



Broadcasting Decision CRTC 2006-19

Ottawa, 27 January 2006

MSNBC Canada Corp.
Across Canada

Complaints regarding comments made on the program *Imus in the Morning* on MSNBC Canada regarding Palestinians, Iraqis and Muslims

In this decision, the Commission addresses complaints respecting comments made on the program Imus in the Morning, aired on the now defunct MSNBC Canada Category 2 specialty television service. The Commission finds that, by airing comments made during the 12 November 2004 and 19 November 2004 episodes of the program, the licensee breached the provision of the Specialty Services Regulations, 1990 that prohibits the broadcast of abusive comment. The Commission will send a copy of this decision to the Chief Executive Officers of Rogers Broadcasting Limited, Shaw Communications Inc. and MSNBC Cable, LLC, and a copy will be placed on the public file of MSNBC Canada.

Background

1. Between 20 November 2004 and 15 December 2004, approximately 100 complaints were filed with the Commission by a number of individuals regarding comments made on the 12 November 2004 broadcast of *Imus in the Morning* aired on the MSNBC Canada specialty service. In approximately 10 instances, complainants also took issue with comments made during the 19 November 2004 broadcast of *Imus in the Morning*.
2. At the time of the broadcast, MSNBC Canada was a Category 2 specialty television service, owned and operated by MSNBC Canada Corp. (the licensee), a wholly owned subsidiary of MSNBC Canada Holdings Corp., which, in turn, was equally owned, directly or through a subsidiary, by Rogers Broadcasting Limited (Rogers), Shaw Communications Inc. (Shaw) and MSNBC Cable, LLC (MSNBC U.S.), each holding a 33.3% voting interest.¹ MSNBC Canada was also a member in good standing of the Canadian Broadcast Standards Council (CBSC). MSNBC Canada ceased operations as a Category 2 service on 30 November 2004. Although MSNBC Canada is no longer in operation, the American MSNBC service is now authorized for distribution in Canada pursuant to the *Revised lists of eligible satellite services*, Broadcasting Public Notice CRTC 2004-71, 16 September 2004.

¹ MSNBC Canada was approved by the Commission in *MSNBC Canada*, Decision CRTC 2000-650, 24 November 2000.

3. Given that broadcasters have a responsibility under section 3(1)(h) of the *Broadcasting Act* (the Act) for the programs they broadcast, and given that when the programs in question aired MSNBC Canada was subject to the *Specialty Services Regulations, 1990* (the Regulations), the Commission considers that there is a need to address the complaints in order to provide guidance to the industry and the public on acceptable programming content standards, even though MSNBC Canada is no longer in operation.

The complaints

4. The written complaints took issue with the comments made during the respective broadcasts in question and, in at least one complaint, it was argued that the statements constituted abusive comment which would expose a group or class of individuals to hatred or contempt. Complainants also argued that the comments were racist in nature.
5. One complainant queried how it was possible for the Commission to place restrictions on the distribution of the Arabic-language news and public affairs service Al Jazeera and not place similar restrictions on a service such as the American MSNBC service.

Reply

6. Rogers replied to the complaints on 9 January 2005. At the outset, Rogers apologized for the 12 November 2004 broadcast. It stated that the comments made during that broadcast were “highly offensive and completely unnecessary.” On behalf of MSNBC Canada, it apologized for any offence or aggravation that the comments made during the broadcast may have caused, and stated that the views expressed during the program were not shared by MSNBC Canada or by Rogers.
7. While agreeing that comments made during the 12 November 2004 broadcast of *Imus in the Morning* were highly offensive and completely unnecessary, Rogers stated:

The *Imus in the Morning* show provides its listeners and viewers with news, biting humour and political commentary. In doing so, the show’s host and other on-air personalities often express opinions and make comments to stimulate reactions from listeners and viewers. However, the show will also provide insightful discussion about news and current events, including the war in Iraq and the Israeli-Palestinian conflict. For example, on the November 11th broadcast, Don Imus had conducted an extensive interview with Tom Friedman, an editorial writer for the *New York Times* and a three-time Pulitzer Prize winning author. During the November 12th broadcast, Don Imus also made specific remarks about the need to resolve the current Israeli-Palestinian conflict and expressed hope that an opportunity may now exist to do so.

8. Rogers did not specifically address the complaints regarding the 19 November 2004 broadcast.

The programs

9. *Imus in the Morning* is a public affairs radio program originating from WFAN in New York City. It is syndicated nationwide in the United States and is also broadcast on the MSNBC cable television network. On the dates in question, the program was available in Canada on MSNBC Canada.
10. On the 12 November 2004 broadcast, the comments in question were directed towards Palestinians during the live broadcast of Palestinian leader Yasser Arafat's funeral. Most of the complaints referred to the following segment between Don Imus and the other hosts of the program:
- Imus: ...You would think the Palestinian people would be pissed off, because Arafat stole billions of dollars from them, and they are all eating dirt. And the fat big wife is living in Paris.
- 2nd host: They're all brainwashed though, that's what it is, and they're stupid to begin with. But they are brainwashed. Stinking animals (laughter). Gotta drop a bomb right there, kill 'em all right now ...
- 3rd host: Just imagine standing there. (laughter, inaudible comment)
- Imus: We have Andrea there, we wouldn't want anything to happen to her.
- 2nd host: Oh, yes, she's gotta get out. Just warn Andrea, get out, and then drop a bomb, kill everybody.
- 3rd host: It's like the worst Woodstock. (laughter)
- Imus: And here's their problem, they're all Woodstock from hell.
11. On the 19 November 2004 broadcast, complainants alleged that a parody segment of the late General George S. Patton Jr. contained racist comments. The segment was as follows:

Imus: Alright, here now - Imus in Washington senior military affairs advisor, the late General George S. Patton, Jr.:

(Speaker – a changed voice): At ease. I am here this morning to briefly discuss the subject of moral outrage – specifically, mine. You probably are familiar with the matter I'm referring to: the United States Marine shooting a prostrate Iraqi insurgent who, just one day before, had been cowardly – and in violation of the rules of warfare – gunning for our boys from inside a Muslim mosque – a

shooting conveniently caught on videotape by an embedded NBC News crew. Convenient, indeed – and not for us, for them – the sons of bitches we’re fighting! – providing them with another cozy “Al Jazeera moment” for the Muslim masses to respond to with their routine pack-of-rabid-sheep mentality.

General Sherman perhaps said it best: “War is hell” – a phrase I myself noted now and again during my war, when we beat the hell out of another gang of fascists who’d sworn allegiance to a no-good bastard with a mustache. Well people, it is still hell – as the young Marine who plugged that bastard clearly understood from the previous day’s combat when he had lost a comrade to a booby-trapped raghead cadaver and had gotten shot in the face himself. Was the NBC News embed unit there to record any of that, so that we could witness that bit of action from the comfort of our living room sofas? Apparently not. Rather, we are treated to this episode, without benefit of combat context, so that we can have our knee-jerk “moral confusion” and guilt buttons pushed.

And pushed by what? By pictures of a soldier dispatching an enemy combatant who had sworn fidelity to some bearded fatwa fairy who relishes the idea of cutting our heads off with a rusty bread knife and who will stop at nothing to kill us even if it means he himself dies in a (bleeped) – damn suicide attack. Patton rule of war No.1: you are not there to die for your cause. You are there to make the other miserable son of a bitch die for his! To help the United States of America achieve that end, I will now suggest a place where you can “embed” that TV camera; up your butt! I hope that’s not too “morally confusing.” Thank you for your attention. That is all.

Commission’s analysis and determinations

12. The Commission is required, pursuant to section 5(1) of 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.”
13. Section 3(b) of 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 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.

14. As the Commission has stated in a number of decisions, the regulation prohibiting 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 comments provoking hatred and contempt also undermines the cultural and social fabric of Canada, which the Canadian broadcasting system should safeguard, enrich and strengthen.
15. On-air comments contravene section 3(b) of the Regulations where all three of the following criteria are met:
 - (i) the comments are abusive;
 - (ii) the abusive comments, taken in context, tend or are likely to expose an individual or group or class of individuals to either hatred or contempt; and
 - (iii) 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.
16. The Commission's examination of the present complaints has taken into account the concerns raised by the complainants, the licensee's reply, and the Commission's own review of the programs.
17. The Commission finds that certain comments made during both the 12 November 2004 and 19 November 2004 broadcasts of *Imus in the Morning* were abusive within the meaning of section 3(b) of the Regulations.
18. More specifically, the Commission is of the view that comments made during the 12 November 2004 broadcast that Palestinian people are "brainwashed," "stupid to begin with," and "stinking animals," and that a bomb should be dropped on them and that they should be "killed right now" were clearly disparaging, insulting and abusive within the meaning of section 3(b) of the Regulations.

19. The Commission notes that the comments were made in the context of a public affairs program. It considers that there is an expectation that public affairs programming, no matter how controversial in style, will provide credible information and informed commentary on pertinent social, economic and cultural issues. Branding a group of people as “stupid,” “stinking animals” that should all be “killed right now” is not consistent with this expectation. These types of comments, particularly on a public affairs program providing coverage of an event as serious as the funeral of Yasser Arafat, are very derogatory and could well tend to foster hatred or contempt towards Palestinians. The Commission therefore finds that, taken in context, these comments tend to or are likely to expose Palestinians to hatred or contempt based on their race, national or ethnic origin.
20. With respect to the 19 November 2004 broadcast, the Commission is also of the view that use of the term “raghead” was abusive within the meaning of section 3(b) of the Regulations. The Commission further finds that the characterization of the Muslim masses’ routine mentality as “pack of rabid sheep” was abusive within the meaning of section 3(b) of the Regulations. The abusive nature of these words is highlighted particularly when compared to the words chosen by the commentator to describe the reaction of the NBC television audience. While Muslim mentality was given animal attributes, NBC audience reaction was described by terms typically associated with human traits such as “knee-jerk,” “moral confusion” and “guilt buttons.”
21. “Raghead” generally refers to individuals, primarily male, from Middle Eastern or South Asian cultures who wear turbans or other pieces of clothing on their heads. The term is dismissive and intended to be disparaging, in so far as it groups together people of different cultures in a trivializing and insensitive manner and mocks their choice of cultural, and often religious, attire. “Raghead” is also understood to be an ethnic slur. The phrase “pack of rabid sheep” used to describe the Muslims’ mentality dehumanizes them by evoking images of savage animals with little intellect.
22. The context for the 19 November 2004 broadcast was that it provided a parody of a famous historical American military figure and his supposed perspective on media coverage of the specific events and circumstances arising from the military conflict in Iraq. A state of military conflict, and a parody of such a conflict, however, does not excuse abusive comment. The Commission is of the view, that, in such circumstances, broadcasters must be especially vigilant to ensure that vulnerable groups or individuals are not exposed to hatred or contempt due to the use of disparaging, insulting or abusive language.
23. In light of the above, the Commission is of the view that use of the term “raghead” and of the phrase “pack of rabid sheep” to describe Muslim mentality was abusive and offensive toward Muslims. Given the context of the statements (e.g. the military conflict in Iraq), the Commission finds that such phrases are particularly problematic and were likely to expose Muslims to hatred or contempt based on their religion.

Other matters

24. With respect to one complainant's query regarding the placement of regulatory restrictions on MSNBC (the U.S. satellite service), the Commission notes that it monitors all complaints regarding abusive comment on non-Canadian services authorized for distribution in Canada. Since MSNBC was authorized as an eligible satellite service on 16 September 2004, the Commission has not received any complaints about the *Imus in the Morning* program on MSNBC. As well, the complaints concerning the two episodes of the *Imus in the Morning* program considered in this decision are the only two episodes of that program that have prompted complaints to the Commission. The Commission further notes that American MSNBC service issued an apology about the content of those broadcasts. The Commission accordingly considers that the record does not support the placement of any restrictions on the program in question or on MSNBC in general at this time.
25. A copy of this decision will be sent to the Chief Executive Officers of Rogers, Shaw and MSNBC Cable, LLC. A copy of this decision will also be placed on the public file of MSNBC Canada.

Secretary General

This document 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>