



Broadcasting Decision CRTC 2007-87

Ottawa, 16 March 2007

Canadian Broadcasting Corporation Across Canada

Complaints relating to the broadcast on CBC Radio One of *A Literary Atlas of Canada*, episodes entitled *Whiskeyjack Blues* and *Room Available*

*In this decision, the Commission addresses two separate complaints regarding the broadcast by the Canadian Broadcasting Corporation of two episodes of the series *A Literary Atlas of Canada on Radio One*. These episodes, which were entitled *Whiskeyjack Blues* and *Room Available*, contained excerpts intended for mature audiences. The Commission finds that the episodes contained coarse language and mature subject matter and were broadcast at times when children could be listening. Moreover, in the instance where an advisory was broadcast, the advisory was inadequate. The Commission further finds that by airing the episodes in question at 11:00 a.m. on a Sunday, the licensee did not meet the Canadian broadcasting policy objective set out in the Broadcasting Act that programming should be of high standard.*

Background

1. In July and September 2006, the Commission received two complaints concerning two separate episodes of a series called *A Literary Atlas of Canada* (*Literary Atlas*) that were broadcast on Radio One, an English-language radio network operated by the Canadian Broadcasting Corporation (CBC). The first complaint addressed an episode entitled *Whiskeyjack Blues*, which aired on Sunday 16 July 2006 at 11 a.m. The second complaint addressed an episode entitled *Room Available*, which aired on Sunday 3 September 2006 at 11:00 a.m.
2. The *Literary Atlas* series, which was hosted by Noah Richler, presented a discussion of literature that explored the landscape of Canada through its writers. The series was originally broadcast on weeknights at 9:05 p.m. on Radio One as part of a program called *Ideas*. *Ideas* is a program about contemporary thought. It explores social issues, culture and the arts, geopolitics, history, biography, science and technology, and the humanities.

Whiskeyjack Blues

The episode

3. *Whiskeyjack Blues* focused on Aboriginal writing as it reflects the concerns and conditions of Aboriginal people in Canada. It included three readings of excerpts from larger works by Aboriginal authors who use their writing to express often violent,

traumatic and emotionally charged experiences in their lives and the lives of those in their communities. The readings were interspersed with narration and interviews with the authors by the program's host that sought to explain the context of the readings themselves and to shed light on the social reality of the Aboriginal peoples of Canada.

The complaint

4. The complainant wrote to the Commission on 16 July 2006, objecting to what he characterized as frequent profanities that aired during the hour-long broadcast. The complainant was especially concerned that the CBC had broadcast the program at a time when there was likely to be a young audience.

Licensee's reply

5. The licensee responded to the complaint on 25 July 2006. The CBC explained that there are occasions when certain expressions may be aired, particularly when to do otherwise, such as editing out those expressions, would impair the integrity of the information being imparted or affect the artistic presentation of a work. The CBC was of the view that editing out the language referred to by the complainant would not accurately represent the range of emotions and themes that the selected readings were trying to convey. However, the CBC acknowledged that the listener advisory, which was aired once at the beginning of the program, should have been repeated periodically throughout the broadcast to better inform listeners who may have tuned in part way through the program.

Commission's analysis and determinations with respect to *Whiskeyjack Blues*

6. The Commission's analysis of the complaint took into account the concerns raised by the complainant, the licensee's reply, and the program's content. The Commission conducted its analysis against the Canadian broadcasting policy objectives of the *Broadcasting Act* (the Act), including the provision set out in section 3(1)(g), which provides that "the programming originated by broadcasting undertakings should be of high standard" (the high standard provision).
7. The Commission's review of the logger tape revealed approximately 23 instances of coarse language during the one-hour broadcast. In all cases the language was confined to the readings of the authors' works. The words contained in those excerpts consisted of a range of coarse language, including the words "shit" and "shitters," "fuck" and "motherfucker." In addition, the readings included a graphic description of a violent gay bashing incident that ended in the stabbing and death of the victim. In this excerpt, the expressions "faggot," "cock sucking," "fuck him" and "die bitch" were used, among others. The appendix provides a transcript of two excerpts that included coarse language.
8. While the readings were often illustrative and explicit, the words used were not gratuitous in the sense that they were integral to the writings being broadcast, as explained in the discussions with the authors. Nor was the language used in a manner

that was intended to be negative or rude, or to purposefully shock or outrage the listener. Rather, as the host and interviewers attempted to explain during the program, the language and content of the readings were meant to convey an authentic experience.

9. However, even in this context, the Commission considers that the course nature and frequency of the language could be disturbing even to adults listening on a Sunday morning.
10. The Commission notes that the CBC broadcast a single advisory at the beginning of the episode. The advisory stated: “There’s some iffy stuff for kids but nothing too shocking.”
11. The Commission considers that this advisory was not only inaccurate but lacked sufficient detail to assist listeners in effectively determining what the nature or content of the broadcast would be, and thus, whether it would be suitable for them or their families. The use of appropriate advisories has been well-established by broadcasters. For example, in the case of television, the Canadian Association of Broadcasters’ (CAB) *Voluntary Code Regarding Violence on Television* contains an appendix that provides examples of advisories that are sufficiently accurate and informative for the purpose of ensuring that viewers receive adequate information in making their program selections. In the present case, the Commission considers that the type of language employed in *Whiskeyjack Blues* is not appropriate for children, despite what the CBC’s advisory suggested. Furthermore, the advisory did not recognize that such language may be offensive to many adults.
12. The Commission and the Canadian Broadcast Standards Council (CBSC), which addresses such matters for private broadcasters, have found in past decisions that the word “fuck” and its derivatives in particular are not acceptable in broadcasts to which children could be listening. Specifically, CBSC panels have determined that the word in question should not be broadcast during daytime hours and that the broadcast of that word and its derivatives will be found in violation of the *CAB Code of Ethics* when aired at times of the day when children could be expected to be listening to the radio.¹ The CBC is not bound to adhere to the *CAB Code of Ethics* by condition of licence. However, the Commission is of the view that the prohibition set out in clause 9 of the *CAB Code of Ethics* against unduly coarse or offensive language in radio programming provides a useful guideline for assessing Canada’s private and public broadcasters’ compliance with the Act’s high standard provision.
13. While the use of appropriate advisories is an important tool to inform prospective listeners of the potential risks associated with listening to a program, the Commission is of the view that, in this case, even the use of a proper, accurate and frequent advisory at

¹ See Canadian Broadcast Standards Council Prairie Regional Panel, CIOX-FM re *the songs “Livin’ It Up” by Limp Bizkit and “Outside” by Aaron Lewis and Fred Durst*, CBSC Decision 00/01-0670, decided 28 June 2001, and Canadian Broadcast Standards Council Ontario Regional Panel, CIRK-FM re *K-Rock Morning Show*, CBSC Decision 01/02-0713 & -1113, decided 5 February 2003.

11 a.m. on a Sunday morning does not excuse the potential harm of broadcasting material that is clearly inappropriate for children at a time when children can be expected to listen to radio programming.

14. Based on its review of the episode's content, the Commission finds that proper scheduling would be the most effective means to respect the high standard provision of the Act in this circumstance.

Room Available

The episode

15. During *Room Available*, the host visited British Columbia where he explored the influence of Canada's west coast forests, the thriving suburbs and the decaying downtown of Vancouver, as well as the province's immigrants on local writers' works.
16. The episode featured several readings from various literary works by Canadian authors, including one reading called *The Pornographer's Poem*. This excerpt was taken from a story about two teenagers from Vancouver's suburbs who find themselves drawn into the corrupt world of pornography after an innocent introduction to filmmaking. The excerpt, which was less than two minutes long, consisted of a brief description of a centrefold of a gay pornographic magazine that a character wants the protagonist to look at and talk about. The CBC did not broadcast an advisory at any time during the program.

The complaint

17. In an email dated 5 September 2006, the complainant objected to the broadcast of *The Pornographer's Poem*. The complainant submitted that a story containing a scene describing a gay pornographic sex act was inappropriate for broadcast on a radio on a station that, in his view, is meant to be listened to by all ages in a family.

Licensee's reply

18. In its reply of 7 November 2006, the CBC stated that all programming is reviewed before broadcast, and that this series was no different. The licensee stated that it had reviewed the audio transcript of the episode and found that no advisory had been broadcast. Having reviewed the content in light of the complaint, the CBC acknowledged that an advisory for adult content aired prior to the broadcast would have best served the needs of the audience by making listeners aware of the content before it aired.

Commission's analysis and determinations with respect to *Room Available*

19. As in the case concerning *Whiskeyjack Blues*, the Commission considers that the language and scenes in the *Pornographer's Poem* segment of *Room Available* were not gratuitous as they were clearly part of the context of the authors' works being discussed. However, *The Pornographer's Poem*, with its clear, albeit brief, presentation of

pornography, was clearly intended for adult audiences. Furthermore, in the process of reviewing the tape of the hour-long broadcast, the Commission found that the episode consisted of several other readings containing mature subject matter, including a brief reference to prostitution, a racial slur and one instance of the word “fuck.”

20. The CBC did not broadcast an advisory aired at any time before or during the episode. As noted above, while the use of advisories is an important tool to inform prospective viewers of the potential risks associated with listening to a program, the Commission is of the view that, in this case, even the use of a proper, accurate and frequent advisory at 11:00 a.m. on a Sunday morning does not excuse the potential harm of broadcasting material that is clearly inappropriate for children at such a time when children can be expected to listen to radio programming.
21. Based on its review of the episode’s content, the Commission finds that proper scheduling would be the most effective means to respect the high standard provision of the Act in this circumstance.

Conclusion

22. The Commission finds that the episodes of *A Literary Atlas of Canada* that were the subject of the complaints in question included mature subject matter and were meant for a mature audience. This is not to suggest that the subject of literature is mature subject matter nor that the series itself was inappropriate or of low quality. Rather, it is the Commission’s view that the episodes in question should not have been broadcast at a time when children could reasonably be expected to be listening.
23. In the present case, the broadcasts occurred on a Sunday morning at 11:00 a.m., which is a time when children are likely to be listening at home or in the car, given that they are not likely to be in school or asleep. Accordingly, the Commission finds that the broadcast of these episodes by CBC Radio One, all on a Sunday morning, was inconsistent with the objectives of the *Act*, which requires that programming be of high standard.

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>

Appendix to Broadcasting Decision CRTC 2007-87

Two excerpts from *Whiskeyjack Blues*

From Robert Arthur Alexis, *Porcupines and China Dolls* (at 11 minutes and 24 seconds of the episode)

(Sounds of a bar and music in background) As they walked up the steps of the saloon they could hear the music and the steady hum of people talking, yelling or screaming. They walked in. The smell of smoke, beer, sweat and wasted dreams hit them in the face. Karen looked at James' crotch knowing it was already dipped but what the hell. It didn't hurt to fantasize about him drillin' her in the back while half the town cried for a beer and the other half cried in theirs and she cried for more.

"Double and three beers," James said. James stood by the bar and looked around for the ten millionth time. Same shit, same shitters. Then, he took a deep breath and swam across the sea of misery holding his beer aloft in case one of the sharks took a bite out of it. "Hey James, lend me loonie." "Hey James, give me smoke." "Hey James, buy me beer." "Hey James, eat me." That was Angie and she was doin' pretty good considering. She'd woken up that morning, had a shower, then squeezed into her tightest jeans only to find she needed a coat hanger to pull up the zipper. She looked at Jake, Wonder if I should fuck him just to make James jealous. Jake smiled at James. "Hey bro, what's up?" he asked. "Clap right," James answered then sat up and took a shot of vodka. "Hey James what's up?" Kevin asked rhetorically. "Diddly." "Hey James," Greg said. He looked stoned and drunk. "Tell us a good one." "What am I, a fuckin' elder?"

From Joseph Boydon, *Painted Tongue* (at 34 minutes and 51 seconds of the episode)

(Sound of running feet in background) "Motherfuckers," the wounded man screamed. "He's runnin', grab the bitch." A naked man came dashing from the trees towards Painted Tongue with three men close behind him. He was streaked red in the moonlight and ran hard but with a limp. Painted Tongue dropped quickly into the shadow of the bush without the man seeing him and held himself rigid as the other men swooped by. *(Sound of grunts and groans in background.)* They quickly caught up to the wounded one and tackled him. They took turns kicking his head and groin and stomach with their boots. Two had shaved heads and the other wore his hair long like Painted Tongue. They chanted "dirty faggot, cocksucking faggot" through their clenched teeth. Painted Tongue tried again but his warrior song would not come. The long-haired one pulled out a knife. "Don't, please don't," the man on the ground said. He was close enough to Painted Tongue that Painted Tongue could taste the copper tang of fear in his own mouth. The long-haired one dropped down on his knees with both hands held high above his head. "Do it" one of the standing men hissed. "Stick him, fuck him," the other man said. "Die bitch," the long hair said after a few seconds, then swung down hard. The bleeding man howled. Painted Tongue shivered as the three men ran into the darkness.