

# Chapter 34

## Media Policy, Co-Existence, and Freedom of Speech

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### ABSTRACT

*The Canadian Broadcast Standards Council (CBSC) is an independent, non-governmental organization created by the Canadian Association of Broadcasters to administer broadcast codes dealing with issues of ethics, stereotypes and portrayal, journalistic ethics and violence on television, among others. As of the end of 2011 (the period dealt with in this chapter), the CBSC had rendered 505 Panel decisions, which have served to define the parameters of permissible (and excessive) content on a broad array of radio and television programming, including news, public affairs, magazine format television shows, radio and television talk shows, children's television, other dramatic forms, and so on. In many of the foregoing types of programming, complaints pertain to representations and discussions of religious issues and religious groups. This chapter addresses the nature of the complaints received with particular relevance to religion, religious communities, and discourses.*

### INTRODUCTION

The Canadian Broadcast Standards Council finds itself in an odd position on the subject of freedom of expression in the broadcasting area, odd in that the CBSC represents an undeniable constraint upon, or restriction of, that freedom. More of that issue anon. The explanation of that position, of course, begins with an understanding of what the CBSC is and does, and for whom it fulfills its mandated responsibilities.

### THE CBSC: WHAT IT IS AND DOES

With the recognition, and strong encouragement, of the CRTC, the CBSC was created in 1990 by Canada's private broadcasters with three specifically-articulated goals in mind, all of these then being limited in their application to Canada's *private* broadcasters. With one exception, the responsibility for the public broadcasters has remained with the CRTC. The three goals of the Council were:

- To inform broadcasters with respect to emerging societal issues and suggest ways to deal with them;
- To administer codes of industry standards referred to it by the CAB; and
- To provide a means of recourse for members of the public regarding the application of these standards.

In order to accomplish these goals, the broadcasters sought to broadly mirror the self-regulating processes of other professional groups, such as lawyers, doctors, nurses, teachers, engineers, architects, realtors and so on.

As the growth of the CBSC evolved, the goals became tightly enmeshed. The first task was to create the codes, the rules by which the public's complaints would be judged. Interestingly, one of these, the *Code of Ethics* of the Canadian Association of Broadcasters (CAB) dated from 1943 in its initial incarnation. That general "cover the waterfront" code of course needed updating, and other more focussed codes were needed to complement it, in order to have a full panoply of guidelines covering most, if not all, on-air circumstances that audiences might encounter.

With codes in place, the self-regulatory enforcement entity would then be in a position to respond to the public's submitted concerns, the "means of recourse for members of the public regarding the application of these standards." That means of recourse was the establishment of a complaints procedure. The formulation of the complaining process pre-dated the existence of the Internet and the facility of electronic communication. Still, the original requirement for *written* complaints has been maintained; concerns about programming can be submitted, as they originally were, by snail mail or fax, but they are now principally submitted by e-mail or the CBSC's website form. For the first seven or eight years, the CBSC received about 200-250 complaints annually. The existence of a responsive program is now far better known and the complaint base

has grown by a factor of eight to ten. Roughly half of the annual 2,000+ complaints come to the CBSC directly; the other half are forwarded to the Council by the CRTC.

The third of the stated goals, the advising of broadcasters of emerging societal trends, is, in effect, an educational goal. To implement it, the CBSC has principally relied on its adjudicative process. Our Panels (and more about these in a moment) render decisions that put flesh on the skeletal codes, much in the procedural style of the Roman-Dutch civil law. These decisions are rendered in all of the traditional programming and journalistic areas, but the Panels are periodically called upon to respond in their adjudications to new programming trends or to identify gaps or problems in the codified standards. Thereafter, the codes are from time to time amended to reflect the jurisprudential changes. Thus, for example, the 1986 *RTNDA Code of (Journalistic) Ethics* was updated in 2000, the 1990 *CAB Code of Ethics* was revised in 2002, and the 1990 *Sex-Role Portrayal Code* was entirely replaced by the *Equitable Portrayal Code* in 2008. The CBSC is also engaged in the very slow process of creating and publishing annotated codes, which include the collected jurisprudential passages following the code articles or clauses to which they apply.

## **The Codes**

The CBSC administers seven codes, most of which are not directly relevant to our focus on religious issues in this chapter. Identifying them does, however, say something of the nature of the Council and the responsibilities it fulfils. The Codes the CBSC applied are: the *CAB Code of Ethics* (1990/2002), the *Equitable Portrayal Code* (2008), the *Violence Code* (1994), the *RTDNA Code of (Journalistic) Ethics* (1970/2011), the *Journalistic Independence Code* (2008), the *Pay Television Programming Code* (1984/2002), and the *Pay Television Violence Code* (1994).

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