



The Canadian Broadcast Standards Council A Successful Experiment in Self-Regulation

Notes for Remarks by

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before the

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Mr. Chairman and Members of the Committee: Thank you for the invitation to appear before you today. My name is Ron Cohen. I am the National Chair of the Canadian Broadcast Standards Council. With me is Ann Mainville-Neeson, the Executive Director of the CBSC.

We did not originally file a presentation with the Standing Committee and are here pursuant to the recent invitation of your Clerk. We are pleased to have the opportunity to tell you about the Council, which we believe is an extremely successful example of the self-regulatory process which is fast becoming a method of choice in dealing with regulatory issues in many professional fields in Western societies.

It is my intention to provide you with a brief overview of the history, mandate, structure and modus operandi of the CBSC and its record.

The History

Originally conceived in 1986 by the Canadian Association of Broadcasters to encourage high standards and professional conduct on the part of Canada's private broadcasters, a concrete proposal was formulated two years later and presented to the CRTC.

The CRTC accepted the proposal, noting in P.N. CRTC 1988-159 that “this voluntary action on the part of the CAB and its members reflects the sense of responsibility and maturity of the broadcasting industry in regard to social issues of public concern.”

Then, in August 1991, in P.N. CRTC 1991-90, the CRTC advised broadcast licensees and members of the public of their endorsement of the CBSC to receive and adjudicate complaints regarding programming on its member stations.

The Mandate

The Council’s mandate is to oversee the administration of the Canadian private broadcaster Codes. These include the *CAB Sex Role Portrayal Code* and the *CAB Violence Code*, both of which are conditions of licence for all broadcasters in Canada, the *CAB Code of Ethics* and the Radio and Television News Directors Association of Canada (RTNDA) *Code of (Journalistic) Ethics*.

In the exercise of that mandate, the CBSC receives complaints, encourages their resolution by broadcaster dialogue with the complainants, and, where this does not lead to complainant satisfaction, adjudicates those complaints.

The private broadcasters’ self-regulatory process is open and public. It is predicated on full disclosure and the publicity of all decisions, whether for or against the broadcasters. Consequently, the press release announcing every decision is forwarded to the print media, the broadcasters and every person wishing to be on the recipient list. All 215 decisions rendered since mid-1993 are, with their full written reasons, posted on our web site.

Membership

There are, as of today, 498 broadcaster members, covering the radio, television and specialty service areas. Of these, 370 represent radio broadcasters, 94 conventional television broadcasters, and 34 specialty services.

The Infrastructure

The decisions are taken by Adjudicating Panels made up of equal numbers of public and industry representatives. There are five Regional Panels (Atlantic, Quebec, Ontario, Prairie and British Columbia) and two National panels (Specialty Services and Conventional Television Broadcasters). Biographies of every Adjudicator are publicly posted on the CBSC web site.

The Challenges

In the exercise of its mandate, the CBSC faces particular challenges. One challenge relates to the legitimate public concern regarding censorship. Another relates to the regulation of content within the acceptable limits of freedom of expression.

Censorship

In its origins, the censor was one of two magistrates in ancient Rome who were charged with the supervision of public morals. More recently, as the *Oxford English Dictionary* says, the censor is the “official whose duty it is to inspect books, journals, plays, etc., *before publication*, to secure that they shall contain nothing immoral, heretical, or offensive or injurious to the State [emphasis added].”

In order to avoid any whiff of censorship, the CBSC does not initiate complaints or monitor programming in the absence of a complaint. It is reactive and responsive to public concerns. It does not presume them.

Freedom of Expression

In dealing with the question of freedom of expression, the CBSC, by its nature, faces challenges on two ideological sides. There are those who believe that the principle of freedom of expression as enshrined in the Charter should be viewed as absolute.

There are those, on the other hand, who believe that expression on the airwaves should be restricted so that all matters unpleasant and distasteful, and worse, should be prohibited.

The CBSC takes an intermediate position. It is, first, that the underlying principle that should govern broadcast speech is that it should be free. The private broadcasters have, however, agreed among themselves that the interests of their audiences are better served by the imposition of professional standards to which all of their members will adhere. To express these standards, they have created the Codes mentioned above.

Second, then, the CBSC considers that the standards created by the broadcasters should balance the freedom of expression with other important societal values and the CBSC has rendered many decisions, both with respect to individual programs and entire series, giving effect to such balancing of values.

Third, though, matters involving taste alone but no breach of actual Code provisions are considered to be best regulated by the intervention of the viewer or listener via the channel or station changer or the on/off switch.

Fourth, there are extensive special provisions regarding programming intended for young children (under 12 years of age).

Fifth, in order to assist watchers of television, and in accordance with the broadcaster Codes, there is a Watershed hour of 9:00 pm, before which no programming intended for adults, whether by reason of violent, sexual or other mature content, can be shown. Viewer advisories and classification icons are also required, even after the Watershed, so that audiences may avoid programming which they do not consider appropriate for themselves and their families.

Sixth, there is a prohibition against gratuitous or glamorized violence on the airwaves at any hour of the day.

The Track Record

Since there are 215 decisions posted, there is a considerable body of jurisprudence, which has the effect of constituting a definition of what broadcasters can and cannot put on their airwaves.

While decisions relating to one-off programs or newscasts are as important as those relating to entire series, the latter tend to attract more attention. Among the CBSC's more important decisions are the following:

- the ruling in the *Mighty Morphin Power Rangers* decision that ensured that programming intended for children that includes too much violence, violent acts without consequences, or violent acts that might encourage imitation by young children was unacceptable. Interestingly, this ground-breaking decision resulted from only *two* complaints, leading *Maclean's Magazine* to title its article on that decision "Power to the People".
- the rulings in the *Howard Stern* programs which, first, restricted the presence of the radio show to Montreal and Toronto (it was originally expected to spread to several other major Canadian cities); second, resulted in the editing of the program on an ongoing basis; and third, culminated in the disappearance of the radio show from Montreal airwaves in 1998. Committee Members may also be aware that, as of a week and a bit ago, the radio show is no longer on the airwaves in Canada.
- as a reflection of its awareness of, and commitment to, Canadian private broadcasters' standards, the broadcaster which had acquired the rights to the Stern television show for Canada, decided not to bring that program to the airwaves.

- the *Jerry Springer* decision resulted in the removal of the glamorized violence on that show from most of the major market stations in Canada, particularly during the afternoon time slot.
- the decisions relating to the *Laura Schlessinger* radio show resulted in the disappearance of abusively discriminatory commentary on the basis of sexual orientation from the show not only in Canada but also in the United States. Such unduly discriminatory comment on the basis of sexual orientation never became a part of her short-lived television show either.

On a day-to-day basis, the 25-45 formal decisions rendered every year help to shape the parameters of acceptable content on an ongoing basis, whether in the talk show, news, dramatic, traffic or other areas.

Conclusions

The CBSC works very hard to ensure that the results of its decisions are known to all who are affected by them. Its volunteer Adjudicators on the public and industry side are dedicated to the emergence of a set of principles that will fairly circumscribe public expectations. It is a mark of the thoughtfulness and impartiality of the Adjudicators, both public and industry, that, with the exception of three of the 215 decisions, they have been rendered unanimously, whether in favour of, or against, the broadcasters.

Thank you for your time and attention. Ann and I are available to answer your questions.