

Review: Remarks made on Hockey Night in Canada during a discussion about fighting in the NHL

October 26, 2011

REVIEW

On October 6, 2011, the first night of the National Hockey League's 2011-12 regular season, CBC Television's Hockey Night in Canada presented its inaugural edition of Coach's Corner, featuring CBC's [Ron MacLean](#) and commentator [Don Cherry](#).

The first-intermission feature dates back three decades and is often the week's most-watched Canadian television segment. Cherry, a former player and coach, is an iconic and provocative advocate of hard-hitting hockey. MacLean, a former referee, is at times his foil and at other times his buffer.

Their [first segment](#) of the season came in the context of disproportionate individual and team tragedies in recent weeks. Three NHL players — [Derek Boogaard](#), [Rick Rypien](#) and [Wade Belak](#) — had died in separate incidents. Boogaard died accidentally from a lethal combination of alcohol and a narcotic. Rypien and Belak died in suicides. There had also been a plane crash in Russia that killed members of a Russian professional hockey team, several of them former NHL players.

The other important context to help understand the complaint was an effort by the NHL to combat head and other injuries through greater penalties to deter infractions. One of the game's most prominent players, Sidney Crosby, had been sidelined since early in 2011 with a head injury and was only now recovering. Media attention, including [work by CBC News](#), had focused on the impact of the game on the brain and on the struggles to play with concussion histories.

The attention had stirred enormous debate on the sport, on the approach by the NHL, and on the impact of fighting and head injuries on players.

In early September, one former player with a reputation as a fighter, Chris Nilan, [suggested that fighting be phased out](#) because it no longer served its purpose. That drew a comment from another former player and fighter, Georges Laraque, who said those he used to fight who now think the NHL should phase it out "make me want to puke."

The October 6 Coach's Corner segment waded into all of this with its own take.

Cherry started the segment wanting to show "the new NHL," specifically two video clips from the previous period in which players appeared to avoid hitting their opponents. Cherry concluded that the enforcement on aggression was permitting players to no longer bodycheck. He said he'd "hate to be paying 175 bucks to watch that stuff," a reference to the ticket prices for the Toronto Maple Leafs.

MacLean asked a little later in the segment about the approach taken by Brendan Shanahan, a former player recently appointed as the NHL's official to deal with disciplinary issues. Cherry implied that, in the early going, Shanahan had been "absolutely ridiculous" and disproportionate in suspending players.

"When you give the players an excuse not to hit, they will not hit," Cherry said.

Then the segment showed three hits to the head, the intention of which was for Cherry to make clear these were not accidents but intentional shots. This didn't seem designed to glorify the hitting; rather, it was difficult to infer anything other than his disapproval.

But then Cherry went on to extol the virtues of former defenceman Scott Stevens, who had a reputation for high-impact bodychecks, including upper-body hits. Several clips were shown of him hitting players. "Enjoy this folks, because you're never, ever going to see it again," Cherry said. "The players will not hit, guaranteed."

MacLean then noted the enormous losses in recent weeks in the plane crash and with three of Cherry's "brethren" NHL enforcers. MacLean suggested a connection had been drawn between the three deaths and their history as fighters.

Cherry said people "should be ashamed of yourself" for using their deaths to make the case against fighting in hockey. He suggested that, until the three recent tragedies, there had been eight suicides by former NHLers since 1999 and not one had been a fighter.

He had saved his most aggressive point for the end of the segment.

"But the ones I am really disgusted with — and I hate to say this when the kids are listening — what Georges Laraque said about them: They're a bunch of pukes that fought before . . . Stu Grimson, Chris Nilan and Jim Thomson . . . (argue that) the reason they're taking drugs and alcoholic (is) because they fight. You turncoats, you hypocrites . . . You guys, you were fighters, and now you don't want guys making the same living you did."

The segment ended.

The next day, the three former players [appeared on a competing network's sports talk program](#). On TSN's Off The Record with host Michael Landsberg, Nilan and Grimson denied they disavowed fighting in the NHL. Nilan said he had never blamed any personal issues on his role as an NHL enforcer. Thomson, on the other hand, said he had been advocating an elimination of fighting in hockey for three years and believed there was a link between his personal issues and his NHL role. Even so, he was upset at being called a hypocrite.

The complainant, Adam Spencer, wrote October 7: "Enough already."

Dozens of other emails voiced similar complaints and were referred to CBC Sports for a response. CBC Communications responded to the emails, including Spencer's, on October 7 onward. The response noted that Cherry was featured for his knowledge, even though he expresses himself colorfully and even outrageously at times.

The letter read, in part: "We think everyone should have a voice in the complicated discussion now underway about fighting, checks to the head, checks from behind, intentional and unintentional injury in the game; we would note that Don's concern for player safety is longstanding and well-documented, extending well beyond professional hockey. Don has, for example, invested considerable time and personal resources into programs in minor hockey aimed at reducing injuries, like the STOP (Safety Toward Other Players) initiative."

CBC said Hockey Night in Canada and CBC News would continue to contribute to greater public understanding of the issues involved.

Spencer wrote again that day about Cherry's influence: "Please do something as our national broadcaster before it's too late."

CBC's Executive Vice-President for English Services, Kirstine Stewart, [issued a statement](#) October 8 that Cherry was entitled to his opinion but that it was not one shared by the network. She said CBC supported measures by the NHL and others in improving player safety. She said she had reinforced that position in a discussion with NHL commissioner Gary Bettman.

The [next Coach's Corner segment](#) occurred that night on October 8. MacLean noted that Cherry had come back the other night "with a bang" and asked if he had any regrets. Cherry said there weren't any, except that he regretted using the "rude" term "pukes" on the segment because children would have been watching.

Among other elements in the segment, Cherry decried the practice of placing a fighter in the lineup and benching him for all but a couple of minutes in which he was sent out to scrap.

MacLean returned to the issues involved in the October 6 segment. He asserted that Cherry had not said there was a link between Grimson's fighting and substance abuse. Moreover, MacLean seemed to clarify, "it was just Jim (Thomson) who said it," and not Chris Nilan, either. He

wanted to make clear it was just Thomson drawing the link between fighting and substance abuse. Of the other players, MacLean told Cherry: "They love you and you love them."

Among other things, the segment showed players getting sticks out of the way when fights start, Cherry decrying the practice of inserting fighters into a lineup and benching them except for the couple of minutes in which they fight, and a series of collisions at home plate involving catchers and runners in baseball in order to demonstrate there were few complaints about head shots in that sport.

The three former NHL players [issued a statement](#) October 11 [in which they said](#) they had been slandered and were examining their legal options. Grimson, now a lawyer based in Nashville, released the statement through his office.

Hundreds of emails criticizing Cherry's position arrived in the period following October 6. Only a handful expressed support for him.

That week, there was much behind-the-scenes activity on this front.

CBC delved further into what Cherry had used as the basis of his initial argument about the three former players. By this point, CBC's lawyers were involved. Meantime, a mutual acquaintance of Cherry and the former players worked to help CBC understand how to resolve the matter.

Cherry himself reached his conclusion that he needed to apologize and told CBC so mid-week. Several conversations among lawyers then ensued.

MacLean, appearing October 13 on the CBC News Network, said [he was unfazed](#) by Cherry's comments because he believed Cherry was simply quoting Laraque and not originating the sharp description.

The next Coach's Corner segment appeared October 15. About one minute into the feature, Cherry began a two-minute apology.

"I gotta admit, I was wrong on a lot of things," he said. "I put three enforcers, tough guys, my type of guys, and I threw them under the bus, and I'm sorry about it. I really am."

After describing their attributes, Cherry said: "Now, let's get it right. Chris and Stu never said they took drugs because they were enforcers in the National Hockey League. Also, they never said that they want fighting out of the game.

"That's for sure. I was wrong on that, 100 per cent wrong, and when you're wrong, you have to admit it. These guys are good guys, my type of guys."

He later said: “I’m sorry that I put them down. I can’t do any more than that. If you’re wrong, you’ve got to admit it.”

MacLean also accepted responsibility: “I was no help to you.”

On October 16, Grimson and the other two former NHL players said they accepted Cherry’s apology. Media reports indicated they had [decided not to pursue legal proceedings](#).

In part, Grimson stated: “You cannot stand on the highest mountaintop in the country – Hockey Night in Canada – and point your finger at these men and shout down to the nation that you believe they’re pukes, turncoats and hypocrites simply because they have a different point of view than you. You cannot use that platform to target anyone in that way – and especially not men who are battling to get their lives back on track. You cannot shout those names at these men with that kind of fury and expect not to answer for it.”

Nilan, through Twitter, said he and Cherry were friends again.

Kirstine Stewart, CBC’s Executive Vice President of English Services, sent correspondence following the apology to those who continued to complain. It read, in part: “Don’s comments have been the subject of considerable debate and even became part of the media dialogue around the issue of violence in hockey. However, I want to reiterate that his comments on October 6 reflect his own personal opinion. CBC supports Don’s right to voice his opinion, although we do not share the position he took during that particular segment of Coach’s Corner.”

The scope of [CBC’s Journalistic Standards and Practices](#) applies to issues of fairness and balance in any program, not just news and information, *“dealing with current issues, especially if controversial.”*

The policy calls for accurate, even-handed, respectful treatment of subjects by programs. On matters of balance, it calls for CBC to represent a range of views on an issue *“over time.”* When a single opinion is presented, effort is made to ensure *“it does not misrepresent other points of view.”*

It adds: *“We do not hesitate to correct any mistake when necessary nor to follow-up a story when a situation changes significantly.”*

It addresses the issue of language use: *“We avoid generalizations, stereotypes and any degrading or offensive words or images that could feed prejudice or expose people to hatred or contempt.”*

The [mandate of the CBC Ombudsman](#) covers journalistic activities in such areas as sports programming. There have been precedents to review complaints when those programs have dealt with controversial, current issues.

In this instance, the review of the matter was delayed while it was uncertain if there would be defamation or other legal pursuits. Customarily, the Ombudsman steps aside when lawsuits are threatened or launched, although there is nothing in the mandate to preclude a review amid a legal proceeding. The statement October 16 by the former NHLers has seemingly eliminated that concern, although it is worth noting that Grimson's statement did not rule out legal action by Nilan or Thomson.

Contractual commentators like Cherry are not directly bound by the journalistic policy, but their programs are held accountable for their actions. When there are not journalistic policies to bear, there are corporate policies — although those are not the purview of this Office.

As a footnote, it should be noted that several media queries came to this Office following the first, second and third segments. While CBC was free to comment as it saw fit on the situation, it would have been inappropriate for this Office to comment or correspond on matters dealing with an ongoing review.

CONCLUSION

This complaint can be reviewed under the mandate of this Office, but it is an unusual one. Don Cherry is not a journalist but a commentator. His contribution serves important elements in the Broadcasting Act to entertain and enlighten, and not necessarily as a first function to inform. Coach's Corner only occasionally intersects with information programming policies, primarily on the accuracy of its content but at times on the fairness of it.

That being said, the inaccurate information about controversial issues October 6 on Hockey Night in Canada was a breach of CBC Journalistic Standards and Practices.

Grimson had been featured [in an online report](#) as worrying about the impact of fighting on the deterioration of his health, but he had not called for an end to fighting in the game or implied fighting might have been tied to any personal issues.

Nilan had [expressed the belief](#) that fighting might as well be taken out of the game because it was so ineffective now, but he did not link it to his personal issues.

Only Thomson [expressed his view](#) that fighting be banned and [linked his personal challenges](#) to his role as a team enforcer.

Cherry was drawing on earlier remarks by Georges Laraque, a former NHL enforcer, that the change of heart by fellow fighters made him "want to puke."

First, Cherry inaccurately identified three former players as pugilists-turned-pacifists who had linked their fighting careers to substance abuse. Only one had.

Second, he reworked Laraque's statement to suggest Laraque had referred to those with a change of heart as "pukes." That wasn't an accurate interpretation of the remarks.

Third, Cherry inappropriately described the threesome as "turncoats" and "hypocrites" in commingling his opinions with his inaccurate Laraque citation.

MacLean did not challenge that information and hold Cherry accountable on behalf of the program.

CBC policy calls for respectful treatment of individuals, including careful use of language to avoid the use of degrading terms that expose people to hatred or contempt. Even if the name-calling had been applied accurately, it breached policy. The opinions expressed also misrepresented the opinions of others, another breach of policy.

I further concluded Hockey Night in Canada might have done more to correct the October 6 inaccuracies sooner. While this was not a policy breach, there was room for improvement.

Following Coach's Corner October 6, the three former players appeared on TSN October 7 and were quoted in other media challenging the accuracy of Cherry's comments.

Kirstine Stewart, the Executive Vice-President for CBC English Services, distanced the network October 8 from Cherry's opinions in a statement that respected his right to express them.

If Cherry's assertions had been checked when concerns were first raised by the former players, a correction might have been there earlier for the taking. Cherry himself referred October 8 to the October 7 TSN show.

Another challenge: MacLean asserted October 8 that Cherry had not said October 6 that the players had linked their fighting to substance abuse. But Cherry had indeed said that. It appeared from repeated viewings that MacLean was trying to clear up the confusion, but Cherry did not take up the issue.

When it was apparent some time in the next few days that the information was inaccurate and a correction would be needed, it would have been preferable for Hockey Night in Canada to acknowledge the errors immediately and not wait until the next available Coach's Corner segment.

The optimal approach would have been to make a public statement and then discuss it on Coach's Corner. A secondary option would have been for MacLean to correct the matter on his CBC News Network appearance October 13.

By October 15 the former players had united to weigh their legal options while the public consumed media reports calling into question CBC's handling of the situation. I can sympathize

with CBC's concerns of settling the dispute amicably to avoid a legal pursuit, but the delay of several days in the face of reports debunking the program only stood to affect CBC's reputation.

The on-air correction and apology October 15 were commendable, textbook examples of how to admit mistakes and express remorse. They were a model for others in similar straits to emulate. Cherry cited each error, set the record straight, and said he was sorry. MacLean acknowledged he had not helped in the matter.

It was instructive to see how the two most visible representatives of CBC's hockey productions recognized they carried responsibilities to walk the talk. It is worth noting that Cherry himself concluded that an apology was necessary and took ownership of his predicament.

In correcting the mistakes publicly, CBC fulfilled policy.

It is relevant to summarize the correspondence, given that hundreds of emails arrived following the October 6 segment.

It is possible there is a silent and supportive group steering clear of corresponding on this issue, but there is a vocal and critical cohort writing and pressing the send button. What can be learned from the correspondence is how many CBC viewers are looking for curiosity and civility, not final words and firebrand. They respect and encourage differences of opinion, but they balk at efforts to stifle debate or personally attack. They concern themselves as much with the way one expresses as what one expresses. This is a central challenge for commentators in an age of increasingly strident broadcasting, and a particular challenge for a public broadcaster expected and determined to rise above the din.

Cherry is an avid supporter of inclusive minor hockey and safe and fair play among children, and he believes at an elevated level physicality, intimidation and fear of retribution comprise important elements of the sport. In his view, fighting is an integral part of the advanced game that regulates and forestalls greater violence, including the deliberate injury of skilled players, by imposing a code of player and team accountability in the arena. He loves great hits within rules, but he worries new rules will forbid great hits. Those views are a matter of debate within the game and among its audience.

I concluded the general opinions Cherry expressed October 6 about the changing nature of the game were fair comment and did not breach policy.

Name-calling undermines opinions and breaches a boundary, but there is room in a public broadcaster to express controversial opinions, provided other views are fairly available. The CBC policy requires varying perspectives over time and across various platforms, not mathematical equivalence within a segment or a program. While this might frustrate some viewers expecting utter balance at each turn, it also reflects policies at other leading broadcasters.

Thus it was not necessary, as some correspondence suggested, for others to appear on the segment to offset Cherry. Cherry and MacLean regularly spar on hockey philosophy. CBC News and CBC Sports carried several other viewpoints on this and related issues across their platforms before and after Cherry's segment, including an extensive panel session on CBC Television's The National. In that respect also it satisfied Journalistic Standards and Practices.

CBC affirmed its institutional support for the league's efforts to reduce the number of serious injuries, particularly those to the head. The extensive, ongoing response to this episode suggests Hockey Night in Canada and other CBC programs recognize the need to engage Canadians on the serious debate about the nature and future of the game so culturally intrinsic and of such significance to a public broadcaster.

Kirk LaPointe
CBC Ombudsman