analysis and opinion.

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 Regional Council members viewed a tape of the program in question and reviewed all of the correspondence. The Council considers that program in question does not violate any of the provisions of the *Code of Ethics*.

Sexual Orientation and Clause 2 of the *Code of Ethics*

At the outset, the Council notes that sexual orientation does not appear in the text of clause 2 of the *Code of Ethics*; however, previous interpretation of this provision has led to its inclusion as a protected ground of discrimination. In *CHQR-AM re Forbes and Friends* (CBSC Decision 92/93-0187, August 8, 1994), the CBSC stated that

Although Clause 2 does not contain a specific reference to “sexual orientation”, the Regional Council considered that the term “sex” could reasonably be understood as being broad enough to include “sexual orientation”.

More recently in *CJRQ-FM re Opinion Poll* (CBSC Decision 94/95-0135, March 26, 1996), the Council confirmed that sexual orientation is a protected ground under Clause 2 of the *Code of Ethics*.

It should be borne in mind that the *CAB Code of Ethics* was created in 1988. When, two years later, the private broadcaster codifiers created the *Sex Role Portrayal Code*, with the approval of the CRTC, they provided, in Article 3, for “fair and equitable demographic diversity” in the following terms:

(3) *Demographic Spectrum:*

Television and radio programming shall portray the wide spectrum of Canadian life. Women and men shall be portrayed with fair and equitable demographic diversity taking into account age, civil status, race, ethnocultural origin, physical appearance, sexual orientation, background, religion, occupation, socio-economic condition and leisure activities, while actively pursuing a wide range of interests. Portrayals should also take into account the roles and contributions of the mentally, physically and socially challenged.

Similarly, in creating the 1993 *CAB Violence Code*, the private broadcaster codifiers, again with the approval of the CRTC, provided a corresponding protection on the basis of sexual orientation in Article 8:

- 8.1 Broadcasters shall not telecast programming which sanctions, promotes or glamorizes violence based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age, or mental or physical disability

Furthermore, Section 3(b) of the *Radio Regulations, 1986* provides that “A licensee shall not broadcast any abusive comment that, when taken in context, tends or is likely to expose an individual ... to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability.”

In all, the Ontario Regional Council considers that, until such time as the Code is formally amended, the only appropriate application of the human rights provision of the *CAB Code of Ethics* is to include “sexual orientation” within the Council’s understanding of “sex”.

The Council further notes that the CRTC amended all of its regulations dealing with broadcasting content in 1991 to include sexual orientation as one of the bases on which abusive comment is prohibited. While the CAB has not yet amended its *Code of Ethics*, which was drafted in 1988, the Council does not find this situation problematic. The Council notes that the Supreme Court of Canada has read sexual orientation into section 15 of the *Canadian Charter of Rights and Freedoms* in *Egan v. Canada* [1995] 2 S.C.R. 513. In that decision, Mr. Justice La Forest stated:

I have no difficulty accepting the appellants’ contention that whether or not sexual orientation is based on biological or physiological factors, which may be a matter of some controversy, it is a deeply personal characteristic that is either unchangeable or changeable only at unacceptable personal costs, and so falls within the ambit of s. 15 protection as being analogous to the enumerated grounds. [Emphasis added.]

The Content of the Program

The Regional Council finds that *Life Today* hosted by James Robison is a program which, by its very nature, involves the presentation of opinions and presupposes a moral bias. It does not purport to be objective, as is made clear by the introduction reproduced above. Accordingly, such a program should not, indeed, *cannot* be judged using the criteria of accuracy and fairness that would be applied to news or public affairs programming. Rather, when dealing with the expression of opinions, the Council must merely determine whether these opinions are expressed in a manner that is abusive or discriminatory.

The requirement for an abusive or hateful element in finding a breach of Clause 2 of the *Code of Ethics* was recognized in *CFOX-FM re the Larry and Willie Show* (CBSC Decision 92/93-0141, August 30, 1993), where the Council concluded that

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.

In this case, it appears to the Council that it was the host's point of view with which the complainant took issue. The host's message was that monogamous heterosexuality was the "right" lifestyle. He expressed the view that a proper interpretation of the Bible leads to the conclusion that homosexuality is an unacceptable lifestyle (as is also the case with adulterous heterosexuality, according to his interpretation). It is not the Council's mandate to determine the correctness of the views presented, but only whether the views were presented in a non-abusive, legitimate manner. In a contrary circumstance, they would be in breach of the Code; however, in this case, the Council finds that the host's statements were expressed as his moral position, presented in a legitimate manner and not at all as hateful commentary.

In *CJRQ-FM re Opinion Poll* (CBSC Decision 94/95-0135, March 26, 1996), the Council determined that statements made on air were "blatantly homophobic," abusive and discriminatory, contrary to Clause 2 of the *CAB Code of Ethics*. In that case, the on-air host asked the question "Should taxpayers pick up the tab for sex-change operations that are deemed medically necessary?" A selection of listeners' views were later broadcast. One of the selected calls contained the following phraseology: "some sick demented obviously mentally disturbed homosexual", "minces into a hospital or clinic" and "this misfit of the natural order". No such language or tone was used by the host, his guest or the audience of *Life Today*.

In his letter, the complainant alleges that "Mr. Robison implied that a hardline approach against homosexuals was not the same as a similar approach against other minorities (gender, religion, race, etc.)". The Council finds that this is not a fair characterization of what was actually said. As is always the case, the CBSC members have the benefit of a

tape of the broadcast which they can watch or listen to more than once to ensure they have the precise words and tone, a disadvantage for any viewer or listener who generally has only fleeting initial contact with the program as it goes by. In the circumstances, the Council bases its determination on the following statement which it takes to be the implication referred to by the complainant:

James Robison: ...Recently, we've done this great scientific discovery where our scientists, biologically now, they've told us there really is a difference between men and women. ... I mean, I'm asking you to keep calm because some people would like to laugh right now, and I understand there's a little smile, even in my face. There really is a difference physically, by nature, naturally. There really is a difference and it is for us to reach a point - I mean, this is where I wish you could understand it - you see, I think depravity is where we really are apart from the way God is, and a point of depravity is to where you can cruelly put people down just because they have a lifestyle or a tendency and you just brand them, "despicable". Put yourself up at the [inaudible]. You don't mean to be doing that, but in the religious community, we tend to do that. That's depravity. That is not the way Jesus is. Jesus would not even run around closing down houses of prostitution and throwing rocks through every beer joint or tavern he could come in contact with. Actually he spent most of his time tearing up synagogues and church places. To be very honest with you, that's where he spent most of his time. Because he said "This is not like my father. This is nothing like my father."

So that's a point of depravity where we get so cruel that we look at people, we look down at them because of the colour of their skin, or the way they live. Well, that's depravity. But it's also depravity to so twist our thinking to say that we can fit together that which is simply physically not even made to come together. Nature knows this. The plant life knows this. I mean, birds and bees know this. Animals know this. It's only people who can twist truth until they become either cruel, until they'll say anything extreme to justify their lifestyle.

The Council finds that this statement was an expression of faith in the power of conversion and that by saying this he was not advocating that "Gays and Lesbians should not be treated fairly as human beings", as contended by the complainant.

Broadcaster Responsiveness

In addition to assessing the relevance of the Codes to the complaint, the CBSC always assesses the *responsiveness* of the broadcaster to the substance of the complaint. It is a responsibility of membership in the CBSC to be responsive to audience complaints. The Council has a wide experience of broadcaster responses and found this letter admirably thoughtful with respect to the issues raised by the complainant. The Council notes that the letter acknowledged the importance of responding to viewers when it stated that "It is only through dialogue with our viewers that we can understand their concerns regarding the programming we offer on our station." The Council finds that the broadcaster has fulfilled its responsibilities with respect to responding to complaints. Nothing more is required.

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.