

**Broadcast Ethics or Kangaroo Court:
The Canadian Broadcast Standards Council Blacklist**

Background

On December 8th, 2010, the Canadian Broadcast Standards Council announced an indefinite blacklisting of Charles McVety and the show, Word TV.

The Council's heavy hand of censorship followed months of deliberations in secret. The Council made its final, furtive decision on June 22, 2010. But the Council held back release of its decision until just before Christmas. This is when most Canadians would be pre-occupied with holiday preparations. It was as if the Council had much to hide.

The methods used by the Council resemble those of no regulatory body in Canada of which we are aware. All other regulatory bodies appear to understand the principles of fundamental justice and fairplay.

To find anything resembling the Council's practices, we would have to look to Kangaroo courts as diverse in time and place as the Salem witch trials of Massachusetts in 1692 and Josef Stalin's Show Trials and Great Purge of the 1930's. In the Canadian Broadcast Standards Council's mockery of justice, its accused was

- o told nothing about the proceeding, shown none of the evidence, told nothing of the accusation, was allowed no defence, and is permitted no appeal;
- o found guilty of saying things he never said;
- o portrayed as offending people who were not offended; and
- o forced to announce through the host broadcaster that he was found guilty of crimes of which no fair and honest proceeding would ever have convicted him.

Under the laws of civilized nations, the accused has a right to defend him/herself. In Canada, this right to confront the accuser and examine the evidence is a principle of fundamental justice dating to the Magna Carta (1215). This right is asserted throughout Canadian law, in the Canadian Charter of Rights and Freedoms, and in the laws of other civilized nations.¹ This fundamental principle of justice has ancient roots in Christianity (Acts of the Apostles), not to mention in Jewish law (Halacha).

The Canadian Broadcast Standards Council is a partnership of the multi-billion dollar private broadcast industry. Its conduct is a miscarriage of justice and a dishonour to Canada.

¹ See for example the International Covenant on Civil and Political Rights, the European Convention on Human Rights, and the U.S. Bill of Rights.

Ten Questions

1. The executives of Canada's private broadcasters and the Standards Council they fund must surely know that all civilized nations provide the accused with the rights of self-defence. How do Canada's private broadcasters justify dispensing with this fundamental right under natural justice?
2. The executives of Canada's private broadcasters and their Standards Council must know that anyone claiming the right to be a truth squad, to police speech, must first police their own speech. How do the private broadcasters justify their Council's misleading Canadians into thinking that many "complaints" (sic in the press release) were made even though only one person complained?
3. How do the private broadcasters justify blacklisting McVety for saying things he never said.
4. How do private broadcasters justify blacklisting McVety for speaking ill of people with mental disability when the topic was never discussed on the show? Do the private broadcasters have an explanation for this totally invented accusation? Is there any better explanation for the Council's abuse of power than Lord Acton's warning that *power corrupts and absolute power corrupts absolutely*?
5. How do private broadcasters justify blacklisting McVety for saying that the Human Rights Commissions have a 100% conviction rate? Suppose McVety is "carelessly misleading" [tense changed], as the Council claims? By this logic, the Council should blacklist not just McVety but many commentators and probably most public figures across Canada. But McVety is right and the Council is wrong. Every single section 13 thought crimes case the Canadian Human Rights Commission has taken to the Canadian Human Rights Tribunal led to a conviction. If the private broadcasters truly believe in truth squads and speech police, will they now create a new Super-Council so that the existing Council can be blacklisted for its carelessness?
6. How do private broadcasters justify blacklisting McVety for saying that "it is now a crime to speak against homosexuality"? In this particular instance, the Council is technically right the correct statement would have been that "it is now a crime to incite

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hatred against homosexuals". But it is fair comment to say that most critics of at least some of the conduct of homosexuals would have reason to fear the heavy hand of the law. By this logic, McVety is right and the Council, wrong. But if the Council were right and it applied its rules in a fair-minded fashion, it would have to blacklist most news shows, perhaps all news shows, for lacking adequate precision in describing the laws and policies they report on.

7. How do private broadcasters justify blacklisting McVety because McVety does not share the Council's belief that Ontario's homosexuality curriculum revisions were intended to teach tolerance? McVety's different opinion was fair comment in a democratic society. If McVety's view was not fair comment, then why didn't the Council blacklist Premier Dalton McGuinty and his cabinet too? McGuinty wouldn't have cancelled the revisions if he had shared the Council's interpretation. In any case, how could the Council possibly have an opinion on this matter given its admission that it had never actually looked at the proposed revisions?
8. How can the private broadcasters justify blacklisting McVety because he opposed spending tax dollars in support of the gay pride parade?. As the *National Post's* Jonathan Kay wrote, "What we effectively have here is a religious Christian being driven off the air for doing little more than appealing to the provisions of our Criminal Code — not the Bible. He's not even calling for the gays in question to be arrested. He's just saying that we shouldn't subsidize their event with taxpayer funds. When did that sort of speech become illegal?"
9. Point # 1, above, observes that it is a fundamental principle of justice that every accused should have a right of defence. It is also a fundamental principle of justice that every accused should face a trial by peers and that the process be free of conflict of interest. The multi-billion dollar private broadcasting industry profits from gratuitous sex and violence in programming. How then can the very industry that profits from the practices condemned by its critics claim that it has any legal or moral authority to blacklist these same critics?
10. Finally, free and democratic societies like Canada allow private broadcasting for one reason—to protect freedom of speech. In practice, the bureaucrats at the Canadian Radio-Television Telecommunications Commission (CRTC) know that our Constitution, our laws, and the *Broadcasting Act* forbid them from threatening free speech. But the CRTC wants to police speech anyhow. So the CRTC gets the private broadcasters to do its

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thought enforcement under the guise of a so-called “Standards Council.” In this Faustian bargain, the private broadcasters keep their profitable licenses in exchange for doing what they and their CRTC masters must know is wrong and illegal. What will it take to get the CRTC and the private broadcasters to realize how much they have to lose if they don’t right what is obviously wrong?