
APPENDIX B

CBSC Decision 11/12-0919 CFRB-AM re *Beyond the Mic with Mike Bullard*

The Complaint

The CBSC received the following email complaint on January 6, 2012:

Subject: More Hatred against Germans

It is with great regret that I feel I have to write to you again on the subject of hatred against Germans that some broadcasters at NEWSTALK 1010 in Toronto continue to propagate.

Please see the attached emails. You will see that on December 22, 2011 and on Christmas Day, December 25, 2011 Mr. Bullard chose to make anti-German remarks. On December 22 he insulted my ethnic background directly when I called the station to compliment him, and on Dec. 25, he ran an audio clip of his parachute jumping lesson where he asked if he could shoot some Germans.

The attached emails outline exactly when the offending remarks were aired. They also include [the station's Brand Director]'s and Mr. Bullard's responses. [The station's Corporate Communications Director] has chosen not to respond as of this time.

As you are aware,

"The Canadian Human Rights Act.[8] Section 3 of the Act prohibits discrimination based on 'race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted.' Section 13(1) addresses the issue of hate speech. The section states:

It is a discriminatory practice for a person or a group of persons acting in concert to communicate telephonically or to cause to be so communicated, repeatedly, in whole or in part by means of the facilities of a telecommunication undertaking within the legislative authority of Parliament, any matter that is likely to expose a person or persons to hatred or contempt by reason of the fact that that person or those persons are identifiable on the basis of a prohibited ground of discrimination."

(from Wikipedia)

I would like all of the broadcasters at NEWSTALK 1010 to cease and desist from propagating hatred and contempt against Germans, and I would like a public apology from Mr. Bullard, since he so very publicly insulted and embarrassed me on his show.

Thank you very much for your time.

The complainant attached the following series of emails she had sent to Mike Bullard, the station's Brand Director and the station's parent company's Corporate Communications Director. The first was sent on December 23, 2011:

I am sick of the continued anti-German sentiments and stereotypes propagated by some of your broadcasters.

This is the second time I have found it necessary to write to you about anti-German sentiments on your radio station. The last time was in August regarding Jack Berkovits. In these times of being inclusive and accepting of all of our cultural differences in this widely diverse city, it seems that Germans continue to be one of the few remaining acceptable targets.

Here is the latest:

Yesterday, December 22, 2011 between 12:15 and 12:28 pm, I called in to the Mike Bullard show to compliment him on the fact that he made me laugh out loud. (Listen to the online podcast at around 22.00.) His reply was, "you're German, it's probably the first time in your life that you laughed out loud." He then said good-bye and hung up. He then commented "German people are not easy laughers".

As you can hear, he was having a joke with Dr. Jürgen Rehm ---- from CAMH.

I do have a sense of humour and Dr. Rehm was a wonderful foil for Mr. Bullard's little mental experiment involving alcohol, rats and kitties. I thought it was quite funny and called in to compliment him. In return, I received a load of vitriol against Germans.

In response, he made the aforementioned comments about Germans.

I notice that Mr. Berkovits is no longer on the air; he must have received a lot of complaints about his on-air comments.

I am not suggesting that Mr. Bullard be pulled of the air, but I am requesting that he be spoken to and told to cease and desist from making derogatory comments about any ethnic, racial or cultural group under the guise of being funny(?). I assure you, it is not funny in the least. Such comments promote and propagate an anti-German climate that I and other Germans have to contend with on a regular basis.

As you know from your previous experience with me, I will not hesitate to escalate this matter to the appropriate regulatory body, if necessary.

I am looking forward to your reply.

She wrote again to the station on December 26:

It seems that there has been at least one other occasion when Mike Bullard made his contempt for the German people very clear. This Christmas morning, NewsTalk 1010 was replaying his parachuting adventure. I heard him say something like "can I shoot some Germans?". It was a total non sequitor.

He repeated the question because the parachute instructor did not seem to understand what he said.

This part was not included in the video clip that is posted on your website.

I am really at a loss as to where all this hatred comes from on your station. In the previous incident, Messrs. John Moore and John Tory did not even deign to reply to my emails. I suppose that their silence indicated that they had no problem with Mr. Berkovits' perspective.

Jim Richards did mention something on his radio show, but his piece was designed to make me look petty, and that Jews have every right to fear all Germans. They have a right to feel however they wish. But so do I. I still believe that the doctrine of collective guilt as it applies to any group is a vicious attempt at propaganda against that group. Perhaps education about illogic of this doctrine will alleviate some of their fears. I reiterate, my parents were too young to participate in the events of WW II, and I was born after the war. I am 61 years old. Must my children and grandchildren also live under this cloud of fear and hatred?

I can only come to the conclusion that the management at Astral is quite comfortable with the doctrine of collective guilt and is not at all concerned when slurs are uttered against the German people, or when a listener phones in and is insulted because she is German. And her name is purposely mispronounced for so-called comedic effect. My sense of humour does not extend to accepting such derogatory remarks.

Please insist that your broadcasters cease and desist from these defamatory remarks from here on out.

She wrote again to the station on January 5, 2012:

Dear Sirs:

Now that the holidays are over and it's back to business, I look forward to your replies to my earlier emails. I would like a public apology from Mr. Bullard for his on-air insults to me when I had telephoned his radio show only to compliment him.

Host Mike Bullard responded to her emails on January 5:

I will not be issuing an apology as there was no malicious intent. Now why don't you give me the names of 5 German comics who are household names throughout the world?

Mike

Station Brand Director also replied to her on January 5:

We have received your concerns and we thank you for your comments and feedback.

Following the January 6 filing of her official CBSC complaint, the complainant wrote again to the CBSC on January 7:

With reference to my complaint about Mike Bullard and his repeated German bashing on Newstalk 1010, here is another example found on his Newstalk1010 Twitter account.

Mr. Bullard does appear to have a hatred for Germans as is demonstrated by the following, which was tweeted by @MikeBullard1010 on June 17, 2011:

"After I skydive tomorrow upon landing safely I will bury my chute and kill Germans." 17 Jun via webFavoriteUndo RetweetReply

Thank you for your consideration of this matter.

She wrote to the CBSC again on January 8:

Subject: Fw: Mike Bullard (@MikeBullard1010) replied to one of your Tweets!

As you may well imagine, Mr. Bullard's statements both on the air and in the social media (Twitter) have got me very upset. Neither Msrs. [Brand Director], Bullard, nor [Corporate Communications Director] have chosen to apologise, or otherwise try to make amends, even after I sent them a copy of Mr. Bullard's tweet on June 17 where he talks about killing Germans. I was so upset that I did a little tweeting [of] my own. Mr. Bullard has replied to my tweet, which can be seen below. His reply has made me a little apprehensive, but also more determined to get this kind of talk stopped.

Podcasts posted on NEWSTALK1010 of *Beyond the Mic*, on June 17, June 20 and December 25 and the video of the skydiving lesson have been expunged of Mr. Bullard's statements about killing Germans. In the event that the Dec. 22 podcast may also be edited, I have downloaded it to my computer, and created a short compilation of what I found most offensive that particular day. I have uploaded that to YouTube.

Here is the link of my short YouTube video

<http://www.youtube.com/watch?v=BIESjaiYmCs>

I firmly believe that the tweet that Mr. Bullard replied to is true and accurate; however, I have not replied to his response on Twitter because I don't want this to become something akin to a schoolyard brawl.

[CBSC], I fervently hope that you will investigate this situation, and take any action that you deem appropriate under the circumstances.

From: Twitter

Sent: Sunday, January 08, 2012 10:50 AM

Subject: Mike Bullard (@MikeBullard1010) replied to one of your Tweets!

Mike Bullard @MikeBullard1010 replied to you:

MikeBullard1010 Mike Bullard

@[complainant's last name] You are a liar Birgitt [*sic*], be careful

Jan 08, 10:50 AM via web

In reply to...

@MikeBullard1010 seems to have a hatred for Germans that he insists on venting on twitter as well as on his NEWSTALK 1010 radio show

Jan 07, 10:32 PM via web

Reply to @MikeBullard1010

Want to receive mobile notifications?

Download Twitter for your phone »

If you believe Mike Bullard is engaging in abusive behavior on Twitter, you may report Mike Bullard for spam.

If you'd rather not receive mention emails from Twitter, you can unsubscribe immediately. To resubscribe or change other Twitter email preferences, visit your account settings to manage email notifications. Please do not reply to this message; it was sent from an unmonitored email address. This message is a service email related to your use of Twitter. For general inquiries or to request support with your Twitter account, please visit us at Twitter Support.

The CBSC requested the specific time of the December 25 comments in order to pursue that portion of the complaint. The complainant provided that information on January 9:

I heard the comment about killing Germans on Newstalk1010 made by Mr. Mike Bullard on December 25, 2011 between 11:00 am and 1:00 pm.

I hope that this is specific enough.

Thank you for your help.

Broadcaster Response

Once the complainant had filed an official complaint with the CBSC, the station sent a lengthier reply on January 27:

We are in receipt of your complaint from the Canadian Broadcast Standards Council (the "CBSC") (CBSC File C11/12-919) with respect to comments made by Mike Bullard, broadcast on NEWSTALK 1010 CFRB, Toronto, (the "Station") on December 22nd & 25th from 12 pm to 1 pm (the "Program"). In particular, you expressed concern that Mr. Bullard's comments were "anti-German" and contrary to Canadian broadcast standards.

We take complaints from our listeners very seriously. We have therefore carefully reviewed the Program in question in an effort to properly respond to your complaint. After reviewing the information at hand, with respect, we do not believe that the statements made by Mr. Bullard were in violation of any codes administered by the CBSC.

By way of background, we note that the Program is a talk show hosted by Mr. Bullard, who is a professional comedian. Naturally, therefore, Mr. Bullard routinely injects comic or satirical routines in his programming. We believe that the Station's target audience, being professional adults in the 44-55 age group, are in a position to understand the humour that underlies Mr. Bullard's show.

With respect to the segments of the Program at issue, we believe that it is quite clear from the context and tone of Mr. Bullard's comments that Mr. Bullard was acting in his capacity as a professional comedian and using humour as a means of commentary. We also think that it is important to point out that you yourself clearly acknowledged Mr. Bullard's comedic talents,

as highlighted in your complaint, and as evidenced by your laughter in response to jokes made by Mr. Bullard when you called into the Program on December 22. His comment "German people are not easy laughers" was simply a comedic comment made in the same humorous vein as Mr. Bullard's entire show is conducted. In our opinion, it is clear from your interaction with Mr. Bullard on air that the dialogue is being conducted in a humorous, light-hearted manner and that Mr. Bullard's comments were in no way meant to be disparaging against any segment of the population.

We hope that you can appreciate that programming content can be very subjective. That is, what one person finds acceptable or humorous, another person may not. We respect the fact that Mr. Bullard's form of humour was not to your liking. However, we do not believe that Mr. Bullard's comments were a violation of applicable CBSC standards.

Nevertheless, we have had a formal conversation with Mr. Bullard in order to relate the concerns identified in your letter. We have made Mr. Bullard aware of the potential negative interpretation of his comments and stressed the need to have a heightened awareness of the context of content of Mr. Bullard's programming, as we do all our programs at NEWSTALK 1010 to ensure compliance with acceptable broadcast standards.

We would like to stress that we take our responsibilities as a broadcaster very seriously and strive to ensure that all our programming complies with the standards expected of us as a member of the CBSC. Please rest assured that we will continue to exercise great diligence on such matters in order to demonstrate sensitivity to our listeners. Thank you for taking the time to share your concerns with us.

Additional Correspondence

The complainant wrote back to the broadcaster on January 27:

Thank you for your letter containing your response to my complaints about programming on your radio station on December 22 and 25 of 2011. As far as I can tell, your response is limited to programming aired on December 22.

I understand that you have until January 31 to respond to my official complaint. Therefore, I can only conclude that you plan to send me a second response to deal with content that was aired on December 25, in which, during Mr. Bullard's skydiving lesson, he asks if he could kill some Germans. This is obviously the more serious incident of the two.

I will not comment on your current response until I also have received your response to the December 25 broadcast.

The broadcaster replied a second time on January 30:

Further to your email of January 27, 2012 in response to our letter dated January 27, 2012, we confirm that our response contains a complete reply to the concerns expressed in your various complaints to the CBSC regarding Mr. Bullard.

In particular, with respect to your specific query regarding comments made by Mr. Bullard on December 25, and as expressed in our letter to you, we note again the following: that "the Program is a talk show hosted by Mr. Bullard, who is a professional comedian. Naturally, therefore, Mr. Bullard routinely injects comic or satirical routines in his programming. We

believe that the Station's target audience, being professional adults in the 45-55 age group, are in a position to understand the humour that underlies Mr. Bullard's show."

And furthermore, as noted previously, "with respect to the segments of the Program at issue, we believe that it is quite clear from the context and tone of Mr. Bullard's comments that Mr. Bullard was acting in his capacity as a professional comedian and using humour as a means of commentary".

We reiterate, therefore, that a contextual analysis of Mr. Bullard's comments on both dates at issue would indicate that, in our opinion, nothing said by Mr. Bullard would constitute a violation of any CBSC broadcasting standards. We arrive at this conclusion given: (1) the widely known fact of Mr. Bullard's profession as a comedian; (2) the CFRB target audience of professional adults in the 45-55 age group, who we believe would understand Mr. Bullard's comments as coming from a professional comedian and therefore not to be taken in a literal sense; and (3) the general bantering/clearly humorous tone of Mr. Bullard's voice during comments made on both segments of the Program at issue.

We hope that this helps clarify our response to both components of your complaint.

The complainant sent the following email to the CBSC on January 31:

I have received CFRB's response to my complaint, and after careful consideration, request a ruling from the CBSC on this matter.

Please find attached 3 PDF files: [The Brand Director]'s responses dated January 27 and 31, and my rebuttal of his responses dated January 31, 2012.

I look forward to receiving the Council's ruling in the near future. I did not send copies to Astral Media or CFRB or any of its agents. I thought I would leave that up to the CBSC as part of its ruling process

Along with copies of the above broadcaster responses, she attached the following letter to that email:

RE: REQUEST FOR RULING CBSC file C11/12-919

I am in receipt of [CFRB Brand Director]'s responses to my complaint dated January 27 and 31 of 2012 and, with respect, I am not satisfied with them. I am still of the opinion that, Mr. Bullard's comments and remarks are in violation of the Canadian Association of Broadcasters' *Equitable Portrayal Code*, clauses 1, 2, 3, and 4:

(1) *Equitable Portrayal*

Television and radio programming shall respect the principle of equitable portrayal of all individuals.

(2) *Human Rights*

Recognizing that every person has the right to the full enjoyment of certain fundamental rights and freedoms, broadcasters shall ensure that their programming contains no abusive or unduly discriminatory material or comment which is based on matters of race, national or ethnic origin, colour,

religion, age, gender, sexual orientation, marital status or physical or mental disability.

(3) *Negative Portrayal*

In an effort to ensure appropriate depictions of all individuals and groups, broadcasters shall refrain from airing unduly negative portrayals of persons with respect to race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability. Negative portrayal can take many different forms, including (but not limited to) stereotyping, stigmatization and victimization, derision of myths, traditions or practices, degrading material, and exploitation.

(4) *Stereotyping*

Recognizing that stereotyping is a form of generalization that is frequently simplistic, belittling, hurtful or prejudicial, while being unreflective of the complexity of the group being stereotyped, broadcasters shall ensure that their programming contains no unduly negative stereotypical material or comment which is based on matters of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability.

I have outlined my reasons below:

1. Broadcast on December 22, 2011

Mr. Bullard has singled out Germans in his segment with Dr Jürgen Rehm, as mentioned in my original complaint. His derogatory comments and his name-calling i.e Jägermeister, and his deliberate mispronunciations made Dr. Rehm appear to be a buffoon-like stereotypical caricature rather than a serious scientist, although Dr. Rehm had come on the show to announce the findings of a CAMH study on behaviours related to drinking alcohol. Mr. Bullard also attempted to make me appear like a stereotypical caricature. He purposely emphasized his gruff mispronunciation of my name, thereby evoking the image of a stereotypical humourless, stiff, stickler for the rules, gruff, coarse Big Bertha. Mr. Bullard's comment to me that I am German, and I laughed out loud for the first time in my whole life, is another example of his inequitable portrayal of me as a German. Treating me in such a manner was doubly insulting when the purpose of my call was to compliment him. It was a hostile reaction to a friendly gesture. I have heard his reactions to compliments from non-Germans on other shows, and he seemed to respond quite graciously to them.

The following are my rebuttals to [the Brand Director]'s response to my complaint:

Your response seems to rest on Clause 10 (b) Contextual Considerations

Comedic, humorous or satirical usage: Although the comedic, humorous or satirical intention or nature of programming is not an absolute defence with respect to the proscriptions of this Code, it is understood that some comedic, humorous or satirical content, although discriminatory or stereotypical, may be light and relatively inoffensive, rather than abusive or unduly discriminatory;

Although I concede that Mr. Bullard's comments about Germans may have been an attempt to be comedic, I do not agree that they were lighthearted in tone, and they most certainly

were offensive. I believe that Mr. Bullard's comments were meant to be disparaging to Germans, given his history of comments about killing Germans on June 17th, 2011, when he tweeted "**After I skydive tomorrow upon landing safely I will bury my chute and kill Germans.**" His initial broadcast of his skydiving adventure on June 20, 2011 where he asked the instructor if he could **kill Germans**, and the rebroadcast of his skydiving adventure on December 25, 2011, in which the question about **killing Germans was repeated.**

I would suggest to [the Brand Director] that if he substituted another ethnic group such as Muslims, blacks or Jews, these comments would ring much more offensive. It is only because there seems to be an small element of tolerance in Canada for German-bashing, that [the Brand Director] does not seem to take these comments as seriously as I feel he should.

a) [The Brand Director] mentions that my tone was lighthearted, that is because I phoned in to compliment Mr. Bullard on his little story about drunk driving rats and pussycat cops. Yes, I did and do acknowledge that Mr. Bullard has some comedic talent. However, I found his insulting and belittling treatment of Dr. Jürgen Rehm to be most derogatory, unduly discriminatory, stereotypical and unduly negative portrayal; and definitely not funny.

b) [The Brand Director] mentions that even I laughed during the conversation. Yes, I did laugh, but my laughter was a sarcastic response to Mr. Bullard's statement that I am German and this was the first time I had laughed out loud in my whole life. At that point I laughed in a scoffing manner (I was so shocked by his hostile response to my friendly overture, that I couldn't think of anything else to do), then Mr. Bullard cut me off, thereby depriving me of the opportunity to effectively respond to his statement. My laughter during the phone conversation was in no way an appreciative response to any jokes Mr. Bullard may have told during the conversation. His tone of voice did not seem lighthearted to me; I actually found it be quite harsh.

c) Furthermore, it being the Christmas holiday season, and the fact that I was driving while talking, I did not want to get into a seriously negative discussion with Mr. Bullard. The fact that he hung up on me so quickly suggests to me that he may have been concerned about what I might have said next. In fact, before I was cut off, I was about to tell him how wrong he was about my sense of humour.

d) [The Brand Director] mentions that your target audience is professionals in the 45 to 55 age range. Does this imply that since I'm older, I would not be able to fully understand what is being said? I am very capable of understanding the nuances of jokes and why many people might be amused by them, even when I personally find them to be unfunny. I also understand that putting somebody down by resorting to stereotypes and derogatory statements is a method used by some comedians to get a cheap laugh. That does not make such methods appropriate or acceptable.

e) Because there is an element of anti-German sentiment in Canadian society, Mr. Bullard and NEWSTALK 1010 might have felt it to be all right to make anti-German statements, insinuations or implications on the air. Nonetheless, Mr. Bullard's statements were abusive and unduly discriminatory;

I suggest that, should the same "comedic style" be directed at a different ethnic group, such as, say, Japanese, Metis, or Chinese, [the Brand Director] might have taken these remarks much more seriously. If Mr Bullard had talked about killing Jews, Blacks, or Muslims, I can well imagine that the response to such a complaint would be much more serious.

f) May I remind [the Brand Director] that Canada's *Charter of Rights and Freedoms*, and the Human Rights Tribunal apply equally to people of ALL ethnic backgrounds. I have to believe that the CBSC's codes and standards **also do not exclude Germans**.

g) [The Brand Director] said that Mr. Bullard's statement that "Germans are not easy laughers" is simply a comedic statement made in the same humorous vein as Mr. Bullard's show is conducted. That does not diminish the seriousness of my complaint. I and other many Germans find those so called "simple comedic statements" personally hurtful and full of innuendo.

The more seriously hurtful of Mr. Bullard's so-called "simple comedic statements" was, "you're German, this is the first time you've laughed out loud in your life". Again, not only was the statement offensive, but, given the fact that I had called to compliment him, it was personally insulting. That was a hostile response to a friendly overture. It was so unexpected, it did not know how to respond.

h) If the shoe were on the other foot, and someone had made public derogatory comments about Mr. Bullard's demographic background, I am sure that he, given his outspokenness, would have responded at least as strongly as I have.

In your response, [the Brand Director] has deliberately spun, twisted and belittled my interaction with Mr. Bullard, trying to make it seem that I was going along with his anti-German jokes when that was not the case at all. His jokes were not lighthearted. Listen to his harsh tone of voice.

[The Brand Director] states that **Mr. Bullard is a professional comedian**. I admit, he is skillful at using loaded words and intonations full of innuendo and nuance to invoke offensive and discriminatory ideas without actually mentioning them. This is something akin to some people in the Deep South of the USA using seemingly innocuous "code words" to put down blacks. I called to compliment him, not on his remarks about Germans, but on his skillful creation of a satirical mental picture of drunken rats driving little cars and pussycat cops chasing them.

I am not an avenging Teutonic Brunhilde who is on a mission to seek out and destroy every person who ever made an anti-German remark. I do not take myself so seriously that I can't laugh at myself and my ethnic origins. For example, I found the TV show *Hogan's Heroes* hilarious. But that is because it was **balanced**. It is on that basis that I would call Mr. Bullard's comedic **professionalism** into question. On December 22 and December 25 of 2011, his **comments about and portrayal of Germans was anything but balanced**.

Ethnic humour can be done in a lighthearted manner, such as *My Big Fat Greek Wedding* which many critics found to be "good-hearted and lovable". There was nothing good-hearted or lovable about Mr. Bullard's anti-German remarks.

I know that some people might find insulting, belittling, and derogatory remarks about Germans to be funny. There are also people who find all kinds of sexist, ethnic and other kinds of inappropriate humour to be funny. That doesn't automatically make it OK. And it certainly does not make such humour acceptable on the public broadcast media.

Continued portrayal of Germans by the media as Nazis, rough around the edges, loud, boorish, angry, and scary people, only serves to reinforce these stereotypes. Here is a link to a youtube video which highlights German stereotypes.

<http://www.youtube.com/watch?v=LXhvdHrC1RM>

These attitudes are what I have to face everyday as a German. Comments like Mike Bullard's on December 22 and 25 of 2011 just add more fuel to the fire.

My complaint is not about what is funny and what isn't. It is about what is unduly derogatory and discriminatory and what isn't. And it is about what is acceptable under the Canadian Association of Broadcasters' *Equitable Protrayal Code* and what isn't.

I maintain that Mr Bullard's anti-German statements are not acceptable.

I would hope that you will keep the recordings of the programs in question available, in the event that I am not satisfied with the ruling of the CBSC and I am forced to turn to the Canadian Human Rights Commission for a resolution.

She wrote again to the CBSC on February 2:

I had forgotten to add in my request for a ruling what remedy I feel would right the damage that I feel the Mr. Bullard has done.

I would him to apologise publicly on his show, to me and the over 3 million people of German descent who live in this country, some of which [*sic*] have lived here for generations: the late, Right Honourable John Diefenbaker and the late Honourable Jack Layton come to mind. Prominent living people of German descent in Canada include, the Honourable Ralph Klein, former Premier of Alberta; k. d. lang; Gary Doer, current Ambassador to the United States and former Premier of Manitoba; Vic Toews, Politician; Miriam Toews, writer and winner of the Governor General's Award; and many others. I do not think that they would find it the least bit light-hearted or humorous if they heard a broadcaster saying that after he lands with his parachute, he would like to kill some Germans.

Thank you for your time