
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

Comedy Network re Bill Maher Special

(CBSC Decision 97/98-0560)

Decided July 28, 1998

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

THE FACTS

The Comedy Network aired a one-hour Bill Maher Special (entitled "Bill Maher: Stuff That Struck Me Funny") on January 10, 1998 at 9:00 p.m. (Toronto time). The show was repeated on January 11 at 3:00 a.m. The Special consisted of a taping of comedian Bill Maher doing a stand-up show in Minnesota. The subjects covered were wide-ranging; however, the offending part of the show, from the complainant's point of view, included the following material, which ran during the last 15 minutes of "Stuff That Struck Me Funny".

Sacrificing virgins. Modern man had nothing on those, that, ... Now, there was an idea. There was a scam. Remember, ancient cultures, they would all sacrifice virgins to the gods, they said, but I don't think ... the gods didn't want the virgins, but the guys on earth were not about to sacrifice the sluts. You know, ... I don't care what religion, what culture, what god, men don't kill sluts. No, this was a scam to get over on women. A guy'd be out with a girl, if she wouldn't put out, he'd be, like, "So, you going to the big Sacrifice? Gee, I wonder who they'll pick. I, uh, I'm goin' and I'm one of the judges. Honey, look, I'm not for it but the law is the law, you know." ...

...

If someone wants to pay, you let him pay. It's not a man/woman thing, it's a Christian/Jew thing. I'm makin' a joke. I just, I can make that joke because I'm half Catholic and half Jewish. A lot of great people are both. Jesus. Right? Jesus was a Jew, and if a Jew, why the Spanish name?

I'm not knocking Jesus. Don't start with me because ... You know, he was a great guy, that's true, I mean, died for all of our sins. That is nice. That is a gentleman. That is what I call picking up the check for the whole table. "No, gimme those sins. Please. Come on, it's on me. Come on, my father's big with the company, gimme that."

Oh, you know he was great because, when Jesus died, they started to count time again. That is a tribute. I don't care what you do on this earth, they are not going to go, "Bill, when you die, we're going back to one. That's just the way we feel about you, my friend. You are worth it. Yes, it'll be a hassle with the calendars and the banks." You know, in the year one, people used to go around saying "You know, it's February and I'm still writing zero on my checks. Where did that zero year go?"

A lot of history in those, eh, ... You know who's the real fly in the ointment with the Catholics was Henry VIII. Wanted to divorce his wife and he called up the Church and they said "You cannot divorce" and he said "Well then, I'm gonna cut her head off." The Church said, "Oh fine, cut her head off, we've been beheading for years. Oh, I thought you were going to divorce her, wooh. Oh my God!. Go back to sleep, Your Holiness, false alarm."

See, I don't understand why now the Catholics can drink wine in Church but the Rastafarians, they have to go to court so they can smoke their marijuana. I mean, everybody wants to be a little fucked up when you talk to God. He's a scary guy. You wanna be a little fucked up. And, He looks better. I don't understand why there's like God drugs and lab drugs and the lab drugs are the legal ones, the ones you get with a prescription which is another racket.

...

I'll tell you the ones that are good are the ones that are natural like mushrooms that grow in cowshit. You can't get any more natural than cowshit. Why would God have made so many different kinds of mushrooms and then one kind that's really different. You know, this one is good in a sauce, this is good in eggs, this one makes you laugh for eight straight hours. I don't think it's random, I mean, I think God knows that you have to laugh for eight straight hours sometimes. God knows life sucks. He knows. Absolutely.

It's right in the Bible. You know the Bible. What is the Book of Job? It's about a man who gets to talk to God, he says, "God, can you take away pain and misery?" and God says [guffaw] "No, of course not. If I took away misery no one would talk to me. Get this guy, 'take away misery'. But I'll give you drugs. And that'll help a little." I'm paraphrasing God. Those were not were not His exact words. But that is God's basic point.

Because, let's face it. God has a big ego problem. You we always have to worship: "Oh you're the greatest, we're shit. You up there. We're down here. You know everything, we're big fuck-ups." You know, secure people don't need to hear that all the time. That's why I believe in Dr. Kevorkian. 'Cause, suicide is like our way of saying to God "You can't fire me. I quit."

The show was preceded by the following advisory: "The following program may contain material that some viewers might find offensive." At the end of it, there was the following added audio comment: "Get a life." The show was rated 18+.

The Letter of Complaint

A Toronto viewer sent the following letter of complaint to the CRTC:

The blasphemous jokes at the conclusion of Mr. Bill Maher's show "Stuff that struck me funny" disturbs [*sic*] me very deeply, and violates all rules of decency and common sense.

The show was transmitted on the new comedy cable network at 9.00 P.M. January 10, 1998 and repeated at 3.00 A.M. January 11, 1998.

In a land where an oath of office or legal testimony in a court of law is based on the Judo-Christian [*sic*] principles of the Holy Bible representing the word of God, I find it morally and socially unacceptable as a citizen of Canada to assume a passive role after viewing the last segment of the show mentioned above. To remain silent is to condone and encourage such deplorable conduct in the future.

Please take the necessary steps to investigate and invoke all applicable laws to prevent the future transmission into our homes of this form of offensive entertainment.

The Broadcaster's Response

The Vice President of Programming at the Comedy Network sent the following letter to the complainant on January 28:

The Canadian Broadcast Standards Council (CBSC) has forwarded your letter of January 12, 1998 regarding the special entitled "*Bill Maher: Stuff That Struck Me Funny*" which aired on January 10, 1998, for our response.

From the beginning, *The Comedy Network* has set out to present a program schedule that is adult, irreverent and alternative to much of the mainstream comedy that is available on conventional broadcasters. As a consequence, our programming tends to be more risqué and controversial.

As you may be aware, 9:00 p.m. is generally accepted as the watershed in prime time where adult material appears. After 9:00 p.m., broadcasters may present programming, which portrays adult situations and explicit language. Such programming usually includes an advisory at the beginning of the show which alerts audiences to material which may be offensive to some viewers. Such is the case with this program.

In addition, all Canadian broadcasters have recently adopted a comprehensive classification system to provide guidance to audiences regarding program content on such matters as violence, language, nudity, sexuality and/or mature themes. All of our programs utilize this ratings system and specifically, after 9.00 p.m., a number of shows use the "18" icon which advises viewers that the program may contain graphic language and elements intended for adult audiences. The "18" icon was used on this Special in addition to our program disclaimer and voice-over advisory at the top of the show.

Nevertheless, the opinions of our viewers are of concern to us. We compile viewer feedback and consider trends and suggestions. We are interested in understanding what our audience likes and dislikes. We make our programming choices or adjustments with this knowledge in mind.

With regard to your specific concern, I regret that the last part of the program offended you. Reactions to comedic material are subjective and what one person finds offensive, others do not. We believe that comics should be permitted to express themselves without censorship or editorial prerogative.

Please be advised that *The Comedy Network* is a member of the CBSC and complies with all industry codes. As indicated by the CBSC in their covering letter to you, if you are not satisfied with our response, you have the right to refer your concerns to them.

In conclusion, I regret that we offended you. I hope that you may find entertainment value in some of the other programs in our telecast schedule.

I sincerely appreciate the time that you have taken to express your concerns and thank you for your comments.

The Ruling Request

The viewer was unsatisfied with this response and returned his Ruling Request on February 27, thereby requesting that the CBSC refer the matter to the appropriate Regional Council for adjudication. That document was accompanied by a second letter, which contained the following comments:

In his reply [the Vice President of Programming] has cleverly used sugar coated words such as "Risqué and controversial" to disguise the nature of programs that contain blasphemous material, not unlike someone using the words "Collateral damage" to describe human beings killed by brutal acts of war.

In my opinion blasphemy with or without an advisory that is broadcast before 9.00 PM is still blasphemy when broadcast after 9.00 PM. [The Vice President of Programming] has given no indication of any intention to cease and desist from using blasphemous material in the future, or abide fully by Clause 2 of the CAB code of ethics. Freedom of expression has its limits, and using God's name in vain is no laughing matter.

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, *CAB Code of Ethics* (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, religion, age, sex, marital status or physical or mental handicap.* [Emphasis added.]

Articles 1 and 2 of the *Canadian Charter of Rights and Freedoms* are also an integral part of the thinking of the Ontario Regional Council in this matter. They provide:

Article 1 (Guarantee of Rights and Freedoms):

The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Article 2 (Fundamental Freedoms)

Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

The Regional Council reviewed the correspondence and viewed the logger tape of the Special. For the reasons given below, the Regional Council does not consider that the Comedy Network breached the Code by broadcasting the Bill Maher Special.

The Question of Blasphemy

While the CBSC has previously considered matters not distant from the question of blasphemy, it has not dealt with the question head on. Since this is the issue of principal concern to the complainant, it provides the Council with its first opportunity to come directly to grips with the issue. “Blasphemy” is defined by the *Oxford English Dictionary* as “Profane speaking of God or sacred things; impious irreverence.” The adjective “profane” is itself defined as “Characterized by disregard or contempt of sacred things; irreverent, blasphemous; impious, irreligious, wicked.” Finally, “irreverence” is defined as “disrespect to a person or things held sacred or worthy of honour.”

It may be that the Church has a strict and conservative view or definition of the foregoing words but it is not such definitions which the CBSC considers applicable in defining broadcast standards. For that purpose, the Council begins, as always, with the principle that freedom of expression is the basis of broadcaster entitlements. Indeed, since the adoption of the *Charter of Rights and Freedoms*, it is at the root of all Canadian speech. Article 2(b) of the *Charter* provides that “freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication” are fundamental attributes of Canadian society.

In *CHAN-TV re Last Temptation of Christ* (CBSC Decision 95/96-0011, December 18, 1996), the B.C. Regional Council was called upon to deal with the competing social values of freedom of expression, on the one hand, and the restriction on speech resulting from abusive or discriminatory comment based on religion. It dealt with the issue in the following terms:

The Council does consider that, as important as the principle of freedom of expression may be, there are in Canada competing social values which it is duty bound to apply in the

exercise of its mandate. One of these is the application of the principle that abusive or discriminatory material or comment based on race or religion will *not* be shielded under the protective umbrella of freedom of expression. The difficult matter to resolve in each case where such conflict presents itself is whether the program in question amounts to the broadcast of *abusive or discriminatory* material or comment. Furthermore, this measurement must be made in the *overall* societal context, not in the *narrow* context of the sensibilities of individuals.

Just as the B.C. Regional Council understood that, in that case, “the complainant found the depiction of Christ questioning his faith and succumbing to temptation utterly unacceptable, even hateful”, the Ontario Regional Council understands that, in this case, the complainant considers the stand-up comic’s remarks irreverent, impious, irreligious, in short, blasphemous. For its purposes, however, the CBSC considers that blasphemy alone would not be sufficient to constitute a violation of the *CAB Code of Ethics*. It would need to be *hateful*, not merely irreverent, comment, *abusively discriminatory*, not merely impious or irreligious. At this point in the 20th century, the CBSC expects that comedians are entitled to question tradition and to tickle formal and possibly outdated values without finding themselves, for that reason alone, exceeding Canadian broadcast standards.

The Application of the Principle

When, in fact, the jokes are analyzed one-by-one, they do not, in the view of the Council, even attain a level which could be characterized as disdainful, much less hateful. There is undeniably a level of irreverence but it is light-hearted, not heavy-handed. It is flippant and casual but not disrespectful. Maher finds fresh and amusing comments to make about Jesus but not one of them reflects anything other than the significance of His contribution to this world. Except for one slightly less reverent comment about “God[’s] ... big ego problem”, the same could be said of these divine descriptions. It is, however, fair to say that the Church and priests do not fare as well.

In any event, irreverence *vis-à-vis* the Church and clergy is not unacceptable, provided it does not rise to the level of abusive or discriminatory comment on the basis of religion. In *CKVR-TV re “Just for Laughs”* (CBSC Decision 94/95-0005, August 23, 1995), the Ontario Regional Council was called upon to deal with a stand-up routine featuring a fictional “Sister Mary Immaculate” played by a comedienne in the role of an Irish nun, who made a number of jokes about religious matters. The Council concluded

While “Sister Mary”’s routine might not have been humorous to the complainant, none of her jokes -- including the reference to homosexuality highlighted by the complainant -- could be construed as abusive or discriminatory to Christians or Catholics.

Similarly, in *CHAN-TV re Last Temptation of Christ* (CBSC Decision 95/96-0011, December 18, 1996), the B.C. Regional Council decided, albeit in the context of a serious motion picture, that “they [do not] find in the film any negative attitude toward either Christians or Christianity itself.” The Ontario Regional Council concludes similarly here.

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 the Comedy Network dealt fairly and sensitively with the issues raised by the complainant. Nothing more is required. Consequently, the station did not breach 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.