
CANADIAN BROADCAST STANDARDS COUNCIL

ONTARIO REGIONAL PANEL

CFNY-FM re the *Dean Blundell Show* (Culling Cats)

(CBSC Decision 10/11-1344)

Decided July 12, 2011

H. Hassan (Vice-Chair), R. Cohen (*ad hoc*), M. Hamilton, K. King, J. Pungente

THE FACTS

The Dean Blundell Show is CFNY-FM's (102.1 The Edge, Toronto) morning show, which airs weekdays from 5:30 to 10:00 am. The show generally includes music, news and traffic reports, humorous banter between the hosts, and occasional celebrity interviews and in-studio guests. On the morning of March 25, 2011, the show was hosted by Dean Blundell, Todd Shapiro and Derek Welsman. They had the following exchange:

Welsman: That's a bucket and some water.

Blundell: Yeah, no kidding. You know back wh-, you know, you know what he's saying?

Shapiro: No.

Welsman: Bucket.

Blundell: You don't?

Shapiro: I don't at all.

Blundell: You know what you do with animals you don't want on the farm.

Shapiro: Is that like killing a cat or something?

Welsman: On the farm.

Blundell: You take 'em by the neck and you put 'em –

Welsman: Yeah.

Blundell: – in a bucket of water and you drown 'em.

Shapiro: Really?

Blundell: If it's an animal you don't want. Listen folks, I, I grew up near a farm.

Welsman: Me too.

Blundell: My friends had farms. I, I, I've done lots of things to, to, uh, barnyard animals that I, yeah, not like that. Like you didn't find me behind one with my pants pulled down [laughter]. You found me with my hand on it, uh, in, uh, a bucket or in a, in a dugout, which is like a little man-made lake.

Welsman: Well you know, fellas, now that we're in the big city, maybe what happens in the barn stays in the barn. [Laughter]

Blundell: Dude, I remember once, ah, I can't even tell you this story.

Shapiro: Ah, no, don't, don't, dude, don't be ... [laughter]

Blundell: I have to.

Shapiro: Nah, you don't want some under-arm, hairy, uh –

Blundell: I don't care. I don't, I hate PETA. I hate those people.

Shapiro: Ahh, just, is it worth it?

Blundell: Yeah, totally. Listen you, you, you talk about humane treat-, I was watching on TV the other day, they had these chicks that are in, in, L.A., and they're behind this bath curtain and they're naked and they're talking about how you shouldn't eat meat and going veg is the best way to go, and ...

Welsman: I might listen to them if they're in front of the curtain.

Blundell: Yeah, they weren't. [Laughter]

The hosts discussed their dislike for PETA (People for the Ethical Treatment of Animals) and stated that the “Vice-President of PETA uses insulin, which has got an animal by-product in it, which is taken from live animals. So you can suck it.” They also quickly discussed that women who support PETA often have “‘fur’ [...] all over the place.” Dean Blundell decided he was going to share the experience he had had on the farm:

Blundell: Anyway, I'll tell you the story.

Shapiro: Yeah?

Blundell: Yeah.

Welsman: Yeah? About an animal?

Blundell: My friend Miles Ernst, his Dad was a doctor, he lived like, uh, not far from where we lived in Saskatchewan and he, and he had a big farm. And it was time to cull the cats.

Welsman: Yep. Cat cullin' time.

Shapiro: Oh no! Unbelievable!

Blundell: There was like a hundred and twenty cats.

Shapiro: Really? I hate cats too but still.

Blundell: Well, so did I that day.

Shapiro: Yeah.

Blundell: It was a cold March morning.

Shapiro: Oh, you helped out?

Blundell: Yeah. [Laughter]

Welsman: It's always in the spring after the long winters.

Blundell: Some of us had buckets, some of us .22s. I myself had a spade and you know what spade is?

Shapiro: A spa-, you had a spade?! Dude, that's like –

Blundell: A garden spade, is a little skinny shovel.

Shapiro: Yeah that's like, that's, that's like, that's like barbarian styles, man [chuckles].

Blundell: Yeah. Anyway, I bat a thousand.

Shapiro: No! No!

Welsman: Ah, well done.

Shapiro: I don't even wanna ... Ugh!

Welsman: And the thing is you were –

Blundell: Dude, I was like fifteen!

Shapiro: [with a disgusted tone] I don't know!

- Welsman: And you were envisioning harp seals. That's the great thing. [Laughter]
- Shapiro: Oh wow, here we go.
- Welsman: Just like eggshells those things.
- Blundell: But dude, it's like in China, you see, the-, these, p-, they got, and you go to the market in China, they got cats and they got dogs in cages you can pick. Oh, I'd like that Chihuahua, uh, medium rare and, uh, gimme that Siamese cat, um, uh, medium.
- Shapiro: What, you ate 'em too? [Laughter]
- Blundell: No, wha-, what I'm saying is, is that you can't subject, this is a different world. You can't, you can't subject your, uh, your gay PETA city views on country folk, you just can't. And, and at the very bottom line, I am a country folk. So is Derek.
- Welsman: I am, too.
- Blundell: That's why we have sensibilities and why we're nice.
- Shapiro: Worst thing I did was, like, eat a corn beef sandwich.
- Welsman: Yeah. [Laughter]
- Blundell: And she said thanks after. [Laughter]

The CBSC received a complaint from a listener on March 27. The listener expressed her view that Blundell had glorified violence against animals. The relevant portions of her complaint were as follows (the full text of the complaint and all other correspondence can be found in the Appendix):

Dean was telling a story about living in Saskatchewan and having to do "population control" on his uncle's [sic] farm because his uncle had too many cats.

Dean continued to say (with no remorse, in fact he seemed very proud) that he took a shovel and beat several (100's) of cats over the head. He said that he didn't see what the big deal was ...

After I heard this I was so disturbed I went on the Dean Blundell Facebook page because I was very concerned about what his listeners had to say about this issue that he was glorifying. [...]

[There were] many posts from listeners cheering Dean on for his acts of animal cruelty. I became quite concerned so I sent a letter to the Program Director as well. Although I have yet to hear a reply, I look forward to it (since I sent the letter all posts on the Facebook page have now been deleted).

What Dean did and said live to air was not only terribly wrong but it was also criminal (it's a shame our country has a statute of limitations for animal cruelty). I feel that radio personalities are somewhat of a public figure [sic] and it was extremely irresponsible of him to go down this route. That's all we need, is more people beating stray cats to death. Because Mr. Blundell did it, it must not be immoral or illegal.

CFNY-FM's Program Director responded on April 19 in pertinent part as follows:

[W]e note that the co-host had made it clear that his comments were merely his opinion on the subject. While we agree that the comments may have been in poor taste, and were perhaps unduly harsh, they did not constitute a call for violent action, and therefore, did not contravene the Canadian Association of Broadcasters' *Code of Ethics* (the "Code"), which is administered by the CBSC and to which we adhere.

As you may be aware, the Code requires radio broadcasters to ensure that their programming does not contain "gratuitous violence in any form, or otherwise sanction, promote or glamorize violence". In determining whether or not certain comments constitute a breach of this provision, the CBSC asks whether the statements could be considered a "genuine pre-meditated attempt to encourage the commission of a criminal offence". [...] In our view, the comments during the Program were [...] juvenile and tasteless, perhaps, but not statements that could be seriously taken to be encourage [*sic*] violence against a particular individual or group, in this case, animals.

In view of the foregoing, we do not believe that the program violated the Code. We do regret, however, that you were offended by some of our programming. We take our responsibilities as broadcasters very seriously, and work hard to make sure all of our programming complies with the *Broadcasting Act*, the *Radio Regulations* and the Code and standards required of us as a member of the CBSC.

The complainant wrote back to the broadcaster on April 20. In that letter, she stated that she supports freedom of speech, but felt that the broadcast in question had violated the codes administered by the CBSC, in particular the provision in the Canadian Association of Broadcasters' (CAB) *Violence Code* regarding violence against animals. She noted that Blundell did not bring up the story "to deter others from doing the same or, rather, to admit his mistakes and possibly have a discussion on the rapid growth of unwanted pets in this country. Which leads me to no other alternative: that he was proud of what he did and obviously found it quite humorous to be brought up in a discussion on his morning show." She expressed her concern about the public's perception of Blundell's remarks and noted a recent news story about mutilated kittens being found in a Toronto city dumpster. She also cited various examples of legislation dealing with animal cruelty and reiterated her view that Blundell had glorified violence against animals and had acted immorally and irresponsibly.

On April 21, she submitted her Ruling Request with a copy of her April 20 letter to the station.

THE DECISION

The Ontario Regional Panel examined the complaint under the following provisions of the *CAB Code of Ethics* and *Violence Code*:

CAB Code of Ethics, Clause 9 – Radio Broadcasting

Recognizing that radio is a local medium and, consequently, reflective of local community standards, programming broadcast on a local radio station shall take into consideration the generally recognized access to programming content available in the market, the demographic composition of the station's audience, and the station's format. Within this context, particular care shall be taken by radio broadcasters to ensure that programming on their stations does not contain:

- (a) Gratuitous violence in any form, or otherwise sanction, promote or glamorize violence.

CAB Violence Code, Article 9.0 – Violence against Animals

- 9.1 Broadcasters shall not telecast programming which sanctions, promotes or glamorizes violence against animals.

The Panel Adjudicators read all of the correspondence and listened to the broadcast in question. The majority of the Panel concludes that the broadcast is not in breach of either Clause 9(a) of the *CAB Code of Ethics* or Article 9.1 of the *CAB Violence Code*.

Applicability of the *CAB Violence Code* to Radio Programming

The *CAB Violence Code* was originally drafted for television broadcasting. It thus contains the words "telecast" and "television" throughout. The CBSC has determined, however, that the Code's application should not be limited solely to television broadcasts when radio broadcasts can equally raise issues that could be dealt with under the Code. In the past, the CBSC has thus extended principles established in the *CAB Violence Code* to radio broadcasting as well.

The first occasion on which the CBSC established the *Violence Code*'s applicability to radio programming was *CIOX-FM re a song entitled "Boyz in the Hood"* (CBSC Decision 00/99-0619, October 12, 2000). That case involved a song which contained some lyrics that referenced violence against women and so warranted the application of Article 7.0 (Violence against Women). This Panel explained its rationale for extending the Code in the following terms:

While it is clear that the prohibition against sanctioning, promoting or glamorizing any aspect of violence against women is found in the Code dealing with violence *on television*, the Council does not assume that Canada's private broadcasters had intended their strong and unequivocal prohibition of such aggressively anti-woman behaviour to extend no further than the television screen. The Council considers that, while the *Violence Code* was created to deal with a series of content issues far likelier to be present in that medium than in the different style of programming in the radio sphere, the broadcasters did not believe that the prohibitory principle ought not to benefit women across the broadcast spectrum. Moreover, the Council understands that the freedom of persons from *abusive* or discriminatory comment based on their gender in the human rights provision of the *Code of Ethics* would include an entitlement to be free from the promotion of physical violence in either medium. Moreover, the recognition of the

dangers of “stereotyping images” and the mandating of “conscious sensitivity to the problems related to sex-role stereotyping, by refraining from exploitation” in [...] the medium-neutral *Code of Ethics* would equally intend to provide such protection from physical abusive language content.

In 2002, the *CAB Code of Ethics* was revised, among other things by the inclusion of Clause 9(a), which is a prohibition against sanctioning, promoting or glamorizing violence on the *radio*. Despite the present existence of that sub-clause in the *CAB Code of Ethics*, the CBSC considers that it is still occasionally useful to apply the *CAB Violence Code* to radio programming because the *Violence Code* contains more focussed and detailed provisions relating, for example, to violence in more specific circumstances and with respect to specific groups. The present case is a pertinent example because the complaint relates clearly to violence *against animals* rather than just violence in general. It is for that reason that the Ontario Panel has applied both Clause 9(a) of the *CAB Code of Ethics* and Article 9.0 of the *CAB Violence Code* to the matter under consideration here.

Violence against Animals: The View of the Majority

The Ontario Panel is unanimous in its view that the hosts had the right to discuss the issue of farming practices, including delicate subjects, which the culling of animals certainly is. The majority and the minority differ with respect to the *treatment* of the subject.

The majority acknowledges the discomfort listeners, urban listeners in particular (that is, after all, the Toronto station’s principal audience), could feel on hearing the substance and even the tone of the dialogue. That is not, however, the standard that, in the view of the majority, must be applied. The question is whether the discussion sanctioned, promoted or glamorized the killing of the cats. The majority do not consider that it did. In their view, the discussion, indeed the very topic of the segment, was callous and somewhat harsh but the principal expounder of the subject had grown up on the farm in Saskatchewan and was looking at the subject from *that* perspective. In the view of the majority, he sought no converts. Nor was he encouraging *anyone* to take a spade or other weapon to any cat or other animal. He discussed only the practice *on the farm*. Nor did he (or they) make any generalized crass comments that would have left a sense of enjoyment at the fear or pain that might have been in evidence on the part of the animals. It was just, in the view of the majority, the exposition of a rural practice and not one which overstepped the boundaries of the codified standards. Moreover, to some extent, the interventions of co-host Todd Shapiro had the effect of mitigating whatever impact there was on the part of Dean Blundell. The majority would find no breach of the above-cited standards.

Dissent of Adjudicators H. Hassan and K. King

The minority sides with the majority on the right of the hosts to discuss the issue of farming practices, including the discussion of the culling of various farm animals, in this case the apparently superfluous cats. It differs, however, from the majority on the all-important issue of the actual on-air discussion.

It is the view of the minority that the language and tone of the hosts, particularly Dean Blundell, who was recounting his growing-up in Saskatchewan farm experiences, was excessive. It was fair enough, albeit unpleasant, indeed displeasing, for Blundell to describe the cat-culling in the following words: “You take ’em by the neck and you ... drown ’em.” The discussion could easily have ended at that point. The temptation appears to have been too compelling to resist. Despite the weak attempt by host Shapiro to discourage further discussion, and Blundell’s own possibly feigned self-restraint (“Dude, I remember once, ah, I can’t even tell you this story”), he carried on. He set the scene, that is, the need to cull some or all of the 120 cats on the Ernst farm, and described the tools to be used: “Some of us had buckets, some of us .22s. I myself had a spade and you know what spade is?” Once again, host Shapiro offered an exit strategy – “that’s like barbarian styles” – but host Blundell carried on: “Anyway, I bat a thousand.” He left the clear impression that this was *fun*, that he had a perfect batting record (albeit with a spade), the whole predictably accompanied by chortling co-hosts. The minority considers that the performance was a perfect example of sanctioning, even glamorizing violence against animals. Consequently, the minority would conclude that CFNY-FM has breached both Clause 9(a) of the *CAB Code of Ethics* and Article 9.0 of the *CAB Violence Code*.

Broadcaster Responsiveness

In all CBSC decisions, the Council’s Panels assess the broadcaster’s responsiveness to the complainant. In the present instance, the Panel finds that the response of the broadcaster’s Program Director focussed on the issues that concerned the complainant, which is fundamentally what is required as a component of CBSC membership requirements. The Panel recognizes that the broadcaster’s viewpoint was not that of the complainant, but that is always the case where a file is brought to a Panel adjudication level. Nonetheless, it is the thoughtfulness of the response that determines whether the broadcaster has met the CBSC membership responsibility of responsiveness, which the Panel considers CFNY-FM has fully met in this instance.

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

CBSC Decision 10/11-1344 CFNY-FM re the *Dean Blundell Show* (Culling Cats)

The Complaint

The CBSC received the following complaint via its webform on March 27, 2011:

station: Radio

program: *The Dean Blundell Show*, 102.1

date: March 25th 2011

time: app. 7 am (but the topic was also discussed the day before I believe. I wasn't listening though)

concern: I was driving to work on the morning of March 25th and was listening to the *Dean Blundell Show*. Dean was telling a story about living in Saskatchewan and having to do "population control" on his Uncle's [sic] farm because his Uncle had too many cats.

Dean continued to say (with no remorse, in fact he seemed very proud) that he took a shovel and beat several (100's) of cats over the head. He said that he didn't see what the big deal was...

After I heard this I was so disturbed I went on the Dean Blundell Facebook page because I was very concerned about what his listeners had to say about this issue that he was glorifying. I quote from the Facebook Page, "I don't take my pets to the vet. If they get sick I go get my 12 gauge and fucking shoot them. Then I go get a new pet."

This was one of many posts from listeners cheering Dean on for his Acts of Animal Cruelty.... I became quite concerned so I sent a letter to the Program Director as well. Although I have yet to hear a reply, I look forward to it (since I sent the letter, all posts on the Facebook page have now been deleted).

What Dean did and said live to air was not only terribly wrong but it was also criminal (it's a shame our country has a statute of limitations for animal cruelty). I feel that radio personalities are somewhat of a public figure [sic] and it was extremely irresponsible of him to go down this route. That's all we need, is more people beating stray cats to death. Because Mr. Blundell did it, it must not be immoral or illegal.

I would like to thank you for your time regarding this issue and I hope there will be consequences. I look forward to hearing from you.

Broadcaster's Response

The broadcaster responded on April 20 with the following letter:

The Canadian Broadcast Standards Council (the "CBSC") has asked us to respond to your email of March 25, 2011, in which you raised concerns regarding comments made during the Dean Blundell show that was aired on CFNY-FM that morning (the "Program"). Specifically, you were offended by the comments made by one of the Program's co-hosts while he discussed his experiences living in Saskatchewan and having to do "population control" at his uncle's [sic] farm because his uncle had too many cats. The co-host recounted how he took a shovel and beat several (hundreds, in fact) of cats over the head. You claim this co-host seemed proud of this fact and didn't know what the big deal was. You were also concerned that this Program could encourage acts of animal cruelty by members of the public who listen to the Program.

We have reviewed the tape of the Program and can confirm that the comments you referred to were in fact made; however, we note that the co-host had made it clear that his comments were merely his opinion on the subject. While we agree that the comments may have been in poor taste, and were perhaps unduly harsh, they did not constitute a call for violent action, and therefore, did not contravene the Canadian Association of Broadcasters' *Code of Ethics* (the "Code"), which is administered by the CBSC and to which we adhere.

As you may be aware, the Code requires radio broadcasters to ensure that their programming does not contain "gratuitous violence in any form, or otherwise sanction, promote or glamorize violence". In determining whether or not certain comments constitute a breach of this provision, the CBSC asks whether the statements could be considered a "genuine pre-meditated attempt to encourage the commission of a criminal offence". In the decision *CIQC-AM re Galganov in the Morning* (CBSC Decision 97/98-0473, August 14, 1998) the CBSC found that the statement "we have to ... beat the crap out of all these ... crapheads" made by a well-known Quebec separatist did not constitute a "call to violence". Rather, the CBSC found that although "one might reasonably conclude that such acts of violence were perhaps plausible in nature, the Panel did not conclude that the host, in making the statement, had seriously advocated violence against whoever he considered to be the 'crapheads' at the time.... the Council does not consider this isolated comment to be more than an unpleasant, tasteless, juvenile comment, but not a genuine pre-meditated attempt to encourage the commission of a criminal offence". In our view, the comments during the Program were of a similar vein; juvenile and tasteless, perhaps, but not statements that could be seriously taken to be encourage [sic] violence against a particular individual or group, in this case, animals.

In view of the foregoing, we do not believe that the program violated the Code. We do regret, however, that you were offended by some of our programming. We take our responsibilities as broadcasters very seriously, and work hard to make sure all of our programming complies with the *Broadcasting Act*, the *Radio Regulations* and the Code and standards required of us as a member of the CBSC.

We trust that this letter has addressed your concerns. We recognize the importance of listener feedback and appreciate all comments.

Additional Correspondence

The complainant responded to the broadcaster on April 20 with the following email:

Thank you for taking the time to respond to my concerns.

Let me first make it clear that I do take much pride in the fact that we have the opportunity to live in a Democratic society where freedom of speech is practised. However, I feel strongly that the CBSC *Code of Ethics* was violated. I am specifically referring to the "Violence Against Animals Code."

9.1 - "Broadcasters shall not telecast programming which sanctions, promotes or glamorizes violence against animals."

Mr. Blundell did in fact glamorize these horrible events. The question I have is WHY? Why was this a topic of discussion? It was obviously not brought up to detour [*sic*] others from doing the same or rather to admit his mistakes and possibly have a discussion on the rapid growth of unwanted pets in this country. Which leads me to no other alternative: that he was proud of what he did and obviously found it quite humorous to be brought up in a discussion on his morning show.

In regards to the "case law" you presented (*Galganov in the Morning*), I found it quite irrelevant to the issue at hand. It was a statement implying an act that was never actually put in motion. Mr. Blundell, on the other hand, clearly admitted bludgeoning 100's of cats over their heads with a shovel! Instead of leaving it in the past HE made the decision to bring it up. WHY?? I thought *The Dean Blundell Show* was based upon humor?

Again, I am very concerned about the public's perception of this. I would like to direct you to a very recent article from City TV.

<http://www.citytv.com/toronto/citynews/news/local/article/124162--mutilated-kittens-found-in-downtown-dumpster-recovering-well>

I am certainly not implying that Mr. Blundell had anything directly to do with this, but, as you can see, animal cruelty is most certainly a problem in our city. Glorifying it (as I feel was done) is absolutely not needed. It is intolerable!

I am sure you are familiar with the *Criminal Code of Canada*.

"Cruelty to Animals" - Causing Unnecessary Harm

Sec: 445.1 (1) - "Everyone commits an offense who: a) willfully causes or, being the owner, willfully permits to be cause unnecessary pain, suffering or injury to an animal or bird."

I understand that this incident occurred in a different province and I also understand that there is a statute of limitations. I just want make it clear that this issue was and is not only immoral and irresponsible but illegal.

I would like to quote the *OSPCA Act* (Ontario Society for the Prevention of Cruelty to Animals) (2008):

Def~ Distress - "Means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect." I would also direct you to the "Standards of Care for Animals." *OSPCA Act* (2008) Causing Distress 11.2 (1) - "No person shall cause an animal to be in distress."

In closing I would say that I appreciate your response but as I stated earlier I feel strongly that the CBSC *Code of Ethics* was violated. Animal cruelty is not something to take lightly. I hope I have made that clear in my response to you.

I look forward to resolving this issue.

That same day, the complainant submitted an additional email:

The City TV link I posted in my response does not seem to work properly. I am sending it via: copy & paste.

Mutilated kittens found in downtown dumpster recovering well
2011/04/11 | Shawne McKeown, CityNews.ca
See Related Video

Two kittens missing right eye were found in a downtown dumpster, April 9, 2011. CITYNEWS. It will be at least another week before two mutilated kittens found inside a downtown dumpster will be well enough to move to a permanent home.

The two tiny animals -- a female and male -- are currently in the care of the staff at an animal hospital after they were found in the Yonge and Bloor area last Monday. Both kittens were missing their right eyes, but are recovering well.

"We're not sure how the eye was exactly poked out. It had looked as though they might have been kicked because all the teeth had been loose and were falling out on the one side," Andrea Marci of the Bay Cat and Dog Hospital on King Street West said.

"It was a pretty gruesome surgery that [the veterinarian] had to do."

The Ontario Society for the Prevention of Cruelty to Animals (OSPCA) says it considers this case suspicious and is asking anyone with information to step forward.

An adult cat was found in the Danforth and Woodbine area with the same injury.

"There was concern because of the similarities in their injuries," Alison Cross of the OSPCA said. "We can't confirm at this time whether it's an act of animal cruelty."

Many people have come forward to adopt the kittens.

Anyone with information on these cases is being asked to call the OSPCA at 1-888-668-7722.

The complainant submitted her Ruling Request on April 21.