
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

The Comedy Network re *the Tom Green Show*

(CBSC Decision 98/99-0291)

Decided June 17, 1999

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

THE FACTS

The *Tom Green Show* is an unconventional comedy show which airs Fridays at 11 p.m. on the Comedy Network. The show consists of a collection of segments, skits and stunts involving the host, Tom Green, his “side-kick”, Glen Humplick, and/or innocent bystanders who are persuaded or tricked into playing along with Tom Green’s unusual and occasionally unorthodox antics. On January 8, 1999, the show included a segment in which Tom Green convinced an unsuspecting passerby on the street, a young woman named Laurie, to hold a dead pigeon by the tail. As she held the pigeon, Mr. Green proceeded to shout to other passersby in order to draw attention to the woman holding the dead bird. After a certain time, Laurie managed to rid herself of the bird and, she thought, Green himself. When she entered a bank to go about her business, Mr. Green followed her with the dead bird and continued to attempt to humiliate her. Unsuccessful in that effort, he then tried to convince someone else to hold the bird, but this time his efforts were in vain. The segment ended there.

The Letter of Complaint

On February 4, 1999, a viewer wrote a complaint to the CBSC stating that:

The following is a viewer complaint, with regard to content on the Comedy Network, on the “Tom Green Show”, aired January 8, 1999.

On this particular edition of the show, a woman, a member of the general public, was accosted on the street by Mr. Green, who was holding a dead pigeon and convinced this woman “Laurie” to hold it. Mr. Green then pointed to her as she held this poor dead animal

[sic] and he yelled at passers by, "Laurie has a dead pigeon" repeatedly. As "Laurie" politely protested that she had to leave, after a few minutes she gently lowered the pigeon to the pavement and entered her bank, outside which they had all been standing. Mr Green and the camera crew then proceeded into the bank with the dead pigeon and held it up in front of the customers exclaiming remarks like "Look at the dead pigeon."

How this is supposed to be funny is beyond me.

"Laurie" and the bank staff and customers were innocent, unprepared persons minding their own business when all this happened. I doubt very much that the pigeon was deemed by any veterinarian to be disease-free and, if true, "Laurie" could have been at risk. Although it has been assumed that "Laurie" signed a waiver, I doubt all the bank customers were consulted about permission to appear on the show. Also, I am concerned that this segment may have caused a general safety problem for all concerned, because banks are always vulnerable to theft. If the bank staff had to give Mr. Green their attention because of his unruly behaviour, they would have been unprepared for a robbery. I would imagine his actions would have made the bank staff uncomfortable. It would be a shame if people with access to video cameras thought that unruly behaviour in public, and tormenting innocent bystanders was acceptable to emulate. It is for the many reasons cited above that I am complaining. If Mr. Green wants a dead animal to be handled, he should do it himself.

The Broadcaster's Response

The Vice President of Programming at the Comedy Network replied to the complainant on February 24, 1999 with the following:

The Canadian Broadcast Standards Council has forwarded to us a copy of your letter dated February 4, 1999, regarding a segment of *The Tom Green Show*, which aired on the Comedy Network on January 8, 1999, 11pm for our attention and response.

From the beginning, *The Comedy Network* has set out to present a program schedule that is adult, irreverent, politically incorrect 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, 9pm is generally accepted as the watershed in prime time where adult material appears. After 9pm, broadcasters may present programming which portrays adult situations and explicit language. Such programming includes an advisory at the beginning of the show, which alerts audiences to material which may be offensive to some viewers.

In addition, all Canadian broadcasters have 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 9pm, a number of shows use the "18+" icon which advises viewers that the program may contain graphic language and elements intended for adult audiences.

I regret that this particular sketch with a dead pigeon upset you. The producers of the show, and indeed Tom Green himself, would not want to place any other people they encounter at risk. While it is true that much of the field material which they produce revolves around Tom engaging with unsuspecting passers by, they are careful to avoid potentially dangerous situations. It is also very clear to the passers by that the encounter is being taped for

television. This is not "hidden camera" television. Further, the producer of the show obtains permission from each individual who appears on camera.

Regarding your concern about bank security, please be advised that the show personnel did not interfere with normal bank security cameras, security staff, nor the alarm system.

It is not our intent to offend our viewers. In this specific case, Tom Green is an unconventional comic and is known to his dedicated fans for his extreme behaviour. The majority of his fans are university age and his audience seems to have no boundaries or limits. In fact, the more extreme, the stronger the reaction. So, although this show is not to your liking, there is an audience for Tom Green and his show.

Please be advised that we take the opinions of our viewers seriously. We compile viewer feedback and consider trends and suggestions. However, we also appreciate that reactions to comedic material are subjective, and what one person finds offensive, another may not. We are sorry that you object to *The Tom Green Show*, but appreciate the time you have taken to express your concerns.

I am also aware that you have made countless calls to our company regarding this matter. Despite lengthy conversations with the appropriate staff members, including me, you have continued to call. We have listened, we have forwarded your concerns to the independent producer, and we are now in writing on this matter. And as much as you are entitled to express your opinion, I feel we have done all we can to respond to it.

The complainant was unsatisfied with the broadcaster's response and requested, on March 10, 1999, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

THE DECISION

The CBSC's Ontario Regional Council considered the complaint under the *Code of Ethics* and the *Violence Code* of the Canadian Association of Broadcasters (CAB). The relevant clauses of those Codes read as follows:

CAB Code of Ethics, Clause 1 (General Programming)

Recognizing the varied tastes of the public it shall be the responsibility of the broadcasting industry to so program its various stations that as far as possible, all groups of listeners and viewers shall have from these, some part of the programming devoted to their special likes and desires.

CAB Violence Code, Clause 9 (Violence against animals)

- 9.1 Broadcasters shall not telecast programming which sanctions, promotes or glamorizes violence against animals.
- 9.2 Broadcasters shall not be restricted in the telecast of legally sanctioned activities associated with animals. In such telecasts, judgment shall be used in the selection of

video and associated audio, particularly if the telecast is broadcast outside of late evening hours.

The Regional Council members viewed a tape of the program in question and reviewed all of the correspondence. The Council does not consider that the program in question violates any broadcaster Code.

The Question of Taste

As to the first area of concern detailed by the complainant, namely, the use of the “poor dead animal”, the Council finds that there is no way that one can reasonably conclude that the program segment involving the dead pigeon sanctions, promotes or glamorizes violence against animals. The pigeon was, after all, obviously dead before being used as part of the stunt. Moreover, the Council notes that the air of disgust on Laurie’s face as she held the dead bird went a long way towards negating any glamorization of the bird’s fate. There is not, in fact, any reason to assume that it was a violent act which even resulted in the death of the bird. In the end, the issue relates to the *use made* of the dead bird and that is, if anything a question of *taste*, rather than any issue of violence to animals.

The Council has often explained that the broadcaster’s programming responsibility under the Codes does not extend to questions of good taste. As long ago as *CHTZ-FM re the Morning Show* (CBSC Decision 92/93-0148, October 26, 1993), the Ontario Regional Council stated:

On the questions of fact in this case, the Regional Council agreed that the tone of the host’s statement was accurately recalled by the listener and that the host’s statement was in extremely poor taste. At the same time, the Council was unanimous in view that the bad taste did not amount to a breach of any of the Code provisions cited above. ... The sanctioning of bad taste, unpalatable as it may be, does not fall within the ambit of the CBSC’s mandate under its Codes.

More recently, in *CHOM-FM and CILQ-FM re Howard Stern Show* (CBSC Decision 97/98-0001+, October 17-18, 1997), the Quebec and Ontario Regional Councils jointly concluded that the September 1997 broadcasts of the Howard Stern Show contravened the *Code of Ethics* and *Sex-Role Portrayal Code*. Many complaints highlighted the vulgar, rude, tasteless nature of the Show. However, in the view of the CBSC, questions of taste should be left to the marketplace where listeners can vote with their on/off switch.

Many of the complaints received regarding the Howard Stern Show related to questions of taste. Stern was accused of being offensive, vulgar, adolescent, rude, unsuitable, outrageous, sick, tasteless and so on. ... The Quebec and Ontario Regional Councils are, however, agreed that, under the present Codes, matters of taste must be left to be regulated by the marketplace. Such choices remain those of the listener. This is the time when the on/off switch is the listener’s coping mechanism. Unless comments made by a broadcaster are of a nature to breach provisions of one or more of the Codes, the CBSC will not judge them one way or the other.

In once again affirming that the CBSC will not rule on issues of “bad taste”, the Council notes that broadcasters are *required* to offer programming which meets different tastes and desires. The Council notes specifically that Clause 1 of the *CAB Code of Ethics* states

Recognizing the varied *tastes* of the public it shall be the responsibility of the broadcasting industry to so program its various stations that as far as possible, all groups of listeners and viewers shall have from these, some part of the programming devoted to their special likes and desires. [Emphasis added.]

While the *Tom Green Show* may be unpalatable for some, it may also be meeting the special likes and desires of others. That is a question to be determined, on the one hand, by the broadcaster in its decision to put the show on the air and by the viewer, on the other hand, in deciding to watch or not watch the program.

A Frivolous Issue

As to the allegation that *The Tom Green Show* poses a threat to public safety, the Council considers this part of the complaint to be unsubstantiated and frivolous. If there had been any danger to the participants in the show or to bank security, it could easily have been dealt with via either public mischief laws or private litigation. The Council considers that the existence of these legal recourses would have logically quelled any of the publicly dangerous “unruly behaviour” conjectured by the complainant. In any event, these are issues for the public law, *if anywhere*, and not questions which come within the purview of the CBSC’s mandate.

The frivolity of the concerns raised by the complainant appear to the Council to reveal the complainant’s underlying general sense of discomfort with the show, an uneasiness that “one shouldn’t do that on television.” The Council considers this, coupled with the complainant’s statement “How this is supposed to be funny is beyond me”, to indicate concerns relating to the potential bad taste of the program in question and the Council has dealt with this issue above.

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. The Council notes the broadcaster’s statement regarding the various steps it has taken to respond to the complainant’s concerns. In the circumstances, the Council commends the broadcaster on its response and those steps. 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.