
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CJKR-FM re "Psychedelic Sunday"

(CBSC Decision 98/99-1126)

Decided June 16, 1999

S. Hall (Chair), D. Braun (Vice-Chair), R. Cohen (*ad hoc*), D. Dobbie,
Vic Dubois, D. Ish

THE FACTS

"Psychedelic Sunday" is a radio show broadcast on CJKR-FM (Winnipeg) between the hours of noon and 3:00 p.m. every Sunday. It is dedicated to hits from the "psychedelic" era of the '60s and '70s. On April 12, 1998, at approximately 2:10 p.m., the host referred to smoking marijuana during a conversation with a caller.

Host: Power 97, Winnipeg's number one rock station. A little Zeppelin on a Psychedelic Sunday, also the Byrds "Mr. Spaceman". It's 2:07. The guy on the line here, a big Psychedelic Sunday fan. How does the show make you feel, man?

Caller: Pretty good. Just picked up some papers at Mohawk and ...

Host: What? Zigzags?

Caller: Oh, yeah.

Host: Not Acme? Zigzags, man?

Caller: Zigzag blue baby [both laughing]. I'm about to roll a big one for ya.

Host: Okay, in honour of Easter?

Caller: Okay.

Host: All right. Thanks, man.

Caller: See you later.

The Letter of Complaint

On April 16, a listener faxed a short letter to the CBSC stating:

On April 12 (Easter Sunday) at approximately 2:10 p.m., on CJKR-FM 97.5 in Winnipeg I was offended by the following comment made by the announcer known as "Cosmo". "Roll up a

big fat one in honour of Easter.” This comment was made to a listener who had called in. It was one of many references to smoking drugs during his program. I found that implication that religious holidays be “honoured” by getting high offensive.

The Broadcaster’s Response

The President and General Manager of CJOB-FM replied to the complainant on May 13, 1998 with the following:

I am sorry that you were offended by a comment you heard on Power 97 on Sunday, April 12, 1998.

I have reviewed the air segment in question, and feel confident that the comment, “Roll up a big fat one in honour of Easter” was made in the context of that program “Psychedelic Sunday” which airs from 12:00 noon to 3:00 p.m. every Sunday.

This show, and versions of it across Canada, play music from the psychedelic era of the 60's and 70's. For example, the song immediately preceding these comments was “Mr. Spaceman” by the Byrds, while the song following was “White Rabbit” by Jefferson Airplane. Both songs contain drug references. I believe that the comments made by our announcer, Cosmo (Robin Grant), were not offensive given their context within the program. Nor do I believe that he was suggesting that anyone one should “get high” on a religious holiday, or any other day. I can assure you that Mr. Grant did not make these comments to offend our audience or condone the use of drugs.

Once again, I am sorry that you found these comments offensive, and hope that you will find this explanation satisfactory.

The complainant was unsatisfied with the broadcaster's response and requested, on June 8, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

THE DECISION

The CBSC's Prairie Regional Council considered the complaint under the Clause 2 of the *Code of Ethics* of the Canadian Association of Broadcasters (CAB) The relevant clause reads 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.

The Regional Council members listened to a tape of the program in question and reviewed all of the correspondence. The Council considers that the program in question does not violate the Code mentioned above.

The Content of the Program

The comments complained of and the circumstances of this case are so similar to those involved in the Ontario Regional Council's decision in *CFNY-FM re Humble & Fred ("Danger Boy on a Cross")* (CBSC Decision 97/98-0644, February 3, 1999) with which the Prairie Regional Council agrees fully that the Prairie Council considers that only a few separate comments are necessary before quoting lengthy excerpts from that decision. If anything, the broadcaster's comments in this case are considerably less religiously oriented here than in the CFNY decision. There, the pun was related to a fundamental icon of Christian religions, namely, the Cross and the Crucifixion. In this case, there is only a relatively oblique reference to Easter. In the CFNY decision, the proposed event, it appeared to any listener, had to do with the Cross. Here, the suggestion is that pot be smoked "in honour of" the holiday. In the result, the broadcaster was found not to be in breach of any Code provision in the CFNY-FM decision, although the Council did allow that there might have been a question of bad taste involved, and that, as always, was a matter for the listener to deal with, not the CBSC. The Prairie Regional Council has no difficulty in concluding here that, at worst, there is a question of bad taste in drawing any association between drugs and Easter and that this is a matter only for the on/off personal regulatory approach.

As to the reasoning of the Ontario Regional Council with which it agrees, the Prairie Regional Council believes that it is instructive to cite the Ontario Council's reasoning at length here:

The CBSC has faced situations similar to this on several previous occasions. They occasionally involve serious material (as in the case of the film *The Last Temptation of Christ*) but more often comedically intended situations, very often involving the parodying of religious practices or icons, if not religion itself. In almost all cases which have come before the CBSC as the result of a public complaint, the religion in question has been a Christian religion, whether Protestant or Catholic. This may result from the case that Christianity in its broadest sense is the dominant religion in Canada, therefore, the religion best known to the population and the one which would be likeliest to be publicly parodied. Quite simply, the parodying of less representative religions may not reach the lowest familiarity level of a broad enough segment of the population to "work" with the target audience.

It does not in the end matter *why* this is the case since the principles established in the various CBSC decisions on the subject would be as applicable to *any* religious group. What matters ultimately relates to the clash of the right of freedom of speech and the right of broadcast audiences to be free from abusively discriminatory comment on the basis of religion, as well as other grounds enumerated in Clause 2 of the *CAB Code of Ethics*. Religion is not, after all, immune from farce, sarcasm or parody. The issue to determine is whether the barb has become a poison arrow, and whether, in other words, the humoristic device has stepped over the farcical threshold and into the bitter and nasty territory of

abusively discriminatory comment. Disrespectful and even apparently harsh words *may* be on the safe side of that threshold despite the sensitivity of the listener of the same religious persuasion or even the listener who is sympathetically inclined. The Council considers that, broadly speaking, gibes and parodies which are directed *ad religionem* are likelier to pass the test than those which are *ad personam* on the basis of religion although, even in the latter case, they must amount to *abusively* discriminatory comment on that account to fail the test.

In an earlier Ontario Regional Council decision, namely, *Comedy Network re Bill Maher Special* (CBSC Decision 97/98-0560, July 28, 1998), which involved irreverent comments about Jesus, the Council held:

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. ...

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.* [Emphasis added.]

In a similar vein, 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 comedy 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), in response to a complaint filed by another member of the clergy, 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." Referring again to the CBSC decision in *Comedy Network re Bill Maher Special* (CBSC Decision 97/98-0560, July 28, 1998), the Ontario Regional Council believes that its comments there provide a fair perspective of the CBSC on the issues of blasphemy and excessive statements alleged to be in breach of the human rights provision of the *CAB Code of Ethics*.

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.

Applying these principles to the matter at hand, the Council believes that the entire concept was irreverent and possibly even in bad taste. If the latter, it is not an issue with which the Council will deal as matters of taste in private broadcasting are generally left by the CBSC to the discretion of the individual either to listen to or turn off. It is only when issues rise beyond mere taste that the Council becomes involved. The principle of freedom of speech would be too compromised by the overlay by the CBSC of, in effect, a micro-managed imposition of its view of mere questions of taste. If the former, the irreverence alone of the planned event could not reasonably be interpreted as anything more nefarious than someone's idea of how to turn humour into a public attention-getter. The Council finds no breach of the Code in this case.

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. 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.