

---

## CANADIAN BROADCAST STANDARDS COUNCIL

### NATIONAL SPECIALTY SERVICES PANEL

#### Sportsnet Ontario re comments made on an episode of *Prime Time Sports*

(CBSC Decision 07/08-1500)

Decided October 22, 2008

R. Cohen (Chair), S. Crawford (Vice-Chair), A. Cardozo, J. Medline, P. O'Neill  
and G. Phelan (*ad hoc*)

---

### THE FACTS

*Prime Time Sports* is a sports radio talk show that is also broadcast on the specialty television service Sportsnet Ontario beginning at 5:00 pm weekdays. On April 4, 2008, the program was preceded by a sports update featuring a clip of the previous night's Ottawa Senators – Toronto Maple Leafs NHL hockey game during which Leafs player Mark Bell had hit Senators player Daniel Alfredsson. Alfredsson and Bell collided quite hard and Alfredsson fell down onto the ice. Alfredsson struggled to get up, but did manage to walk off the ice. A medic was shown attending to Alfredsson's mouth. The hit was replayed a few times.

The actual *Prime Time Sports* program began at 5:07 pm. Mike Toth was filling in for usual host Bob McCown and the three other panelists that day were Jim Kelley, James Deacon and David Shoalts. The four commentators began by discussing the Alfredsson hit. Toth asked Shoalts, who had been present at the game, whether he thought it was a "dirty hit". Shoalts replied that he felt it was not because "he [Bell] didn't lift his elbow and drive it into his [Alfredsson's] head like you see sometimes." Deacon disagreed, offering the opinion that "it looked dirty to me. Definitely his elbow came up. [...] And, whatever you say, that to me is a dangerous hit." There was a further exchange between Shoalts and Deacon about the fact that Alfredsson's head was down and then Toth asked for Kelley's thoughts. Kelley said the following

Kelley: I loved it. I, I was waitin' for his head to roll all the way down the ice with his, uh, helmet and see which one got farther. I thought –

Toth: You're really a hockey connoisseur, aren't you, Jim?

Kelley: Oh, absolutely. I thought maybe the two goalies would pick. One guy could get the head, one could get the helmet and they could curl, while the rest of the altercations were goin' on. I mean, come on. The, we get to this point so many times that it's not worth talkin' about anymore. It was an elbow. You could clearly see it on the replay. It was an elbow. It was a come-from-behind elbow and it was very reminiscent of the Scott Stevens kind of play where, except though, instead of coming across and maybe knowing that Stevens was coming, he came from behind. And it was a head blow and the only thing that, um, you can really say about it is, hey, that's what the Ottawa Senators do with their players like Chris Neil and so they got one in return. And that's hockey. I've stopped cryin' about it. I've stopped complainin' about it. If a guy dies, so be it because it's been, as long as I've been around the game, it's been considered a quote, unquote – finger quotes here if you're not watching on TV – “legal hit” and you cannot change the mindset of hockey on this. Even Steve Moore, until he wins billions probably from the National Hockey League over the Bertuzzi incident, can't change the mind of the National Hockey League on this. It will not change until it's settled in the courts.

The conversation then continued about the Senators-Leafs game. They discussed the disciplinary action taken for the Alfredsson hit, a hit involving two other players and other aspects of the game. (The full transcript of all relevant portions leading up to the bits of dialogue quoted above are provided in Appendix A.)

The CBSC received a complaint on April 4 about Kelley's remarks. The complainant outlined his concerns and provided a copy of an e-mail he had sent directly to Sportsnet. That correspondence read in part (the full text of all correspondence can be found in Appendix B):

This is a copy of an e-mail I have sent to Sportsnet in protest of some inflammatory and violent comments made by one of their employees, a Mr. Jim Kelley. This show airs during the afternoon and I assume has a listenership that includes sports fans of all ages. I think what Mr. Kelley said comes close to advocating violence; it certainly glorifies it.

I hope you can at least contact Sportsnet and remind them that their ability to broadcast is a privilege.

-----  
I happened to be watching *Prime Time Sports* today (Friday) and the discussion of the questionable hit on Daniel Alfredsson by Leaf, Mark Bell [...] came up. There was a generally reasoned debate, at least reasoned given the very broad scope of what passes for acceptable in the world of sports. Then Jim Kelley chimed in.

Asked what he thought of the Bell hit, Kelley responded: I loved it. In fact, (and I paraphrase here) I was hoping his head would come off and I was curious to see whether his head or the helmet went further. I thought the two goalies could each play with either the helmet or the head.

What kind of person says things like this? We wonder why some of our youth have got screwed-up values, who respond to the hint of a slight by pulling out a knife or a gun.

They hear supposed adults who are given voice by networks such as yours to spew this hatred. I don't accept the argument that all rules do not apply when it comes to sports.

If you have any decency, you will discipline this hack, telling him that there are limits to what should be uttered, especially during prime time. I expect to hear that something is done. [...] We cannot have people advocating extreme violence even in a sport where a degree of violence is expected.

[...]

I suppose if one of their children were brutally assaulted in a playground game of sports, they would admonish their child as he/she lay in hospital with a level 3 concussion to always keep their head up. Being a sports commentator DOES NOT give you license to say anything just because it's shocking.

The CBSC requested more information from the complainant about the precise date and time of the episode in question. The complainant responded with those details on April 7 and reiterated his concerns that "this exhortion [*sic*] to the darkest passions went beyond the pale. Again, walking around with my four-month baby in my arms I wondered what kind of world my child would be growing up in [if] we give airtime to such hatred."

Sportsnet responded in a letter dated June 10:

[...]

*Prime Time Sports* is a sports talk show that delves into major issues in sports and considers them from a Canadian point of view. Hosted by Bob McCown, the show is broadcast daily on Sportsnet, and is also syndicated on the FAN Radio Network.

Mr. Kelley is an award-winning professional sports news columnist with over 30 years of experience. Although his career has focused primarily on the NHL's Buffalo Sabres (he began covering the Sabres in 1981), he has pursued other media interests including radio broadcasting, and the occasional article on ESPN.com and FOXsports.com. In 2004, Mr. Kelley received the Elmer Ferguson Memorial Award and was inducted into the Hockey Hall of Fame. One year later, he was inducted into the Greater Buffalo Sports Hall of Fame.

We have reviewed the logger tape of the broadcast in question and must respectfully disagree with your characterization of Jim Kelley's comments. The panel was discussing the hit by Toronto Maple Leaf forward Mark Bell on the Ottawa Senators' captain Daniel Alfredsson. Each panel member gave his own view on the hit, and opined on whether a penalty should have been given. Although many of the panel members felt that the hit was illegal, the game's officials did not penalize Mr. Bell.

When it came to Mr. Kelley's turn, he said something to the effect "I loved it". He then went on to make some comments about the player's head coming off and whether the head or helmet would travel further. Based on the discussion that followed this statement, it is clear that Mr. Kelley was using sarcasm to express his views that:

1. Hits such as the one on Mr. Alfredsson have been accepted as part of the game of hockey for some time despite the fact that they have resulted in injuries;

2. There is currently no consensus on whether such hits are in fact illegal according to NHL rules; and
3. There is no point in debating the issue because until a player takes the matter to court and wins a settlement, the NHL will continue to ignore the issue.

Based on our review of the logger tape, and considering Mr. Kelley's experience as a journalist and broadcaster, we respectfully submit that these comments do not represent a breach of Clause 10.1 of the Violence Code.

That being said, it is clear from your complaint that you were offended by our programming. It was certainly not our intention to offend you, and for that, we sincerely apologize. Thank you for taking the time to express your thoughts about our programming. We value the opinion of all our listeners.

The complainant was not satisfied with that response and wrote back to the CBSC on June 24:

I recently did get a response from Sportsnet. To be honest, I do not get the impression that they understand why the comments of Mr. Kelley (and he's not the only one promoting hatred and violence) are so unacceptable.

I would like you to pursue this matter further. I want sports broadcasters to realize that they do not operate in a vacuum; you can't say anything just because it's on a sports show. We live in a world where children and adults are exposed to all manner of noxious ideas and images. Those given the right to use public airwaves have to play a responsible part.

What I would like to see is some acknowledgement from Mr. Kelley and Sportsnet that his comments were wrong and that they will consider in the future the impact of their statements in future. It is statements like his, and the attitudes that underlie them that has made me indifferent at best towards a sport I absolutely loved as a child.

As an aside, I wonder if he would have made those comments if Mr. Alfredsson were sitting beside him; or if Mr. Kelley's son or daughter were playing a sport where he/she was hit hard enough to cause injury and some talking head thought it would be amusing to comment that it was too bad he/she wasn't killed.

## THE DECISION

The CBSC National Specialty Services Panel examined the complaint under Article 10.1 (Violence in Sports Programming) of the Canadian Association of Broadcasters' (CAB) *Violence Code* or Clause 6 of the *CAB Code of Ethics*, which read as follows:

### *CAB Violence Code*, Article 10 – Violence in Sports Programming

10.1 Broadcasters shall not promote or exploit violent action which is outside the sanctioned activity of the sport in question.

### *CAB Code of Ethics*, Clause 6 – Full, Fair and Proper Presentation

It is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of each broadcaster. This principle shall apply to all radio and television programming, whether it relates to news, public affairs, magazine, talk, call-in, interview or other broadcasting formats in which news, opinion, comment or editorial may be expressed by broadcaster employees, their invited guests or callers.

The Panel Adjudicators read all of the correspondence and reviewed a recording of the broadcast in question. The Panel concludes that the broadcast did not violate either of the foregoing clauses.

### **Sports Violence**

The CBSC has dealt with the issue of the coupling of hockey and violence in a broadcast environment in three previous decisions. In the first, *CHEX-TV re Sportscast* (CBSC Decision 03/04-0926, October 22, 2004), commenting on a physical confrontation during the Peterborough Petes game of the previous night, the local Peterborough television station sportscaster stated that he was addressing the hockey players when he said, “when somebody takes a cheap shot at the heart and soul of your team, somebody has to and should’ve stepped up and, well, [...] deliver a message, and I think you know what I mean by that.” A viewer felt that the sportscaster should not be encouraging young players to harm each other during the game. In dealing with Article 10.1 of the *CAB Violence Code*, the Ontario Regional Panel stated that it

does not consider that it amounts to a breach of the broadcasters’ obligation not to promote or exploit violent action which is outside the sanctioned activity of the sport in question. There are, in the view of the Panel, numerous ways to deliver a message which are inappropriate or, as noted above, improper but which, technically speaking may, fall *within* the scope of the game, within the “sanctioned activity of the sport.” There are, for example, some actions which may amount to no more than minor penalties, such as holding or interference, which, although subject to a penalty, *do* fall within the *anticipated* scope of play. The Panel considers that [sportscaster] Gary Dalliday’s incitement does not attain the higher level of *promoting violent action* which would be in breach of this article of the *CAB Violence Code*.

The Panel did, however, find a violation of Clause 6 of the *CAB Code of Ethics* because he had directed his remarks to junior players and hinted rather unsubtly at violence.

Bottom line, the Panel’s understanding of the exhortation is this. *If* Gary Dalliday did *not* intend his comments to appear to encourage some form of retaliation, he could have chosen a more benign formula. There is no end of less suggestive expressions that he might have selected. He might, for example, have said something like, “Play harder, guys. More determination. More resolution. Win one for the Gipper.” He did not do so. He left a different kind of message. In the view of the Panel, it did not meet the private broadcasters’ test of “proper presentation of [...] opinion, comment and editorial” and, in consequence, was in breach of Clause 6 of the *CAB Code of Ethics*. Moreover, it was a message targeted, he ought to have foreseen, at young players. (Not only do young people generally admire hockey heroes, but the age limits of eligibility in the Ontario

Hockey League, in which the Peterborough team plays, are 16 to 20.) The youthful market for Mr. Dalliday's remarks implies that even more care ought to have been taken with his choice of words in what has been, some might say, a delicate time in terms of hockey culture.

This Panel expanded on the issue of "sanctioned activity" in *Sportsnet East re Sportsnet Connected* (CBSC Decision 07/08-1222, August 7, 2008). In that decision, the sports news program highlights included clips of fights between players, which occurred during the normal course of play and which had begun due to some sort of on-ice incident, such as shoving or high-sticking. The video clips basically consisted of players punching each other about the head (both with and without helmets on) and pulling on each others' jerseys. None of these was a high-profile or prolonged incident. Moreover, the announcer's comments were neutral in tone, simply describing which players had been involved, what had instigated the conflicts, and the result. The CBSC received a complaint from a viewer who felt that highlighting the fights "exploits violent action outside the activity of the sport." In finding no breach of Article 10, the National Specialty Services Panel refined its view of "violent action outside the sanctioned activity of the sport" in the following terms:

[T]he National Specialty Service Panel considers that *sanctioned* activities are best understood as reasonably anticipated activities. In another way of explaining its understanding of the intention of the codifiers, the Panel expects that actions that could be expected to occur would be of such a type. The Panel does not consider that the application of a penalty to a particular action turns that element of play into an item that ought not to be broadcast. It is relevant to the Panel that having too many players on the ice and using a hockey stick with an excessively curved blade attract penalties of the same duration as physical penalties such as tripping, slashing or cross-checking, while cursing the referee may attract a more serious penalty than fighting. That said, the foregoing offences, whether technical or physical, including fighting, are all in the hockey rulebook. It is expected that they will occur. They are, in that sense, anticipated and sanctioned. It is the view of the Panel that none of these fall outside the "sanctioned activity of the sport." They may be the subject of a broadcast without violating Clause 10.1 of the *CAB Violence Code*.

Even if the Panel were to find that violent action outside the sanctioned activity of the sport were broadcast, in order to assess a breach of Article 10.1, it would have to conclude that the broadcaster had promoted or exploited such violent action in its broadcast. The Panel considers that fighting is a normal part of NHL hockey and that the reporting of the fighting was matter-of-fact, attracting no greater emphasis than the scoring of the goals or other exciting plays during the game updates.

A rather different situation arose in *CKAC-AM re a segment on Bonsoir les sportifs* (CBSC Decision 06/07-0441, April 7, 2008), where the Quebec Regional Panel dealt with a complaint about comments made on a radio sports talk show. Host Ron Fournier was speaking with his co-host about the meagre reaction of the Montreal Canadiens to opponents' interference with their goalie in a recent game. Fournier suggested that, on the first two instances of goalie interference, the team should approach the referee, but, on the third occasion, [translation] "you break your stick on the back of the player's neck and he's on the ground!" At that point, Fournier's co-host said [translation] "Watch what

you're saying; there are young people listening!" but Fournier continued with [translation] "You cross-check him in the back of the head and he ends up [...] with his face in the glass enclosure or in the ice!" The CBSC received a complaint from a listener who was concerned about the message this broadcast sent to young people about using violence in hockey games. The station argued that Fournier had not intended to incite violence and the comments were made in the context of a specific hockey game. The Panel found a violation of Clause 9(a), an analogous equivalent of Article 10.1 in the radio environment (although its application is not limited to comments about violence in sports):

The issue for the Quebec Panel in interpreting the above-cited provision of the *CAB Code of Ethics* centres on the meaning of the words "sanction" and "promote". The Panel understands the verbs to be the equivalent of "endorse", "encourage", "approve", "support" and the like. It does not consider that there is a need to provide a "how-to" manual, although it does acknowledge that Ron Fournier has come very close to delivering that very formula.

[...]

In the matter at hand, the Quebec Panel considers that the sportscaster's words exceeded by a *considerable* measure those of Gary Dalliday in the CHEX-TV decision. There was nothing subtle or equivocal about his advice. [...] The Quebec Panel considers that the foregoing words not only "endorsed", "encouraged", "approved" and "supported" such violent acts, they *recommended* such a course of action to protect a goaltender.

The Panel has no doubt but that the invocation of violence in the matter at hand *would* have been beyond the pale, if seriously intended, but the Panel is equally sure that it was *not* in any way, shape or form a sincere suggestion. It was in fact the precise opposite, either an instance of irony, or of sarcasm. In a relevant precedent, namely, *CFRA-AM re The Lowell Green Show ("Somalia Commission Report")* (CBSC Decision 96/97-0238, February 20, 1998), the Ontario Regional Panel was dealing with comments by a talk radio host that were aimed at the Federal Government. Although the Panel understood the host's attempted use of rhetorical tools, it considered that he had failed to do so effectively. Although the result differed from the conclusions in the matter at hand, the reasons are instructive and applicable here. The Ontario Panel said that it

understands perfectly well that Lowell Green was trying to ridicule the decision of the Federal Government to disband the Somalia Inquiry. It is apparent that he was trying to achieve this result by being sarcastic and facetious. The Council does not consider that his attempt to achieve his goal was poorly conceived but it does consider that it was poorly executed. Careful thought before the fact would have led the host to understand that his comments would likely offend not only the brunt of his barbs, namely, the Federal Government, but also persons of Somali origin, as well as those right-minded Canadians who are sensitive to racial slurs about *any* identifiable group. It is hardly necessary to say that the Council has no quarrel with the offence that might have been taken on the political side of the issue but it *does* consider that Lowell Green's failure to defuse at any

point the racially offensive component of his remarks put him in the same situation as Brian Henderson in the *CHUM-AM* case.

The effect of his rhetorical attempt to skewer the political decision-makers was not, as it could have been, moderated so as *not* to skewer the compatriots of the slain teen-agers. He thus undermined the legitimacy of his own argument [...]. This was made the moreso true by his *repetition* of the offensive statements without, at any time in the show, offering *any mitigation* which would have left the sarcastic element operational *vis-à-vis* the actual target but not *vis-à-vis* the unintended target. Moreover, he had the perfect opportunity to offer that mitigation or at least some moderation of his position in his response to the caller Ashouk, who, after all, had missed the irony and could have been assumed not to be the only such listener in that position.

In the matter at hand, the mitigation was clearly present, within seconds of the original challenged words. The commentator, Jim Kelley, was expressing his frustration with the sport, and with the fact that, until a player *dies* or the National Hockey League is successfully sued for *billions* of dollars, “you cannot change the mindset of hockey on this.” The Panel is comfortable that anyone who listened to the 240 words of the entire comment would not likely have believed that Kelley *loved the hit*, as he began his observation. Indeed, he did appear to the Panel to have *hated* the illegal elbow to the head. It is fair to observe that he might have chosen less graphic language to make his point, but there is no breach resulting from that editorial choice. In the end, the Panel believes that this was a strong anti-violence statement. Full stop. There is no breach of either Article 10.1 of the *CAB Violence Code* or Clause 6 of the *CAB Code of Ethics*.

### **Broadcaster Responsiveness**

In every CBSC decision, the adjudicating Panel assesses the broadcaster's responsiveness to the complainant. It goes without saying that the broadcaster is not under any obligation to agree with the position taken by the complainant, but every broadcaster is obliged, by virtue of its membership in the CBSC, to respond to the complainant in a thoughtful, timely and thorough manner. The response of the broadcaster's Vice President of Regulatory Affairs was pointed, specific, thorough and respectful. The Panel considers that Sportsnet Ontario has met all of its responsiveness obligations as a CBSC member. Nothing further is required in this respect on this occasion.

*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.*

---

## APPENDIX A

### CBSC Decision 07/08-1500

#### Sportsnet Ontario re comments made on an episode of *Prime Time Sports*

---

*Prime Time Sports* is a sports radio talk show that is also broadcast on Sportsnet Ontario beginning at 5:00 pm. On April 4, 2008, the program was preceded by an sports update on which they showed a clip of the previous night's Ottawa Senators – Toronto Maple Leafs hockey game during which Leaf Mark Bell had hit Senator Daniel Alfredsson. That clip was broadcast from 17:01:41 to 17:02:01. Alfredsson and Bell collided quite hard and Alfredsson fell down onto the ice. Alfredsson struggled to get up, but did manage to walk off the ice. A medic was shown attending to Alfredsson's mouth. The hit was replayed a few times.

The actual *Prime Time Sports* program began at 17:07:07. Mike Toth was filling in for usual host Bob McCown and the three other panelists that day were Jim Kelley, James Deacon and David Shoalts. The four commentators began by discussing the Alfredsson hit.

Toth: You gotta care about the Battle of Ontario if you live in Toronto or Ottawa. They put the "battle" back in "Battle of Ontario" in some ways last night. Not on the scoreboard, but in the scrapping department and in the feistiness department. And David Shoalts, you were at that game, so here's the million dollar question: Mark Bell, ringing the bell of Daniel Alfredsson. Was that a dirty hit?

Shoalts: Not by NHL standards, no. Uh, Ottawa may beg to differ. All, everybody in Ottawa I guess did, but the only thing was I thought he had a little bit of elbow in it, but he didn't lift his elbow and drive it into his head like you see sometimes. So he sorta had it there and, uh, nah, it was –

Deacon: It's more shoulder than elbow.

Shoalts: Yeah.

Toth: And it was late. It was late.

Shoalts: Well, --

Toth: It's always late in the NHL, though.

Shoalts: Late in the NHL, yeah, ever since, I think people credit Mike Keenan with introducing the finishing-your-check idea. Um, --

Deacon: It's kinda like continuation in basketball.

Shoalts: [laughs] Yeah. So by those standards, no.

Toth: Well, he tried to finish the Czech's career in Chicago, Dominik Hašek. That didn't work so well. He went to Buffalo and Hašek got, turned out to be a pretty good goalie.

Deacon: Well, Mike's not right every time.

Toth: What did you think, James?

Deacon: You just brought up the subject of Mike Keenan and goaltenders and then quickly went back to the Leafs and the Bruins, er, Leafs and the, and the Senators. That's interesting. You know, it looked dirty to me. Definitely his elbow came up. But what, in any case, it was a head shot and if it wasn't his elbow, it was his shoulder. And, whatever you say, that to me is a dangerous hit and it's the thing that we talk about that the OHL was, and, and the Canadian Hockey League has done well to kind of, uh, go after that sort of thing. You know, was it dirty? I don't know, but it is dangerous. And it's something that should, you know, they should try and get out of hockey if at all possible. But Alfredsson had his head down and even he said today, look, it was my responsibility to know where everyone was. But that's him just being a good guy.

Shoalts: That, that's why I say I don't have a big problem with the elbow because his head was down. It wasn't as if Bell lifted his elbow looking for his head. Even, uh, the Senators last night right after the game, their problem was the fact that it was a blindside hit, not that he had his elbow up. Uh, Danny Heatley, I think, said later, um, you know, we've all had guys in that position and some of us let up and some of us don't and their, you know, their complaint was that Bell could've, should've let it go.

Toth: And we should mention too, no penalty on the play, guys. And Ottawa talked to the League about it today apparently and no suspension. They termed it a "legal hit". Jim?

Kelley: I loved it. I, I was waitin' for his head to roll all the way down the ice with his, uh, helmet and see which one got farther. I thought –

Toth: You're really a hockey connoisseur, aren't you, Jim?

Kelley: Oh, absolutely. I thought maybe the two goalies would pick. One guy could get the head, one could get the helmet and they could curl, while the rest of the altercations were goin' on. I mean, come on. The, we get to this point so many times that it's not worth talkin' about anymore. It was an elbow. You could clearly see it on the replay. It was an elbow. It was a come-from-behind elbow and it was very reminiscent of the Scott Stevens kind of play where, except though, instead of coming across and maybe knowing that Stevens was coming, he came from behind. And it was a head blow and the only thing that, um, you can really say about it is, hey, that's what the Ottawa Senators do with their players like Chris Neil and so they got one in return. And that's hockey. I've stopped cryin' about it. I've stopped complainin' about it. If a guy dies, so be it because it's been, as long as I've been around the game, it's been considered a quote, unquote – finger quotes here if you're not watching on TV – "legal hit" and you cannot change the mindset of hockey on this. Even Steve Moore, until he wins billions probably from the National Hockey League over the Bertuzzi incident, can't change the mind of the National Hockey League on this. It will not change until it's settled in the courts.

The conversation then continued about the Senators-Leafs game. They discussed the disciplinary action taken for the Alfredsson hit, a hit involving two other players and other aspects of the game.

---

## APPENDIX B

### CBSC Decision 07/08-1500

#### Sportsnet Ontario re comments made on an episode of *Prime Time Sports*

---

### The Complaint

The CBSC received the following complaint on April 4, 2008:

This is a copy of an e-mail I have sent to Sportsnet in protest of some inflammatory and violent comments made by one of their employees, a Mr. Jim Kelley. This show airs during the afternoon and I assume has a listenership that includes sports fans of all ages. I think what Mr. Kelley said comes close to advocating violence; it certainly glorifies it.

I hope you can at least contact Sportsnet and remind them that their ability to broadcast is a privilege.

-----  
I happened to be watching *Prime Time Sports* today (Friday) and the discussion of the questionable hit on Daniel Alfredsson by Leaf, Mark Bell (I see no question: it was illegal as he did not have the puck and the elbow was used; since head shots are not illegal, and will not be 'til someone dies as a result of one -- a matter of when, not if) came up. There was a generally reasoned debate, at least reasoned given the very broad scope of what passes for acceptable in the world of sports. Then Jim Kelley chimed in.

Asked what he thought of the Bell hit, Kelley responded: I loved it. In fact, (and I paraphrase here) I was hoping his head would come off and I was curious to see whether his head or the helmet went further. I thought the two goalies could each play with either the helmet or the head.

What kind of person says things like this? We wonder why some of our youth have got screwed-up values, who respond to the hint of a slight by pulling out a knife or a gun. They hear supposed adults who are given voice by networks such as yours to spew this hatred. I don't accept the argument that all rules do not apply when it comes to sports.

If you have any decency, you will discipline this hack, telling him that there are limits to what should be uttered, especially during prime time. I expect to hear that something is done. I am inclined to complain to the broadcast standards council and Mediawatch. We cannot have people advocating extreme violence even in a sport where a degree of violence is expected.

This is not the first stupid irresponsible comment uttered by one of your paid morons. Former goaltending mediocrity John Garrett applauded players for hitting people from behind into the boards since he deemed it a reasonable response to rule changes that attempted to actually enforce rules on obstruction hooking and holding. Imagine that?

I suppose if one of their children were brutally assaulted in a playground game of sports, they would admonish their child as he/she lay in hospital with a level 3 concussion to always keep their head up. Being a sports commentator DOES NOT give you license to say anything just because it's shocking.

Personally, I'd rather watch TSN.

The CBSC requested more information from the complainant about the precise date and time of the episode in question. The complainant responded on April 7:

The show aired Friday, April 4th on Sportsnet at approximately 4:20 pm. It is also broadcast on the FAN590 Radio, but I'm not sure if it is a live simulcast or shown on a tape-delayed basis on television.

Just as background, the regular host Bob McCown was away and I forgot who guest hosted along with Mr. Kelley. The show features a mix of commentary and news from the world of sport. I thought this exhortation [*sic*] to the darkest passions went beyond the pale. Again, walking around with my four-month baby in my arms I wondered what kind of world my child would be growing up in we give airtime to such hatred.

I did receive a reply from Sportsnet today indicating that they are sorry I was offended by their comments and that it would be forwarded to the producer of the show.

The CBSC then asked for clarification on which regional Sportsnet feed he had been watching. The complainant replied on April 9:

I have digital cable and thus have access to all regional channels but am sure it was broadcast Sportsnet Ontario. I live in Toronto.

## **Broadcaster Response**

Sportsnet responded to the complainant with a letter dated June 10:

We have received your complaint to the Canadian Standards Broadcast Council (CBSC) regarding comments made by Jim Kelley on a program entitled *Prime Time Sports*, which was broadcast by Rogers Sportsnet (Sportsnet) at approximately 4:20 pm on April 4, 2008.

Sportsnet is owned and operated by Rogers Broadcasting Limited. We are a member in good standing with the CBSC and we welcome the opportunity to respond to your concerns directly.

Prior to dealing with the substance of your complaint, we must first apologize for the delay in responding to your email. Please do not take this delay as an indication of our lack of concern. At Sportsnet, we take each and every complaint seriously.

As you may be aware, Canadian broadcasters, including Sportsnet, are subject to certain codes of conduct. These include the Canadian Association of Broadcasters (CAB) *Code of Ethics* (the Code) and the *Voluntary Code Regarding Violence in Television Programming* (the Violence Code). The Violence Code prohibits broadcasters from airing programming that contains gratuitous violence in any form, or programming that sanctions, promotes or glamorizes violence.

Sportsnet is sensitive to viewer concerns about violence in television programming, and in particular, about violence in sports. As a discretionary service offering sports and sports-

related programming, we look to Clause 10 of the Violence Code for guidance. Clause 10 recognizes the dynamics of sports as follows:

**10.0 Violence In Sports Programming**

*10.1 Broadcasters shall not promote or exploit violent action which is outside the sanctioned activity of the sport in question.*

*Prime Time Sports* is a sports talk show that delves into major issues in sports and considers them from a Canadian point of view. Hosted by Bob McCown, the show is broadcast daily on Sportsnet, and is also syndicated on the FAN Radio Network.

Mr. Kelley is an award-winning professional sports news columnist with over 30 years of experience. Although his career has focused primarily on the NHL's Buffalo Sabres (he began covering the Sabres in 1981), he has pursued other media interests including radio broadcasting, and the occasional article on ESPN.com and FOXsports.com. In 2004, Mr. Kelley received the Elmer Ferguson Memorial Award and was inducted into the Hockey Hall of Fame. One year later, he was inducted into the Greater Buffalo Sports Hall of Fame.

We have reviewed the logger tape of the broadcast in question and must respectfully disagree with your characterization of Jim Kelley's comments. The panel was discussing the hit by Toronto Maple Leaf forward Mark Bell on the Ottawa Senators' captain Daniel Alfredsson. Each panel member gave his own view on the hit, and opined on whether a penalty should have been given. Although many of the panel members felt that the hit was illegal, the game's officials did not penalize Mr. Bell.

When it came to Mr. Kelley's turn, he said something to the effect "I loved it". He then went on to make some comments about the player's head coming off and whether the head or helmet would travel further. Based on the discussion that followed this statement, it is clear that Mr. Kelley was using sarcasm to express his views that:

1. Hits such as the one on Mr. Alfredsson have been accepted as part of the game of hockey for some time despite the fact that they have resulted in injuries;
2. There is currently no consensus on whether such hits are in fact illegal according to NHL rules; and
3. There is no point in debating the issue because until a player takes the matter to court and wins a settlement, the NHL will continue to ignore the issue.

Based on our review of the logger tape, and considering Mr. Kelley's experience as a journalist and broadcaster, we respectfully submit that these comments do not represent a breach of Clause 10.1 of the Violence Code.

That being said, it is clear from your complaint that you were offended by our programming. It was certainly not our intention to offend you, and for that, we sincerely apologize. Thank you for taking the time to express your thoughts about our programming. We value the opinion of all our listeners.

**Additional Correspondence**

The complainant was not satisfied with that response and wrote back to the CBSC on June 24:

I recently did get a response from Sportsnet. To be honest, I do not get the impression that they understand why the comments of Mr. Kelley (and he's not the only one promoting hatred and violence) are so unacceptable.

I would like you to pursue this matter further. I want sports broadcasters to realize that they do not operate in a vacuum; you can't say anything just because it's on a sports show. We live in a world where children and adults are exposed to all manner of noxious ideas and images. Those given the right to use public airwaves have to play a responsible part.

What I would like to see is some acknowledgement from Mr. Kelley and Sportsnet that his comments were wrong and that they will consider in the future the impact of their statements in future. It is statements like his, and the attitudes that underlie them that has made me indifferent at best towards a sport I absolutely loved as a child.

As an aside, I wonder if he would have made those comments if Mr. Alfredsson were sitting beside him; or if Mr. Kelley's son or daughter were playing a sport where he/she was hit hard enough to cause injury and some talking head thought it would be amusing to comment that it was too bad he/she wasn't killed.