



Broadcasting Decision CRTC 2005-348

Ottawa, 28 July 2005

Société de télédiffusion du Québec
Montréal, Quebec

Complaint concerning the broadcast of an episode of *Les Francs-tireurs* by Télé-Québec

In this decision, the Commission deals with a complaint about an episode of the television program Les Francs-tireurs broadcast by the Société de télédiffusion du Québec (Télé-Québec). Having reviewed the segment of the program in question, the Commission finds that the licensee did not contravene the provision in the Television Broadcasting Regulations, 1987 prohibiting the broadcast of abusive comment. The Commission finds, however, that the broadcast of the segment by Télé-Québec was contrary to the objectives of the broadcasting policy for Canada set out in the Broadcasting Act, including the provision that programming should be of high standard.

Background

1. On 9 January 2005, the Commission received a complaint from a viewer (the complainant) concerning a comment made during the program *Les Francs-tireurs* (the program), broadcast by the Société de télédiffusion du Québec (Télé-Québec). The complainant alleged that the use of the expression “[translation] nigger gangs” was abusive and racist.
2. The Commission dealt with the complaint because Télé-Québec is not a member of the Canadian Broadcast Standards Council (CBSC).
3. During the program in question, host Benoît Dutrizac (the host) reported on street gangs. In an interview with Georges Bossé, a public safety manager with the City of Montréal, the host used the term “nigger gangs” when following up with Mr. Bossé on the steps taken by the City of Montréal to deal with street gangs. He initiated the discussion as follows:

“[translation] There are old women, 72 years of age, there is an old Italian woman on her balcony, who do not dare go out after 7 p.m. because there are gangs, nigger gangs. They aren’t Blacks. They identify with the hip-hop culture, and are extremely violent.

The complaint

4. The complainant alleged that the comments broadcast by Télé-Québec (“nigger gangs”) were “[translation] defamatory comments that are racist and ignorant and have no place in Quebec society.” The complainant also characterized the comments as “[translation] pejorative and demeaning to the Black community.”

Télé-Québec’s reply

5. Télé-Québec replied to the complainant, offering the following explanation and then saying it was sorry she was offended by the expression used and thanking her for her interest in its programming:

“[translation] ... you complain about the term “nigger gangs” used by host Benoît Dutrizac, however, the phrase should not be taken out of context. Throughout the report, Mr. Dutrizac uses the expressions “Blacks” and “Haitians” which are highly respectful, and only uses the expression “NIGGER GANGS”¹ when referring to armed and dangerous hoodlums who rule certain neighbourhoods and take over areas or parks, to the exclusion of other residents in these neighbourhoods. This is not racism. Do we not also use the term “biker gangs”? Obviously, when we use that term we are not including all motorcyclists, only bikers involved in organized crime, hoodlums, crooks ...”

The program *Les Francs-tireurs*

6. *Les Francs-tireurs* is a program dealing with public affairs and social commentary. It addresses “[translation] emerging social phenomena, taboo and controversial topics and political correctness that the two hosts track, zero in on and shoot down.” Under the program format, the two hosts, Richard Martineau and Benoît Dutrizac, conduct interviews that “zero in on” events, trends or people in the news who are asked to give their viewpoints. In most cases, the tone of the program is very direct, sometimes coarse and satirical, and the hosts and guests regularly curse.
7. During the fall and winter of 2004-05, Télé-Québec aired the program Wednesday evenings from 8 p.m. to 9 p.m., and rebroadcast it on Saturdays at 7 p.m. and 12:30 a.m. and Tuesdays at 11 a.m.
8. In the second half of the program broadcast on 5 January 2005 (a rebroadcast of the program that originally aired on 29 September 2004), the host reported on street gangs in Montréal, specifically covering the Saint-Michel neighbourhood. The emphasis was on street gangs, particularly those made up of young Blacks, in most cases young Haitians.

¹ Upper case used by Télé-Québec.

The Commission's analysis and determinations

9. The Commission is required, pursuant to section 5(1) of the *Broadcasting Act* (the Act), to regulate and supervise the Canadian broadcasting system with a view to implementing the broadcasting policy set out in section 3(1) of the Act. Section 3(1) sets out an extensive declaration of the broadcasting policy for Canada, listing a number of policy objectives. Section 3(1)(d)(i) declares that the Canadian broadcasting system should “serve to safeguard, enrich and strengthen the cultural [and] social ... fabric of Canada.” Section 3(1)(d)(ii) states that the Canadian broadcasting system should “encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas [and] values Section 3(1)(d)(iii) states that the Canadian broadcasting system, through its programming, should “... serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights.” Section 3(1)(g) states that “the programming originated by broadcasting undertakings should be of high standard.”
10. Section 5(1)(b) of the *Television Broadcasting Regulations, 1987* (the Regulations) was enacted with a view to implementing the Canadian broadcasting policy objectives of the Act set out above. It specifies that a licensee shall not broadcast:

... any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability.
11. The Commission's examination took into account the concerns raised by the complainant, the licensee's reply, and the Commission's own review of the program. The examination was conducted against the background of the prohibition against the broadcast of any abusive comment set out in section 5(1)(b) of the Regulations, and the Canadian broadcasting policy objectives set out in the Act, including the high standard provision set out in section 3(1)(g).

Abusive comment

12. Sections (1)(b) of the Regulations, which prohibits abusive comment, is intended to prevent the very real harms that such comments cause, harms that undermine Canadian broadcasting policy objectives. Comments that tend to or are likely to expose a group to hatred or contempt cause emotional damage that may be of grave psychological and social consequence to members of the target group. The derision, hostility and abuse encouraged by such comments can have a severe negative impact on the targeted group's sense of self-worth, human dignity and acceptance within society. This harm undermines the equality rights of those targeted, rights which the programming of the Canadian broadcasting system should respect and reflect, according to Canadian broadcasting policy. In addition to preventing the harm to those targeted by the comments, the

regulation prohibiting abusive comment is required to ensure that Canadian values are reflected and respected for all Canadians. The broadcast of comment provoking hatred or contempt also undermines the cultural and social fabric of Canada, which the Canadian broadcasting system should safeguard, enrich and strengthen.

13. On-air comments contravene section 5(1)(b) of the Regulations where all three of the following criteria are met:
 - the comments are abusive;
 - the abusive comments, taken in context, tend or are likely to expose an individual or a group or class of individuals to hatred or contempt; and
 - the abusive comments are on the basis of an individual's or a group's race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability.
14. The Commission considers that the term “nigger gangs” is abusive in that it is an expression historically used in a discriminatory, demeaning and abusive manner, targeting Blacks. Although the host's comments did not intentionally target all Blacks, its abusive nature affects all members of that group.
15. The historical semantics and use of the word “nigger,” which are closely related to the slave trade and racial theories used to justify various means of dominating and repressing Blacks, who were seen as inferior to Whites, is today typically a race-based insult and a racist term. This term should not be used to refer to Blacks because it is discriminatory. The word “nigger” is primarily a term that differentiates based on skin colour and race.
16. Although the Commission can conceive of cases in which such terms could be used (for example, by members of a designated group when referring to themselves – in Haitian Creole, for example – or in reference to the prohibition against using such terms in a discussion), it considers that this is not such a case.
17. Accordingly, the Commission considers the description of Black hoodlums using the epithet “nigger gangs” to be an abusive comment based on race. However, for the following reasons, the Commission is of the view that it is unlikely that the host's comments, taken in context, will expose Blacks to hatred or contempt within the meaning of section 5(1)(b) of the Regulations.
18. The program *Les Francs-tireurs* is primarily a free-ranging public affairs discussion program in which hosts voluntarily offer personal views and humorous comments. The tone is often irreverent. In the program that was the subject of the complaint, the hosts used satire at the beginning and at the end to humorously exaggerate the danger of street gangs. However, satire was not used when the comments in question were made, and there was no doubt that the discussion during which the term “nigger gangs” was used was a serious one.

19. Throughout the interview, the host appropriately used the terms “Black gangs” or “Haitians” to refer to young people who belong to street gangs. The Commission agrees with Télé-Québec that, throughout his report, the host used appropriate and respectful terms. The Commission notes that the host acted in a professional manner and, at no time, resorted to stereotypes. For example, he did not at any time establish a causal link or an association between Blacks and criminal activity. On the contrary, it was within the context of a *bona fide* journalistic investigation, in an attempt to find solutions to the social problem of street gangs, that the host raised the probability that “nigger gangs” were one source of the problem.
20. The Commission considers that this context (the professional content of the report and the isolated use of the term “nigger gang”) may mitigate the expression’s impact on the audience. In other words, the audience was able to determine that the host’s use of this comment as part of his investigation was a lapse, albeit an inappropriate one, and an isolated incident. In this context, the word “nigger” was probably seen as a poor choice, but not as contemptuous or hateful.
21. This interpretation is supported by the fact that there was no similar reference during the report to support the abusive nature of the comment, nor any attempt to turn the subject of the report into stereotypes. As for the host’s differentiation between the terms “nigger” and “Blacks,” some people could interpret it as meaning that the host was uncomfortable using an inappropriate term that was too disagreeable and strong to describe the young people in question. The attempt to distinguish “nigger” from “Blacks” may thus be seen as the host’s recognition of the inappropriateness of using the word “nigger” and an attempt to recover or distance himself from the demeaning nature of the term.
22. In this context, i.e., the professionalism of the investigation, the isolated use of the term in question and the host’s reaction mitigate the abusiveness of his comments. For these reasons, the Commission finds that, given the context, the comment in question is not likely to expose Blacks to hatred or contempt because of their colour, race or ethnic origin. Accordingly, the Commission finds that the comment, although completely inappropriate, does not constitute an abusive comment within the meaning of section 5(1)(b) of the Regulations.

Objectives of the broadcasting policy for Canada

23. The Commission considers the use of racist comments to be contrary to the requirement that programming be of high standard, as set out in section 3(1)(g) of the Act.
24. The Commission finds, in paragraph 14 above, that the comment that is the subject of the complaint is abusive. The Commission considers the remark to be contrary to the social objectives set out in section 3(1)(d) of the Act and mentioned in paragraph 9 above. Canadians have the right to expect that they will be referred to appropriately, not through the use of racist comments.

Télé-Québec's information policy

25. The Commission has reviewed the *Politique de l'information de Télé-Québec* (information policy), dated 11 February 2000, and also notes that the comment in question does not appear to be consistent with the licensee's internal policy, which states as follows:

[translation] Article 4.4 Discrimination

Télé-Québec intends to prevent any discrimination based on race, colour, sex, pregnancy, sexual orientation, marital status, age (except where provided for by law), religion, political convictions, language, national and ethnic origin, social status, disability or use of means to overcome disability.

Télé-Québec's analysis and response

26. The Commission has reviewed Télé-Québec's reply, which it finds deficient in several respects. In its reply to the complainant, far from acknowledging its responsibility for the broadcast of potentially abusive comment, Télé-Québec says that the host used the term "nigger gangs"

"... when referring to armed and dangerous hoodlums who rule certain neighbourhoods and take over areas or parks, to the exclusion of other residents in these neighbourhoods ..." and goes on to say,

"Do we not also use the term "biker gangs"? Obviously, when we use that term we are not including all motorcyclists, only bikers involved in organized crime, hoodlums, crooks..."

27. The licensee's explanation descends into faulty logic when comparing the term "nigger gangs" with "biker gangs." This type of analogy disregards the crucial difference between discrimination based on a person's race, ethnicity or skin colour and discrimination based on a person's choice of occupation or recreation.
28. Based on this reply, not only would it be acceptable to use the term "nigger" when speaking about Black hoodlums, but the expression would be no more damaging than using the term "biker gangs." Télé-Québec does not acknowledge that, even in this context, the word "nigger" is inappropriate.
29. The Commission finds Télé-Québec's reply unacceptable in this regard.

Conclusion

30. The Commission finds that the broadcast of the comment in question did not contravene section 5(1)(b) of the Regulations, which prohibits the broadcast of any abusive comment. The Commission finds, however, that it was contrary to the objectives and values of the broadcasting policy for Canada as set out in sections 3(1)(d) and (g) of the Act.
31. In view of the Commission's finding that the comment in question was contrary to the objectives and values of the Act, and that the licensee's reply to the complainant was unsatisfactory, the Commission expects that, in the future, Télé-Québec will deal with complaints from the public regarding abusive comment with the requisite thoroughness, given its responsibilities set out in the Regulations with respect to abusive comment, the Act and its own information policy. The Commission further expects Télé-Québec to take all necessary precautions to prevent the broadcast of such comments.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>