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**CANADIAN BROADCAST STANDARDS COUNCIL  
QUEBEC REGIONAL COUNCIL**

TVA re Piment Fort

(CBSC Decision 95/96-0211)

Decided August 14, 1998

Y. Chouinard (Vice-Chair), R. Cohen (*ad hoc*), M. Gervais, S. Guoin, P. Tancred

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**THE FACTS**

TVA runs a fast-paced celebrity comedy game show each weekday afternoon, which is hosted by Normand Brathwaite. During a segment of the show of April 23, 1996, three well-known personalities were invited to pick their favourite recent headlines and comment on them in witty fashion. The host's opening remarks and that segment of the show ran as follows:

**Normand Brathwaite:** Merci. Merci beaucoup. Merci. Vous êtes trop gentils. Bonsoir et bienvenue à *Piment Fort* directement du Café Campus à Montréal. Pour s'amuser avec nous ce soir, mesdames et messieurs, quand il est né il a disparu de la pouponnière, Alain Choquette. Quand il est né son père aurait mieux aimer avoir un flamant, mesdames et messieurs, Marc-André Coallier. Et quand il est né, il avait des cheveux, mesdames et messieurs, Pierre Légaré. Bonsoir.

**Pierre Légaré:** C'est-à-dire, Normand, j'avais pas de cheveux, d'ailleurs ma mère se trompait de bout quand elle me mettait la couche pendant à peu près deux mois.

**Normand Brathwaite:** On perdra pas de temps. On va tout de suite faire un petit tour de table voir s'il y a quelque chose dans les nouvelles qui vous a frappé ou sur quelles nouvelles vous voulez frapper. On va commencer par Alain.

**Alain Choquette:** Bon, ça tombe bien, j'en ai une.

**Normand Brathwaite:** Bon, vas-y.

**Alain Choquette:** Ça ne veut pas dire que c'est drôle, mais ...

**Normand Brathwaite:** Vas-y.

**Alain Choquette:** Et ça dit: "3,9% pour les policiers". Un peu plus pis y'avaient leur 4%.

**Normand Brathwaite:** C'est cute.

**Alain Choquette:** Faut pas parler contre les policiers, Normand. T'en sait quelque chose.

**Normand Brathwaite:** Bien sûr.

**Alain Choquette:** Alors, deuxième nouvelle qui m'a frappé: "Un foyer sur trois a un ordinateur". Oui, les deux autres ont des bûches.

**Pierre Légaré:** Est propre, faut la comprendre.

**Alain Choquette:** C'est parce que c'est un foyer.

**Normand Brathwaite:** C'est cute. C'est plat mais c'est cute.

**Marc-André Coallier:** C'est ce qui s'appelle frapper un noeud.

**Normand Brathwaite:** Oui. Marc-André.

**Marc-André Coallier:** Alors, cette belle nouvelle: "Anglophones en voie de disparition?" Yes. [Applause] La semaine va être courte.

**Normand Brathwaite:** Tu vas faire grouiller ta Ville Mont Royal avec ça.

**Marc-André Coallier:** "Le Canada, un pays généreux." Oui, pis on est même prêt à donner Jean Chrétien.

**Normand Brathwaite:** O.K. Pierre.

**Pierre Légaré:** J'ai trouvé deux devises. La première: "Le travail tue". La devise d'École bleue. Et, "En finir au plus vite". La devise de tous les gars.

[English translation, added after initial publication]

**Normand Brathwaite:** Thank you. Thank you very much. You're too kind. Good evening and welcome to *Piment Fort* live from Café Campus in Montreal. To amuse us this evening, ladies and gentlemen, when he was born he disappeared into the nursery, Alain Choquette. When he was born, his father would have rather had a flamingo, ladies and gentlemen, Marc-André Coallier. And when he was born, he had hair, ladies and gentlemen, Pierre Légaré. Good evening.

**Pierre Légaré:** That is to say, Normand, I didn't have hair; rather, for about the first two months, my mother kept mistaking my top for my bottom when putting on my diaper.

**Normand Brathwaite:** We're wasting time. We're going to go around the table to see if anything in the news struck you or what news stories you want to hit on. We'll start with Alain.

**Alain Choquette:** Well, that's good, I've got one.

**Normand Brathwaite:** Good, go ahead.

**Alain Choquette:** That's not to say it's funny, but ...

**Normand Brathwaite:** Go ahead.

**Alain Choquette:** It said "3.9% for the police". Just a bit more and they would've had their 4%.

**Normand Brathwaite:** That's cute.

**Alain Choquette:** Shouldn't speak badly about the police, Normand. You know something about that.

**Normand Brathwaite:** Of course.

**Alain Choquette:** So, the second news story that struck me: "One household in three has a computer". Yes, because the other two have logs. [this is a play on words in French because the word "foyer" means both "household" and "fireplace"]

**Pierre Légaré:** It's literal. You have to understand it.

**Alain Choquette:** It's because it's a "foyer".

**Normand Brathwaite:** It's cute. It's dull, but it's cute.

**Marc-André Coallier:** That's what you call hitting a wall.

**Normand Brathwaite:** Yes. Marc-André.

**Marc-André Coallier:** So, this great news: "Are the Anglophones Disappearing?" Yes. [Applause] This is going to be a short week.

**Normand Brathwaite:** You're going to get a rise out of Mount Royal with that.

**Marc-André Coallier:** "Canada, a Generous Country". Yes, and we're even ready to give away Jean Chrétien.

**Normand Brathwaite:** Okay, Pierre.

**Pierre Légaré:** I found two slogans. The first: "Work kills". The slogan of École bleue. And, "Finish as fast as possible". The slogan of all guys.

## The Letter of Complaint

An Anglophone viewer sent a letter to the CRTC (which, although undated, was received by the Commission on April 29). That letter was in turn forwarded to the CBSC.

After turning on my television to ... CFTM to a program called "Piment Fort" at 6:30 <sup>PM</sup>, Tuesday, April 23rd I was shocked to hear the outright racist remarks expressed. The program is moderated by Normand Brathwaite who seems to joy in whipping up anti-English sentiment. One panellist was asked what his greatest dream was to which he replied "To see all the Anglos disappear." This was closely followed by sarcastic remarks regarding Canada's generosity. As a Canadian Commission you cannot stand by and be a party to this kind of racism. Look into this show carefully as well as into the nest of separatists that collect their Canadian cheques at Radio Canada.

## The Broadcaster's Response

The Vice-President of Programming of TVA replied to the complainant on June 18. That letter (courteously sent in English) reads in part as follows:

At the outset we must underline that this production is not produced by Télé-Métropole Inc. but broadcast under licence from the producer named Avanti Ciné-Video Inc. Hence this independent producer is first and foremost the party responsible for the content of the said production.

However, Télé-Métropole as a broadcaster licenced by the CRTC is subject to the applicable laws and reglementation and more particularly to section 5 of the *Television Broadcasting Regulation of 1987* which states that:

5. (1) A licensee shall not broadcast
  - (a) anything in contravention of the law;
  - (b) any abusive comment or abusive pictorial representation that when taken in context, tends or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;
  - (c) any obscene or profane language or pictorial representation; or
  - (d) any false or misleading news.

In the present case the said obligation must be appreciated in the context of a humoristic [*sic*] show where the questions and replies [of] the guest stars are triggered to provoke reactions from the live public [*i.e.*, audience]. Also, we refer to the interpretation section of the *Broadcasting Act* which provides that:

- (3) Interpretation.-- This Act shall be construed and applied in a manner that is consistent with the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings.

We understand that humoristic [*sic*] material is always a delicate "product" and is always a question of taste especially if this humour is mixed with political questions.

In the present case we are of the opinion that the said replies were within the acceptable limits of the freedom of speech guaranteed in a free and democratic society.

As to your last comment concerning Radio-Canada as being a "nest of separatists" your concerns must be addressed to Radio-Canada with whom we do not have any bonds.

The viewer was unsatisfied with this response and requested, on June 28, that the CBSC refer the matter to the appropriate Regional Council for adjudication. Her Ruling Request was accompanied by a covering letter in which she observed, among other things, that

In my initial letter of complaint I described that when asked “What would your best dream be” the panellist answered “To see all the Anglos disappear”. I believe that in any context and under any circumstance this is a hateful and racist statement and it is irresponsible and demonstrates poor judgment on the part of both Avanti CinéVideo for producing such an inflammatory program and on the part of Télé-Métropole for broadcasting it. In these very trying time of political uncertainty I believe it behoves all media to refrain from inflaming racist sentiment for personal gain.

## **THE DECISION**

The CBSC’s Ontario Regional Council considered the complaint under the *Code of Ethics* of the Canadian Association of Broadcasters (CAB). Clause 2 of that Code reads 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.

The Regional Council members viewed a tape of the program in question and reviewed all of the correspondence. The Quebec Regional Council considers that the program is not in breach of the *CAB Code of Ethics*.

### **A Level of Misunderstanding**

While the cross-over of bicultural and bilingual interests in Canada is a great benefit of this society, it may happen that any individual, Anglophone, Francophone or allophone, may miss the sense of a remark made in a language not his or her own mother tongue. The Quebec Regional Council believes it necessary to make this point at the start of this decision since it appears that some of the complainant’s misunderstanding may have arisen on this basis.

In her letter of complaint, she said that “One panellist was asked what his greatest dream was to which he replied ‘To see all the Anglos disappear.’” In fact, the segment of the program in dispute dealt with *headlines*, not with dreams, wishes or desires. Moreover, the headline itself would have been translated as “Are the Anglophones Disappearing?”, which

would presumably have come from a newspaper article dealing with the demographic question the emigration of Anglophones from the Province of Quebec or something similar. The complainant's interpretation of that segment of the show seems to miss that point. While the Regional Council considers that the language comprehension issues were undoubtedly in good faith, they may well have altered the complainant's perception of the program.

### **The Broadcaster's Responsibility for Material Aired**

There is a suggestion in the response of the broadcaster that the *primary* responsibility for the program in question is that of its producer, Avanti Ciné-Video Inc. As the broadcaster stated in its reply, "Hence this independent producer is first and foremost the party responsible for the content of the said production." While the Vice-President of Programming does go on to acknowledge the network's responsibility under the *Broadcasting Act*, the Council believes that it should point out that the *primary* responsibility is that of the broadcaster, and not the producer, for whatever the broadcaster chooses to put on its airwaves. It is always useful for a broadcaster to point out to its producers of programming, whether in-house or independent, just which standards it employs for its programming but it is on the broadcaster's desk, not the producer's, that the proverbial buck stops.

### **The Content of the Program**

Despite the question of any linguistic misunderstanding, the complainant was of the view that the segment of *Piment Fort* which she has challenged was racist. The Council must now, therefore, turn its attention to that concern.

The CBSC has often dealt with the question of comments relating to the enumerated definable groups mentioned in Clause 2 of the *CAB Code of Ethics*. Its position, in general, is that it is not *every* comment made about an identifiable group which may be in breach of the human rights provision but only those which are found to be abusively discriminatory. The circumstances of appreciation may also differ where comedy is the intended and perceived result of a broadcast. As the Ontario Regional Council put the matter in *CHUM-FM re Sunday Funnies* (CBSC Decision 95/96-0064, March 26, 1996),

The situation is different where the context is clearly comedic. After all, where the audience is given no reason to expect that the substance of the comments made is serious, their attitude could *reasonably* be expected to be different. A remark which might reasonably be assessed as abusive in a serious context and thus in breach of the *Code of Ethics* may not be so viewed in the comedic environment.

Furthermore, humour is commonly based on national, ethnic, racial or gender traits, as often as not related to background matters best-known to the comedian. Even stereotypes are not

unknown in such a context. Such issues cannot *alone* be the cause of a broadcast sanction. They must be *coupled* with another defining criterion; namely, they must be abusive or discriminatory.

In *CHFI-FM re the Don Daynard Show* (CBSC Decision 94/95-0145, March 26, 1996), it was decided that “The Council’s duty is to put a potentially offensive ethnic joke on its societal scale and determine whether it could *reasonably* be viewed as having gone too far.” That is the duty of the Quebec Regional Council in this case.

In that assessment, the Council considers that the humour of the segment was related not so much to the headlines themselves as it was to the follow-up comments by the three panellists, which were generally plays on words. The first of the headlines selected dealt with the police, and the pun presumably related to labour or employment issues. In the second headline, the double-entendre played on the word “foyer” which, in French, is both a fireplace and a home, thus rendering the interplay between computers and homes, on the one hand, and logs and fireplaces on the other more amusing.

The third headline, the one which distressed the viewer, involved the headline [translated from the original French] “Are Anglophones Disappearing [from Quebec]?” The answer was the single English word “Yes”, the obvious play on words being the reference to the 1995 referendum question on sovereignty. Although the word “Anglophone” was used, the pun, in the view of the Quebec Regional Council, was harmless *political* fun, not racist diatribe. This was reinforced by the subsequent humorous reference to Canada as a generous country, so generous, in fact, that they were prepared to give away Jean Chrétien. All in all, the Quebec Regional Council considers that the headline pun relating to Anglophones leaving Quebec does *not* exceed the standard of reasonableness established in the *CHFI-FM* decision.

### **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. In this case, the Council considers that the broadcaster’s response addressed fully and fairly all the issues raised by the complainant and, moreover, made the courteous effort to respond to the listener in her language, English, rather than in the language of the program about which she was complaining. Nothing more is required. Consequently, the broadcaster has not breached 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.*