

September 25, 2008

Review of complaints about Heather Mallick's column of September 5, 2008

This office received about three hundred complaints concerning a column by Heather Mallick entitled "A Mighty Wind Blows Through the Republican Convention" (CBCNews.ca, September 5, 2008). The column concerned the nomination of Governor Sarah Palin as Vice-Presidential candidate of the Republican Party. Ms. Mallick wondered why Ms. Palin was selected. She wrote:

"It's possible that Republican men, sexual inadequates that they are, really believe that women will vote for a woman just because she's a woman. They're unfamiliar with our true natures. Do they think vaginas call out to each other in the jungle night? I mean, I know men have their secret meetings at which they pledge to do manly things, like being irresponsible with their semen and postponing household repairs with glue and used matches. Guys will be guys, obviously."

Also:

"Palin has a toned-down version of the porn actress look favoured by this decade's woman, the overtreated hair, puffy lips and permanently alarmed expression. Bristol has what is known in Britain as the look of the teen mum, the "pramface." Husband Todd looks like a roughneck; Track, heading off to Iraq, appears terrified. They claim to be family obsessed while being studiously terrible at parenting. What normal father would want Levi "I'm a fuckin' redneck" Johnson prodding his daughter?"

Further:

"I know that I have an attachment to children that verges on the irrational, but why don't the Palins? I'm not the one preaching homespun values but I'd destroy that ratboy before I'd let him get within scenting range of my daughter again, and so would you. Palin's e-mails about the brother-in-law she tried to get fired as a state trooper are fizzing with rage and revenge. Turn your guns on Levi, ma'am."

Many of the complaints were thoughtful attempts to refute Ms. Mallick's points, often saying that they defended her right to have an opinion, but most took exception to her opinions being published on CBCNews.ca, funded by taxpayers.

A healthy percentage of the complaints appear to have been further prompted by several other commentators: initially, Jonathan Kay's columns in the National Post. He urged readers to write to complain. Then the subject was picked up by the U.S. outlet, Fox News. On at least three different programs, commentators denounced the column in vociferous terms; one commentator, Greta Van Susteren, referred to Ms. Mallick as a "pig," a comment picked up by several correspondents in their notes to me. Subsequent to the Fox programs, this office and Ms. Mallick received an alarming number of truly vicious and vituperative messages that I will not quote here.

A consistent theme was that Ms. Mallick, as what they called "a CBC journalist," should not be allowed to publish comments that were called, among other things, "hateful," "shameful," "slanderous," "a smear." Many objected to Ms. Mallick's comments about the Palin family, as well as her references to the physical appearances of Ms. Palin and one of her daughters. A number of complainants said that Ms. Mallick should be taken before a Human Rights Commission.

Others, from both the U.S. and Canada, referred to the CBC as "government-owned" and felt that Ms. Mallick's views had no place on an outlet funded by the public. I even received a phone call from the Fox News web outlet inquiring whether the views expressed represented the position of Canadians and "the Government of Canada."

Many writers also saw the column as part of a general trend of "left-wing" commentary and argued that columns taking a "right-wing" point of view would never be allowed. Many also said that references such as "white trash" and "sexually inadequate" Republican men would never be allowed if such derogation were applied to other ethnic or socio-political groups.

CBCNews.ca responded by saying that:

"...as the section heading – *Analysis & Viewpoint* – suggests our pages...contain clearly identified viewpoint and opinion. We invite some of the best and, yes, controversial writers in the country, Ms. Mallick among them, to offer their views on the events of the day. That is as it should be. It is CBC's mandate, part of its obligation under the federal *Broadcasting Act*, to offer a range of views on matters of public interest and concern. And I believe we are doing that...She is widely recognized as an insightful, witty – and controversial – observer of the political and cultural scenes. But although we encourage commentators to express different points of view, I should be clear that the opinions they express are their own. We do not expect all our readers will share them. Certainly, they are not the opinions of CBC NEWS.CA."

The response also noted that many people disagreed with Ms. Mallick in the Comments section of the website.

A large number of complainants asked me to review the matter.

REVIEW:

First off, I will briefly review the relevant policies found in CBC's Journalistic Standards and Practices.

Under Range of Subjects we find:

“The CBC would fail to live up to its mandate if, in the attempt to upset no one, to disturb no institution, it undertook to limit the comprehensiveness of its reporting on contemporary society...”

In a subsequent section on Range of Opinions it says:

“A journalistic organization, to achieve balance and fairness, should ensure that the widest possible range of views is expressed. Almost any opinion may contain a grain of truth that helps to illuminate the whole truth...If the media are to do their work of reflecting and revealing reality properly, there will at times be tensions between the media and different elements of society. This should not inhibit the CBC, so long as the Corporation in its information programming is carrying out this essential task of informing the public in accordance with its established journalistic standards.”

It is probably worth noting that many of CBC's Journalistic Standards and Practices were codified before the incredible rise of the Internet and the swift evolution of CBC.ca into a major journalistic presence. However, there are standards that, by implication, would apply to works of opinion on the web. I have established that those in charge of CBC.ca agree that the “Point-of-View” policies formulated for radio and television apply to the work appearing on CBC.ca. The policies state:

“The phrase ‘point-of-view’ is...used at times to describe a work of clear opinion, advocacy, or a factually-based polemic which argues a specific remedy or perspective in a controversial matter. While factually based, the work does not fairly portray the range of opinions involved in the issue or story....Programmers should apply the following tests and procedures (Note: I have omitted those that apply strictly to broadcast productions):

“Such production should be prominently identified as a work of opinion at the beginning and at the end....

“Even in a work of opinion, facts should be respected and arguments should reasonably flow from these facts. The CBC cannot abdicate its responsibility for the accuracy of the facts presented...and has the obligation to ensure that the argument presented does not rest on false evidence...”

“In most cases, the (transmission) of a clearly partisan (item) from a single perspective obligates the CBC to provide an appropriate reflection of other pertinent points of view, so that the audience may see that different conclusions may also be drawn from the same facts. The CBC should also avoid cumulative bias over time by guarding against one perspective frequently appearing in a highly-produced form.”

As I said, these guidelines were generated to cover point-of-view documentaries, but are clearly applicable to the “production” of CBCNews.ca. In fact, the difference in medium should, in theory, make it easier for CBC.ca to meet those standards than supervisors of very expensive, highly produced documentaries.

With the foregoing as background, I will try to deal with a number of the issues.

Opinion

Quite a few complainants argued that the CBC should not be carrying opinion pieces, or at least not sharply pointed ones. The policy framework clearly indicates otherwise. Just because taxpayers pay for the CBC does not mean that nothing offensive to a significant constituency should be published or broadcast. However, public funding is one of the reasons the CBC has fairly elaborate policies—there is an obligation to acknowledge the necessity of operating differently than a private entity. As the policy implies, the CBC should not shy away from pointed opinions, but it should seek out the broadest range that can be found.

Quite a few people argued that since they were paying for the CBC, it should not be carrying views with which they disagreed. Of course, governments fund all kinds of activities, some of which any single tax payer might disagree with—subsidies to private industries, arts and culture funding for challenging work, mail subsidies for some publications.

My point is not to criticize those measures, but to point out that governments decide how taxpayers money is to be used for the general good. The CBC operates under legislation that calls on it, in effect, to provide the widest-range of journalism and opinion possible within the budgetary limitations.

Most crucially, the CBC should be seeking out the widest range of opinions and defending the right of those individuals to transmit those opinions. Ms. Mallick has a perfect right to hold and transmit her opinions, and the CBC to carry them, as long as they meet the tests of CBC’s Journalistic Standards and Practices.

“Employee”

Many complainants cited what they presumed to be Ms. Mallick’s status as a “CBC employee.” In fact, Ms. Mallick is a freelancer and not an employee of the CBC. Since she is writing as an opinionated columnist, she does not have the obligations of impartiality that a CBC journalist would have.

Neighbours

Some argued that the CBC should not be carrying opinionated journalism about the U.S. presidential race since it is not our country and neighbourliness implies a measure of neutrality. This view was expressed by a number of people from the U.S., but also by a number of people in Canada. The U.S., of course, has an enormous impact on the world at large, and this country in particular. It is not logical to conclude that being outside the U.S. implies silence since the effect of U.S. policies is felt with particular impact north of the 49th parallel.

For the Ombudsman, the main issue has to be whether the item met CBC’s standards and whether the service that carried it is meeting its obligations.

Policy calls for opinions to be based on fact. Ms. Mallick’s item generally stays in the opinion column but she does offer some flat statements that appear to offer “facts” without any backup. For instance, there is no factual basis for a broad scale conclusion about the sexual adequacy of Republican men. In fact, that type of comment, applied to any other group, would easily be seen as, at best, puerile. Similarly, the characterization of Palin supporters as white trash lacks a factual basis. I asked Ms. Mallick to explain the basis for these characterizations. In a note she explained her opinions of Ms. Palin, but did not provide a factual justification for the statements.

Ms. Mallick is free to draw her own conclusions about Ms. Palin’s appearance, as irrelevant as that might be to her worth as a public official, but a similar sortie against one of her children is, at best, in poor taste. Had Ms. Mallick’s article been labeled “satire,” there might have been scope for such descriptions and conclusions—they have a certain cartoonish tinge—but even the best and most pointed editorial cartoonists have, at some point, run afoul of sensible editorial authority. There is a significant difference between censorship and appropriate editorial oversight. CBC journalists are required to exercise appropriate oversight over material that appears on CBC outlets. Ms. Mallick is entitled to her opinions, and those opinions should not be censored, but those opinions must also be expressed in a manner that meets our Journalistic Standards and Practices. Liberty is not the same as license.

Ms. Mallick has the liberty to hold whatever views she wishes. And the CBC has both the right, and the obligation, to exercise appropriate editorial supervision. Interestingly, had Ms. Mallick’s column been written in the spirit of her note to me, it would still have been pointed and provocative but, with a broader context, would probably not have failed to meet editorial standards.

But there is another significant aspect to our policy. As mentioned, it calls on CBC outlets to touch on the widest range of views possible. On CBCNews.ca, there does not appear to be a wide range of “pointy” views. For instance, many of those who complained claimed that there is no one of an opposite ideological viewpoint readily apparent on the service. Unfortunately, this appears to be true. As I observed in an earlier review concerning CBC Newsworld programming, the CBC should not necessarily avoid having people of strong views on the air, but we must ensure that people of differing views are given a fair opportunity.

It has been argued by some who have supported Ms. Mallick that the comments that have been carried in the Comments section provide balance on the subject. I disagree. The prominent space and highlighting of columnists implies a different status compared to users who comment on the various stories. Appropriate space should be given to a wider range of views.

It is a truism in legal circles that bad cases make bad law. It would be easy to surrender to an impulse to suppress opinions that cause upset, or to issue a blanket defense of freedom of opinion. However, our policies call for me to be clear and precise about policy matters.

CONCLUSION:

Portions of Ms. Mallick’s column do not meet the standards set out in policy for a point-of-view piece since some of her “facts” are unsupportable. She may, of course, resubmit her column taking account of our editorial standards. The editors are free to, in fact obliged to, exercise appropriate editing standards.

It is not my job to agree or disagree with Ms. Mallick’s opinions or the tone in which they are expressed. She is free to craft them as she chooses.

CBCNews.ca should address its editing standards to ensure that vigorous opinion thrives while ensuring that journalistic and quality standards are met.

Opinion and analysis should be clearly labeled and not lumped together. If an item is meant to be satiric, it should be labeled as such.

CBCNews.ca should have appropriate resources to ensure that a wide range of opinion and analysis is available.

Vince Carlin
CBC Ombudsman