
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CITY-TV re *Speakers Corner*

(CBSC Decision 97/98-0572)

Decided July 28, 1998

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

THE FACTS

Speakers Corner is a program created by CITY-TV (Toronto) to provide members of the general public with a form of “access” to the broadcast airwaves. By providing a camera located outside CITY-TV’s studio in downtown Toronto, CITY-TV enables people wishing to express a point of view on most any subject which moves them to tape a statement which can then, at the discretion of CITY-TV, be broadcast to the public. It constitutes a modern day “town square” or Hyde Park Corner of sorts. On January 15, 1998 at 11:30 p.m., *Speakers Corner* contained comments regarding “politics”. Many comments related to the Ontario government’s labour and welfare policies. The comments relating to assistance for persons with disabilities, which were the only ones which gave rise to a complaint, were as follows:

Speaker #1: I work for the Big Three and I have had the unfortunate situation of being an injured worker. I’ve been on Workman’s Compensation. I’m a hard working man. I enjoy working. ... I’ve collected compensation for nearly two years and it saved me. It saved me from bankruptcy. It saved my family. It fed my family. I did not abuse it.

... [*The clip was shown in two separate parts.*]

It saved my butt and I’m not ashamed of being on it. ... I wish you could be in my place someday and know what it feels like.

Speaker #2: Hi, I just wanted to talk about this whole Christmas thing. I’m here with my [broadcaster edit] and uh, she’s a real left wing and I’m a right wing and I think Mike Harris is the greatest person, greatest politician we ever had. I think he’s doing good things for our province. She totally disagrees. Now, I’m 23 years old. I’ve been working since I was, like, 12 years old. I’ve always had a job. I had two jobs most summers. I think there’s nothing

wrong with working and she seems to disagree with that. She thinks that people should be able to just sit around and do nothing. She's been collecting welfare because her bowels don't work properly and I think that's a pretty bad excuse.

... [The clip was shown in two separate parts.]

I don't think that people should be able to, should be forced to pay money to other people who just sit around and collect disability, for such things as their bowels don't work.

The Letter of Complaint

On January 28, 1998, a viewer wrote a letter of complaint to the CRTC which in turn forwarded it to the CBSC. The letter read as follows:

Please be advised that I wish to make a complaint against City TV in Toronto for airing a segment on "Speakers Corner" on Thursday, Jan 15, 1998 at 11:30 p.m. approximately. The segment referred to me and described my disability and circumstances surrounding my disability intending in my opinion to harm, shock, and discriminate. The person making the allegations was a member of my family who was and is unaware of my circumstances.

I have been advised legally that the segment aired constitutes defamation of character and is a breach of the Broadcast Standards Act. Since I am unable to get Legal Aid at the present time in Ontario for such cases, I have been advised by the Advocacy Resource Centre for the Handicapped in Toronto, to file a serious complaint with the CRTC that the segment aired discriminates against me and people with disabilities. I wish you to apply the maximum penalty possible under the Act.

The Broadcaster's Response

On March 2, 1998, CITY-TV's Producer and Director of *Speakers Corner* responded to the complainant with the following:

I am responding to the complaint which you filed with the Canadian Broadcast Standards Council regarding a segment of *Speakers Corner* which was telecast in January 1998. You initially contacted me during the week of January twelfth, saying that you believed you had been defamed on *Speakers Corner*. During our conversation, you acknowledged that you had not seen the segment which was the subject of your complaint. In your letter to the Canadian Broadcast Standards Council you have repeated the allegations, which leads me to believe that you still have not seen the item.

As I told you previously, the individual on the segment, whom you allege is a family member, does not identify himself on the broadcast. The segment was edited prior to broadcast, and consequently, there is no specific reference to yourself or any other person. Contrary to your belief, the segment does not "discriminate against" you, or (discriminate against) "people with disabilities".

The segment deplores welfare abuse and applauds the Harris government's stricter benefit policies. The speaker says "...I think that Mike Harris is the greatest person... I don't think

that people should be able to - should be forced to pay money to other people who just sit around...". There is no reference to disabled people in general.

The segment is in the context of a discussion about Ontario provincial policy. It is a counterpoint to an adjacent segment by a person who deplores cutbacks to workman's compensation benefits, and asserts that the current system is working well, in fact saving lives and families.

With your letter of complaint, you appended an extract of CRTC policies. You suggested that the speaker uttered profanities, and that his comments exposed a group of individuals to hatred. In light of the actual content of the segment, we believe that you are mistaken.

It is never the intention of *Speakers Corner* to harm anyone or any group, but rather to give a voice on television to individuals who wish to express their opinions. You are most welcome to take advantage of this public soapbox to express your views on any topic, including Ontario Government policies. I would be happy to guarantee you a place on the show if you wish to express your views regarding the status or treatment of people with disabilities.

Citytv also provides daily access for viewers to express their opinions on matters of public concern. In addition to Speakers Corner, you may phone, fax, or write to City Online, which is seen weekdays at 12:35 p.m. In that regard, perhaps you will wish to provide comment on government policies relating to welfare or assistance to the disabled.

The complainant was unsatisfied with the broadcaster's response and requested, on March 6, 1998, that the CBSC refer the matter to the appropriate Regional Council for adjudication. With her request, the complainant added the following note:

Pfr [*sic*] my phone call to you today, I am not satisfied with the above broadcaster's response. Please note the following:

1. I have been advised that legally what occurred constitutes defamation of character and a breach of the Broadcast Standards Act.
2. I cannot get legal aid to pursue this matter through the courts.
3. When I contacted City T.V. they refused to allow me to view the tapes unless I had a court order to do so plus a fee of \$45.00. They also advised me that the segment did refer to a "family member namely the speaker's aunt." There was also reference to my disability and disabilities in general.
4. I will seek political action if this is not resolved to my satisfaction and the satisfaction of the Advocacy Resource Centre for the Handicapped.

THE DECISION

The CBSC's Ontario Regional Council considered the complaint under Clauses 2 and 6 of the Canadian Association of Broadcasters' (CAB) *Code of Ethics*. The relevant portions of the texts of these clauses read as follows:

CAB Code of Ethics, 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.

CAB Code of Ethics, Clause 6, Paragraph 3

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 the program in question does not violate either of the above-noted provisions.

Freedom of Speech and Socio-Political Commentary

The Council will review the reasons for underscoring the importance of ensuring the *broadest* scope for that speech which is socio-political in nature, whether critical or laudatory of governmental, political, public, educational or other institutions which impact on the daily lives of the public. Before doing so, however, the Regional Council considers it wise to re-examine briefly its long-standing principles on the question of alleged violations by broadcasters of the human rights provision of its *Code of Ethics*. It is, after all, important for the CBSC to reiterate, from relevant decision to decision, since the complainants and broadcasters differ from case to case, that it is not *any* reference to “race, national or ethnic origin, religion, age, sex, [sexual orientation], marital status or physical or mental handicap” which will be sanctioned under the ‘human rights’ provision of the *CAB Code of Ethics*. It is rather only those references which are considered by the Council to be *abusively discriminatory*. The rationale underlying this principle was clearly reviewed most recently in *CFUN-AM re The John and JJ Show (Immigration Policy)* (CBSC Decision 97/98-0422, May 20, 1998):

It could not be every instance of discriminatory comment which would be found to be in breach of the “human rights” provision of the *CAB Code of Ethics* for, in a technical sense, every statement regarding an identifiable group is *discriminatory*. As this Council put the point in *CFTO-TV re “Tom Clark’s Canada”* (CBSC Decision 97/98-0009, February 26, 1998):

Early on, the Council recognized that Clause 2 of the *CAB Code of Ethics* requires a weighing of competing values. In *CHTZ-FM re the Morning Show* (CBSC Decision 92/93-0148, October 26, 1993) the Council noted that “it must balance the right of audiences to receive programming which is free of abusive or discriminatory material ... with the fundamental right of free speech in Canadian society.” The application of this balancing act in various CBSC decisions evolved into an “abusiveness criteria”; i.e. the

establishment of a “test” whereby a comment must not merely be *discriminatory* to constitute a breach of Clause 2, it must be *abusively* so.

The Council does not, in the circumstances of this case, consider that the comments made by the second speaker can be considered abusively discriminatory *vis-à-vis* persons with a physical handicap. In the first place, they are not reflective of persons *with* physical handicaps at all. The context of the *Speakers Corner* in question related to access to social programs and *not* to physical handicap. The critical comments of the second speaker were focussed on his belief that persons *without* legitimate qualifying ailments should not be able to access those public funds.

Moreover, in the *CFUN* decision referred to above, the B.C. Regional Council also commented on the extent of freedom of expression as it relates to socio-political commentary. Those comments which are most relevant to this case are as follows:

... The Council notes that, while freedom of expression has its limits in Canada, the freedom to criticize Government policies and practices is a core example of freedom of expression, in some senses the very *root* of that right in a democratic system. Unless, therefore, the exploiter of that right to challenge Government policies has overstepped another equally basic standard, such as, for example, the right of members of an identifiable group to be free from abuse, that right to challenge will be sustained. In this case, the Council finds that the exercise of their freedom of expression by the hosts, John and JJ, must outweigh any danger, as suggested by the complainant, that the references “cast suspicion on all immigrants.”

In the circumstances, the Ontario Regional Council considers that the criticism by one of the “speakers” of “persons who just sit around and collect disability” was made, not about persons with physical disabilities but about the benefits of publicly-funded programs. The broadcaster had also taken the trouble to provide the public with two, not one, comments on that subject. The Council has no hesitation in concluding that the challenged comments should not be sanctioned pursuant to Clause 2 of the *CAB Code of Ethics*.

Identification of the Complainant

As to the question of identification of the complainant, the Council considers that, had the segment permitted an *identified individual* to be harshly criticized by an apparent member of her family, this might have offended certain privacy principles which underlie the principle of “full, fair and proper presentation of ... opinion [and] comment” provided in the third paragraph of Clause 6 of the *CAB Code of Ethics*. The Council does not consider it necessary, however, to deal with this particular issue here as the segment complained of was purged of all identifying elements by the broadcaster prior to airing. To the extent that the complainant considered herself “identified” or targeted by her nephew’s comments, it would only, in effect, have occurred within the context of her family and friends and not in the broad context of the broadcaster’s audience.

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. Consequently, the broadcaster has not breached the Council's standard of responsiveness. 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.