



Broadcasting Decision CRTC 2006-282

Ottawa, 10 July 2006

Canadian Broadcasting Corporation
Edmonton, Alberta

Complaint concerning comments broadcast during *Radio Active*

In this decision, the Commission announces its determinations on a complaint by a radio listener about the broadcast of an interview on CBX Edmonton by the Canadian Broadcasting Corporation (CBC). The complainant alleged that the interview contained a misleading and undocumented statement that might create an anti-Palestinian sentiment in the Canadian public. The Commission finds that the CBC's broadcast of the interview in question, as a segment of the afternoon radio program Radio Active, did not breach the prohibitions against the broadcast of abusive comment and false and misleading news contained in the Radio Regulations, 1986.

Background

1. Between May 2003 and November 2005, the Commission received six letters of complaint from one individual, James Darwish, alleging that a radio interview broadcast on 23 October 2002 by the Canadian Broadcasting Corporation (CBC), as a segment of the afternoon daily public affairs radio program *Radio Active* on CBX Edmonton, contained abusive comment and false and misleading information, contrary to the prohibitions contained in section 3 of the *Radio Regulations, 1986* (the Regulations). The subject of the interview was the sniper attacks that were then occurring in and around the Baltimore-Washington Metropolitan Area and in Virginia.
2. Mr. Darwish indicated that he had complained to the Commission because he was dissatisfied with the letters he had received from the CBC Edmonton regional office and from the CBC's Ombudsman in response to his initial complaint. The Commission did not refer the complaint to the Canadian Broadcast Standards Council (CBSC) because the CBC is not a member of the CBSC.
3. In his last letter to the Commission dated 28 November 2005, the complainant pronounced himself dissatisfied with the conclusion reached by Commission staff, as conveyed to Mr. Darwish in letters dated 17 July 2003, 15 December 2004 and 3 November 2005, that the CBC was in compliance with the Regulations and the *Broadcasting Act* (the Act). The complainant insisted in his 28 November 2005 letter that a formal determination on the matter be issued by the Commission.

The complaint

4. In his correspondence with the Commission, the complainant alleged that the interview at issue might create an anti-Palestinian sentiment as a consequence of a statement by the interviewer, which Mr. Darwish considered to be “misleading, untruthful and undocumented.” The statement and the question it prefaced are presented below:

There have been comparisons made between the randomness of the sniper attacks and the suicide bombings we hear about in Israel or Palestine. Do you think this has changed people’s understanding of what’s happening in Israel?

5. The complainant alleged that there was no documentation supporting the comparison made by the interviewer in the statement, and that it thus represented a “gross breach of journalistic ethics.” He also alleged that the statement was calculated to ensure that the response by the interviewee, Rabbi Samuel Kaplan of Potomac, Maryland, would make people more sympathetic to Israel, and consequently do harm to Palestinians and other residents of the Middle East by generating animosity and prejudice against them.

CBC’s response

6. The CBX program manager, Andrea Graham, responded to the complainant in a letter dated 26 March 2003. She explained that the interview lasted five minutes and that the question was one of a total of seven questions about the sniper attacks put by the *Radio Active* interviewer during his phone interview with the Rabbi. The program manager also explained that the interview’s general focus was on the opinions of a prominent community leader regarding the impact of those events on people’s daily lives. She added that “the interview was designed to show how one community was [coping] with the shootings, and accepting that life must go on.”
7. In a separate letter dated 24 April 2003, the CBC Ombudsman, David Bazay, responded to the complainant as follows:

So, you asked, why interview a Rabbi? My response: Why not? Why not question a leader of a religious community about how people she or he knows well are dealing with a crisis in the community at large? We hear ad nauseam on such occasions from police or politicians. Why not give a voice to spiritual leadership? The Rabbi’s message: Trust in God, and not in the news media. The actual chance of being victim of the sniper was extremely remote. Don’t be overcome by irrational emotion. Don’t hide in your house. Get out and live life seriously. In the context of these comments the Rabbi was asked to compare fears of random violence with the fears of his community arising from the 9/11 attacks and with the fears in Israel arising from suicide bombings. Granted, the reference to suicide bombings does appear to come at us out of the blue, as you say, but for this Rabbi the comparison was relevant.... I do not believe there is any merit to your complaint that this interview amounted to some kind of attempt to disparage the Palestinians.

Commission's analysis and determinations

8. 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”.
9. 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 prohibitions against the broadcast of any abusive comment and the broadcast of false and misleading news set out, respectively, in sections 3(b) and (d) of the Regulations, and of the Canadian broadcasting policy objectives set out in the Act, including the high standard provision set out in section 3(1)(g).

Abusive comment

10. Section 3(b) of the Regulations specifies that a licensee shall not broadcast:

... any abusive comment 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. On-air comments contravene section 3(b) of the Regulations when 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.

12. The Commission agrees with the statements by the program manager and the CBC Ombudsman that the interview broadcast by the CBC did not denigrate one group, namely Palestinians. Rather, the Commission considers, as did the CBC, that the one-time mention of Israel, Palestine and suicide bombings during the interview was made in general reference to a possible parallel that might be drawn between the uncertainty surrounding the lives of citizens living in the Washington area and the uncertainty faced by people living in Israel. The Commission notes that Commission staff informed the complainant of these same conclusions on three occasions during the last three years.
13. Specifically, the Commission finds that there was no aspect of either the question identified by the complainant or the interviewee's response that was abusive, in and of itself. Further, the Commission finds that there was nothing stated during the interview that, taken in context, would either tend or be likely to expose Palestinians or any other group to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability.

False and misleading news

14. With respect to the allegation that the interview contained false and misleading information, the Commission notes that section (3)(d) of the Regulations specifies that a licensee shall not broadcast "...any false or misleading news".
15. In applying this regulation, a threshold test would be whether the comment complained of could be characterized as news. One, although not the only, indicator of whether the comment constituted news would be its presentation as part of a program identified as being a newscast.
16. The Commission notes that the *Radio Active* interview was not presented as part of a newscast, but as an exchange of opinion in the context of a public affairs program. Most of the information exchanged concerned the Rabbi's opinions and personal experience in his community offered in response to the questions formulated by the CBC interviewer. The interviewer was speculating that, given the nature of the attacks, comparisons could be made between two situations present in different parts of the world. In the Commission's view, such speculation and discussion are outside the scope of section 3(d) of the Regulations.

Conclusion

17. Based on all of the above, the Commission finds that the broadcast of the interview in question did not contravene either section 3(b) or 3(d) of the Regulations.

Secretary General

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