



2 June 2023

Filed online

Claude Doucet
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Secretary General,

Re: Part 1 Application 2023-0210-8 – Intervention by the Forum for Research and Policy in Communications (FRPC)

The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013 to undertake research and policy analysis about communications, including broadcasting. The Forum supports a strong Canadian communications system that serves the public interest as defined by Parliament in the *Broadcasting Act*, to which Royal Assent was given on 27 April 2023.

The Forum's intervention regarding Part 1 Application 2023-0210-8 is attached. As Egale Canada waived service of interventions about the application on 11 May 2023, a copy has not been provided to the applicant.

FRPC agrees with Egale Canada that the programming broadcast by FOX News raises serious questions as to the degree to which its programming satisfies the CRTC's requirements for Canadian programming services. The CRTC must develop a clear, principled policy regarding the removal of non-Canadian programming services from its *Revised List of Eligible Satellite Services* to ensure the policy complies with the current *Broadcasting Act* and that the CRTC can bring its authority to bear when such services broadcast abusive content that is unlawful in Canada.

Regards,

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Part 1 Application 2023-0210-8

Fox News:

**Removal from the list of non-Canadian programming services
authorized for distribution**

Intervention of the Forum for Research and Policy in Communications (FRPC)

Friday, 2 June 2023

Monica Auer, M.A., LL.M.

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I. Introduction

- 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013 to undertake research and policy analysis about communications, including telecommunications. The Forum supports a strong Canadian communications system that serves the public interest.
- 2 On 4 April 2023 Egale Canada published "[Open Letter: Egale Canada calls on the CRTC to Hold a Public Consultation on the Broadcasting of the American Fox News Channel in Canada](#)" (Egale Canada's Open Letter), addressed to the CRTC's Chairperson and Chief Executive Officer. The letter asks the CRTC to hold FOX News to the standards to which Canadian broadcasters are held, and "to begin public consultations on the removal of Fox News from the List of non-Canadian programming [*sic*] authorized for distribution in Canada."
- 3 The CRTC posted Egale Canada's Open Letter as a Part 1 Application on 3 May 2023¹ and invited public comment on the application. (Eight unnumbered paragraphs follow the Open Letter's address to the CRTC's Chairperson; for ease of reference FRPC refers to these paragraphs by number in the remainder of this intervention.)
- 4 In the pages that follow FRPC comments on application 2023-0210-8.

II. Egale Canada's application

- 5 In this part FRPC addresses application 2023-0210-8 and the FOX News broadcast of a *Tucker Carlson Tonight* segment on 28 March 2023.

A. Application 2023-0210-8

- 6 The CRTC's proceedings are governed by the [Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure](#) (*Rules*), unless the CRTC dispenses with or varies the *Rules* to ensure fairness or to serve the public interest.² Among other things³ the *Rules* require applicants "to identify the statutory or regulatory provisions under which the application is made", to clearly and concisely state "the relevant facts", the "grounds" on which the application is being made, and "the nature of the decision sought".⁴

¹ Part 1 application 2023-0210-8.

² *Rules*, s. 7: "If the Commission is of the opinion that considerations of public interest or fairness permit, it may dispense with or vary these Rules."

³ For instance, s. 13 of the *Rules* requires applicants to submit their documents to the CRTC:
A document must be filed with the Commission
(a) in the case of an application, by sending the document to the Office of the Secretary General by any electronic means that permits its intelligible reception, as set out in Broadcasting and Telecom Information Bulletin CRTC 2010-453, as amended from time to time; and
(b) in the case of any other document, by delivering it by hand to the Office of the Secretary General, or sending it to the Office by mail or any electronic means that permits its intelligible reception.

⁴ *Rules*, s. 22(2)(d) and (e):
22(2) ... the application must
...

- 7 Egale Canada cited the discretion granted by Parliament to the CRTC in section 18(3) of the *Broadcasting Act*, “to hold a public hearing, make a report, issue any decision and give any approval in connection with any complaint or representation to the Commission ...” provided it believes this would serve the public interest (paragraph 7). It wrote that “Canadian broadcasters can be fined or even lose their licences⁵ for broadcasting” abusive comment (paragraph 5).
- 8 Egale Canada says that the *Tucker Carlson Tonight* program broadcast by FOX News Channel in the week before 4 April 2023 featured Egale Canada and “a prominent Canadian leader for trans rights and inclusion”. Egale Canada says that during the segment the program host said that “trans people are ‘targeting’ Christians” (paragraph 2), “trans people are given preferential treatment in employment and other opportunities” (paragraph 2), and that Egale Canada’s recent published statement that there had been “an exponential rise in anti-2SLGBTQI, hate-fueled movements and protests” was “a lie” (paragraph 3). Egale Canada added that it “has experienced firsthand the hate that is generated from a single segment aired on Fox News in Canada” (paragraph 6), that anti-trans hate is rising around the world (paragraph 8), and that there is “the potential for segments” similar to “the one recently aired on Fox News” (paragraph 8).
- 9 Egale Canada argued that the *Tucker Carlson Tonight* program segment’s false claims that transpeople are targeting Christians and are “in existential opposition to Christianity” incited hatred and violence against transpeople (paragraphs 1 and 2) and that its false claims that trans people are given preferential treatment were an attempt “to stoke resentment against 2STNBGN people” (paragraph 2). Egale Canada also argued that the segment’s use of the name and logo of Egale Canada and its labelling of its published statement of a rise in “anti-2SLGBTQI, hate-fueled movements and protests” as a lie amounted to “hateful propaganda” (paragraph 3). It submitted that the CRTC’s “Television Broadcasting Regulations represent a democratic consensus on what we do and do not accept on our airwaves, and we have agreed that we do not tolerate abuse and misinformation” (paragraph 8). Finally, Egale Canada argued that non-Canadian programming services on the *Revised List* “must be held to the same standard as Canadian channels” (paragraphs 4 and 8), and that Canadian broadcasters “can be fined or even lose their licences” for breaching subsection 5(b) of the CRTC’s television regulations (paragraph 5).
- 10 Egale Canada therefore asked the CRTC to ensure that “news broadcast on Canadian airwaves is reliable and objective” (paragraph 6), hold a public consultation on the continued broadcasting of FOX News in Canada (“Open Letter: Egale Canada calls on the CRTC to Hold a Public Consultation on the Broadcasting of the American Fox News Channel in Canada”), hold FOX News to the same standards to which it holds Canadian broadcasters (paragraph 4),

(d) identify the statutory or regulatory provisions under which the application is made;

(e) contain a clear and concise statement of the relevant facts, of the grounds of the application and of the nature of the decision sought;

⁵ As FOX News is not a licensed Canadian programming service, but a non-Canadian service whose carriage by licensed (or exempted) broadcasting distribution undertakings is authorized by the Commission, the issue of whether FOX News risked the loss of a licence is moot.

investigate whether the continued broadcasting of FOX News in Canada accords with the CRTC's television regulations, and to consider whether to remove FOX News from the CRTC's *Revised List* (paragraph 8).

B. *The Tucker Carlson Tonight segment of 28 March 2023*

- 11 FOX News launched the *Tucker Carlson Tonight* program after the company's former "star host", Bill O'Reilly, left the company.⁶ FOX broadcast the 60-minute weeknight program from 2016⁷ to 24 April 2023.⁸ According to Wikipedia, the program begins with a segment in which Tucker Carlson speaks:

Carlson dedicates the opening segment of *Tucker Carlson Tonight* to topical culture issues and [economic populism](#).^[7] Opening segments have focused on a debunked story that [Nashville](#) mayor [John Cooper](#) concealed [COVID-19](#) case numbers^[8] and an April 2017 poll showing a larger margin of victory for [Donald Trump](#) against [Hillary Clinton](#) while mocking the [2017 Women's March](#) in January.^[9] During his visit to [Budapest, Hungary](#) in August 2021, Carlson opened *Tucker Carlson Tonight* by supporting the premiership of Hungarian prime minister [Viktor Orbán](#).^[10] Carlson's final opening segment combined the [Great Replacement](#) conspiracy theory with—among other things—[FICO scores](#), [home appraisals](#), the [United States Department of Housing and Urban Development](#), vice president [Kamala Harris](#), and [marijuana legalization](#), of a backdrop over the failures of a cult;^[11] the Great Replacement was also referenced in an April 2021 taping of the show.^[12] The length of these opening segments has steadily increased since 2019.^[13]

- 12 In an episode of the broadcast of the program on 28 March 2023 – in the week before 4 April 2023 – the program host presents a commentary about American trans people's attitude towards Christianity. The segment lasts 9 minutes and 18 seconds.
- 13 A copy of this program segment was found on [Facebook](#),⁹ and Appendix 1 sets out an unofficial transcript (by FRPC). According to the online recording, the segment lasted 9 minutes and 18 seconds. It displayed the Egale Canada logo beside the program host for 16 seconds, from 5:12 to 5:28. Within this 16 seconds the program host addressed a public statement by Egale Canada, saying that Egale Canada's public statement had said that "there has been a, quote, exponential rise in anti-trans violence. [The host went on to say] That is a lie, it's a provable lie ...". Neither the segment, the program host, the chyron or the inset screen images set out any facts in support of this statement.

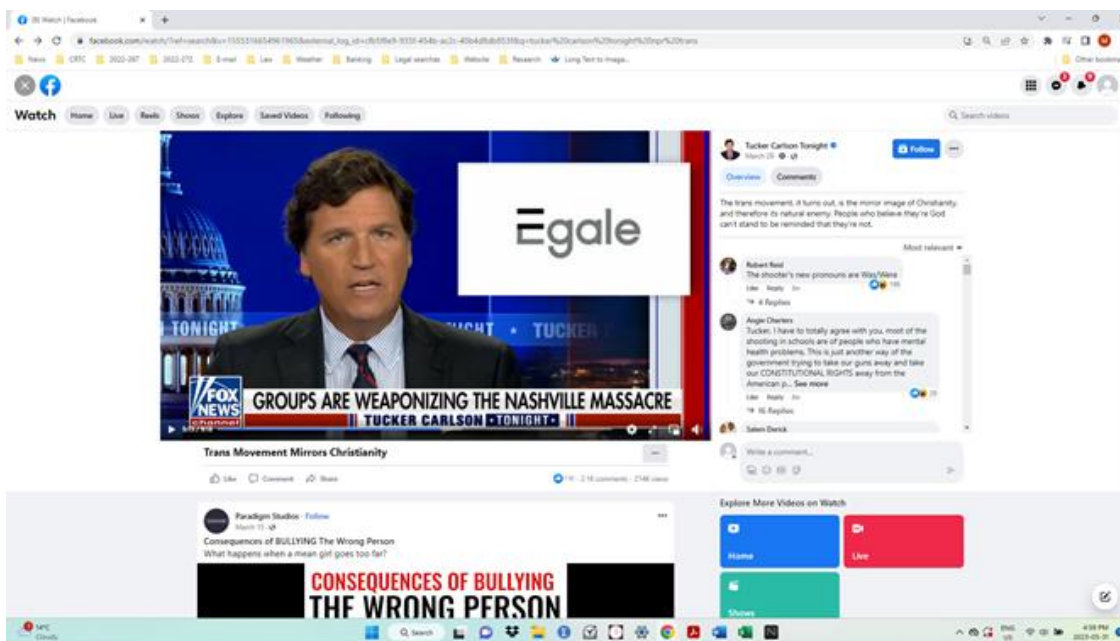
⁶ David Folkenflik, "[Tucker Carlson ousted at Fox News following network's \\$787 million settlement](#)", npr.org (24 April 2023, 6:55 PM ET).

⁷ Daniel Victor, "A brief timeline of Tucker Carlson's rise: From CNN and PBS to Fox.", nytimes.com ([24 April 2023](#)).

⁸ Jeremy Peters, Katie Robertson and Michael M. Grynbaum, "Tucker Carlson Leaving Fox News: Fox News Parts Ways With Tucker Carlson Days After Dominion Settlement" nytimes.com, ([24 April 2023, updated 1 May 2023](#)).

⁹ Although it was not immediately clear who uploaded the program, as subsections 4.1(1 and (2) would require, if the CRTC were to address the segment's availability online.

Video link 1: Tucker Carlson Tonight of 28 March 2023 (9:18)



<https://www.facebook.com/368557930146199/videos/1555316654961965/?so=permalink>

- 14 On 24 April 2023, FOX News announced that “FOX News Media and Tucker Carlson have agreed to part ways” and that the company had also fired the *Tucker Carlson Tonight* program’s senior executive producer.¹⁰

III. Canadian regulatory approach to non-Canadian programming services

A. Statutory provisions

- 15 A preliminary question in this matter is whether the CRTC should consider Egale Canada’s application under the 1991 *Broadcasting Act*, or that statute as amended by Bill C-11. That bill – the *Online Streaming Act* – [received Royal Assent on 27 April 2023](#),¹¹ and the CRTC posted application 2023-0210-8 on 3 May 2023. As Bill C-11 did not amend the title of the *Broadcasting Act*, FRPC distinguishes between the pre- and post-Royal Assent broadcasting statutes in the remainder of these pages as the ‘former *Broadcasting Act* (or ‘former Act’) and the current *Broadcasting Act* (‘*Broadcasting Act*’, ‘*Act*’ or ‘current Act’).
- 16 While Egale Canada posted its open letter to the CRTC’s Chairperson on 4 April 2023 when the former *Broadcasting Act* was in force, the Part 1 proceeding initiated by the CRTC regarding

¹⁰ David Folkenflik, “[Tucker Carlson ousted at Fox News following network’s \\$787 million settlement](#)”, npr.org (24 April 2023, 6:55 PM ET).

¹¹ Legisinfo, C-11, 44th Parliament, 1st session, November 22, 2021, to present: *An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts*, <https://www.parl.ca/legisinfo/en/bill/44-1/c-11>.

the open letter and was underway when the current *Act* entered into force. Under subsection 90 of the current *Broadcasting Act*, the CRTC is required to continue application 2023-0210-8 “in conformity with” the current *Act*:

...

Pending proceedings

(2) Any proceedings pending before the Commission or Executive Committee on the day immediately before the coming into force of this subsection shall be taken up and continued before the Commission under and in conformity with this Act.

Continuation of previous orders, etc.

(3) Every decision, order, rule and regulation issued, rendered or made under the former Act by the Commission or Executive Committee that is in force on the coming into force of this subsection and that is not inconsistent with this Act or any other Act of Parliament shall be deemed to have been issued, rendered or made by the Commission under this Act.

B. Canadian law on non-Canadian programming services

17 The *Broadcasting Act* recognizes that “the Canadian broadcasting system ... includes foreign broadcasting undertakings that provide programming to Canadians”.¹² At the same time, its application is limited to “broadcasting undertakings carried on in whole or in part within Canada”¹³ Such undertakings must be licensable:¹⁴ even if FOX News is being carried on in part in Canada – and this is unknown – the Cabinet Direction that remains in place leaves the CRTC unable to license FOX News.

18 Granting application 2023-0210-8 therefore requires the CRTC to exercise its regulatory authority over licensed¹⁵ or exempted¹⁶ Canadian broadcasting undertakings that receive and

¹² S. 3(1)(a).

¹³ S. 4(2).

¹⁴ S. 32(1) of the *Act* makes it an offence to broadcast without a licence, while s. 4(2) empowers the CRTC to license broadcasting undertakings “.... carried on in whole or in part within Canada”

Leaving aside the issue of whether FOX News is carrying on an undertaking in part in Canada (so that it could be licensed by the CRTC) In 2020 the CRTC established that ‘licensability’ has to do with whether Parliament and Cabinet permit the CRTC to license services:

... a service is only eligible to operate under that order if “[t]he Commission would not be prohibited from licensing the undertaking by virtue of any Act of Parliament, of the Direction to the CRTC (Ineligibility of Non-Canadians) or of any other direction to the Commission by the Governor in Council.” In other words, for a home shopping programming undertaking to operate under the Exemption Order, the service must be licensable. Pursuant to the Direction to the CRTC (Ineligibility of Non-Canadians), this means the service must be controlled by a Canadian or Canadians. Modified U.S. home shopping programming undertakings are therefore not currently eligible to operate under the Exemption Order.

(Revised Exemption Order Respecting Teleshopping Programming Service Undertakings, [Broadcasting Regulatory Policy CRTC 2020-192 and Broadcasting Order 2020-193](#), at para. 7)

Section 2 of the current [Direction to the CRTC \(Ineligibility of Non-Canadians\)](#), [SOR/97-192](#) continues to prohibit the CRTC from licensing, non-Canadian applicants.

¹⁵ The 1991 *Broadcasting Act* also empowered the CRTC to exempt broadcasting undertakings from the requirements of Part II of that *Act*, provided the CRTC considered them unable to contribute materially to the implementation of the s. 3(1) broadcasting policy:

retransmit the programming broadcast by FOX News¹⁷ - in other words, (broadcasting) distribution undertakings (BDUs) as defined by the *Broadcasting Act*. (Online broadcasting remains exempted from regulation¹⁸ until the CRTC amends its exemption orders.)

1 *Broadcasting Distribution Regulations*

19 Parliament granted the CRTC express authority over broadcasting distribution undertakings in the 1968 *Broadcasting Act*¹⁹ and the CRTC regulates BDUs through its *BDU Regulations*.²⁰

20 The current *Act* defines BDUs as undertakings “for the reception of broadcasting and its retransmission by radio waves or other means of telecommunication to more than one permanent or temporary residence or dwelling unit or to another such undertaking, but does not include such an undertaking that is an online undertaking”.²¹

21 The CRTC’s current *BDU Regulations* prohibit licensed BDUs from distributing a programming service originated by the BDU (in other words, not rebroadcasting other services’ programming), if the programming

... contains ... any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability....²²

22 The wording used in this prohibition – “race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability” – reflects section 15(1) of the [1982 Charter of Rights and Freedoms](#).

9(4) The Commission shall, by order, on such terms and conditions as it deems appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part or of a regulation made under this Part where the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).

¹⁶ *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, [Broadcast Order CRTC 2012-409](#) (Ottawa, 26 July 2012)

¹⁷ 1991 *Act*, s. 2: ““distribution undertaking” means an undertaking for the reception of broadcasting and the retransmission thereof by radio waves or other means of telecommunication to more than one permanent or temporary residence or dwelling unit or to another such undertaking;”

¹⁸

¹⁹ The 1968 *Broadcasting Act*, s. 3(d) defined broadcasting undertakings as including “a broadcasting transmitting undertaking, a broadcasting receiving undertaking and a network operation, located in whole or in part within Canada or on a ship or aircraft registered in Canada;....”

²⁰ *Broadcasting Distribution Regulations*, [SOR/97-555, as am. to 2022 09 16](#).

While the 27 April 2023 amendments to the *Broadcasting Act* in relation to Bill C-11 may require the CRTC to amend its existing regulations and enact new regulations, the CRTC has not yet announced a process specific to online and offline BDUs. (While it has announced processes in relation to [Canadian programming contributions](#), [registration](#) and [exemptions](#), these processes have not yet been completed.)

²¹ S. 2(1).

²² *Broadcasting Distribution Regulations*, s. 8(1)(b).

- 23 Until the mid-1980s the CRTC made decisions about each non-Canadian service that BDUs proposed to distribute through conditions of the BDUs' licences.²³ In 1986 the CRTC amended its cable regulations to authorize BDUs to carry any programming service on a Commission's list of "approved eligible satellite services" approved for carriage in Canada by the CRTC,²⁴ as amended from time to time. The current *BDU Regulations* limit the programming services that licensed BDUs may distribute to those required or are authorized by the CRTC.²⁵
- 24 In 2000 the CRTC set out six criteria that must be met for Canadian parties seeking to add non-Canadian programming services to the *Revised List of Eligible Satellite Services (Revised List)*. None of these criteria refers directly to the type or quality of programming they offer:
- evidence that the non-Canadian service has agreed to be sponsored by the Canadian party filing the proposal;
 - a statement from the service provider that it has obtained all necessary rights for distribution of its programming in Canada;
 - a brief description of the service;
 - a copy of the current program schedule;
 - evidence of potential demand, as gathered through discussions with distributors; and
 - an undertaking from the non-Canadian service provider that it does not hold, will not obtain, nor will it exercise, preferential or exclusive programming rights in relation to the distribution of programming in Canada.²⁶
- 25 The CRTC authorized Canadian BDUs' distribution of FOX News in the mid-2000s. The Fox Entertainment Group had launched FOX News Channel on 7 October 1996 as a satellite and cable news network²⁷ after its owner, Rupert Murdoch's 21st Century Fox (formerly News Corporation), was unable to buy CNN, an American 24-hour cable news network.²⁸ While the

²³ S. 6(1)(i) of the CRTC's 1976 *Regulations Respecting Broadcasting Receiving Undertakings (Cable Television Regulations)* permitted licensed BDUs to distribute television stations not otherwise authorized in the *Regulations*: see *Regulations Respecting Broadcasting Receiving Undertakings (Cable Television)*, CRTC Public Announcement (Ottawa, 26 November 1975). Until 3 December 1979 the CRTC designated the specific channels on which all channels, including "non-required signals" (non-Canadian television stations) were to be carried, by conditions imposed on individual BDU licences: *Public Announcement*, CRTC (Ottawa, 4 December 1979).

²⁴ *REGULATIONS RESPECTING BROADCASTING RECEIVING UNDERTAKINGS*, [Public Notice CRTC 1986-182](#), (Ottawa, 1 August 1986), ("II. CARRIAGE REGULATION", "1. Television Service Priorities (section 9)"):

Sections 10 and 24 authorize the carriage of any programming services found on the Commission's list of approved eligible satellite services. In a separate public notice issued today, Public Notice CRTC [1986-183](#) [*sic*], the Commission has listed these eligible services which may be changed from time to time.

²⁵ *BDU Regulations*, s. 3: "A licensee shall not distribute programming services except as required or authorized under its licence or these Regulations."

²⁶ As cited by the CRTC in *Call for comments on proposals for the addition of Fox News and NFL Network to the lists of satellite services eligible for distribution on a digital basis*, Broadcasting Public Notice CRTC 2004-45 (Ottawa, 9 July 2004), at para. 3.

²⁷ Michael Ray, "Fox News Channel", Britannica.com (Last Updated May 26, 2023), <https://www.britannica.com/topic/Fox-News-Channel>.

²⁸ Michael Ray, "Fox News Channel", Britannica.com (Last Updated May 26, 2023), <https://www.britannica.com/topic/Fox-News-Channel>.

current *Act* all Canadian discretionary services must at present be licensed by the Canada and the United States use different legislative and regulatory approaches towards broadcasting: Canada regulates all broadcast programming undertakings, regardless of the way they are distributed; in the United States, FOX News' status as a cable network means that it is not regulated by the Federal Communications Commission (FCC).²⁹

- 26 In mid-2004 the Canadian Cable Television Association or CCTA³⁰ sponsored the addition of FOX News to the *Revised List*. At that time, the CRTC's consultation described the service as follows:

A 24 hour seven day per week national U.S. cable news network devoted to delivering objective coverage of the day's events. The service broadcasts original news and information programs including live breaking news stories and coverage of significant events in the United States and around the world.³¹

- 27 The CRTC approved FOX News' addition to the *Revised List* four months later (18 November 2004).³²
- 28 Four years later the CRTC amended its regulatory policy for BDUs. In 2008 it issued a Regulatory policy on the *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*.³³
- 29 The 2008 *Policy* addressed BDUs' distribution of non-Canadian news services. The CRTC commented that "a more open-entry approach" was consistent with ensuring a diversity of editorial viewpoints, that Canadian news services generally did not oppose such non-Canadian services and the fact that "there is no evidence that the presence of [non-Canadian news services] has had a negative impact on the Canadian services".
- 30 FOX News is one of 319 non-Canadian programming services now on the *Revised List*, which also includes two other FOX services: FOX Business Network and FOX Sports Racing.

2 CRTC's policy regarding abusive programming distributed by BDUs

- 31 In 2008 the Commission said that – unless it determines based on clear evidence that a non-Canadian news service violates "Canadian regulations, such as those regarding abusive comment" – it will authorize BDUs to distribute non-Canadian news services:

²⁹ Rather, cable television systems are regulated by states or municipalities: FCC, "State and Local Regulation of Cable Systems". <https://www.fcc.gov/media/engineering/cable-television>.

The FCC also notes that "Programming delivered without a wire via satellite or other facilities is not 'cable television' under the Commission's definitions." *Ibid.*, "What is Cable Television?".

³⁰ The CCTA wound up its operations in 2006: "CCTA to close its doors after 50 years", channelcanada.com (11 February 2006).

³¹ *Call for comments on proposals for the addition of Fox News and NFL Network to the lists of satellite services eligible for distribution on a digital basis*, [Broadcasting Public Notice CRTC 2004-45](#) (Ottawa, 9 July 2004).

³² *Revised lists of eligible satellite services*, [Broadcasting Public Notice CRTC 2004-88](#) (Ottawa, 18 November 2004).

³³ [Broadcasting Public Notice CRTC 2008-100](#) (Ottawa, 30 October 2008).

Regulatory Policy, Broadcasting Public Notice CRTC 2008-100

[\[English-language version\]](#)

246. Accordingly, absent clear evidence, as determined by the Commission, that a non-Canadian news service will violate Canadian regulations, such as those regarding abusive comment, the Commission will be predisposed to authorize non-Canadian news services for distribution in Canada. This change will be effective as of the date of this public notice.

[\[French-language version\]](#)

246. Par conséquent, en l'absence de preuves concluantes, déterminées par le Conseil, qu'un service de nouvelles non canadien serait incapable de respecter les règlements canadiens, par exemple ceux à l'égard des propos offensants, le Conseil sera disposé à autoriser la distribution au Canada de services de nouvelles non canadiens. Cette modification entrera en vigueur à la date du présent avis public.

[underlining added to original text]

- 32 The CRTC issued this statement in a regulatory policy, however: under the former and current Act alike, the CRTC's policies do not bind the Commission to act: section 6 of each statute provides that "[t]he Commission may from time to time issue guidelines and statements with respect to any matter within its jurisdiction under this Act, but no such guidelines or statements issued by the Commission are binding on the Commission."
- 33 The CRTC has also not developed a specific policy on abusive comment in non-Canadian programming services distributed by BDUs, instead addressing this matter case by case. In 2004, the CRTC dealt with a matter that strongly resembles the current FOX News issue.³⁴ It involved a non-Canadian news service in the early 2000s operating in a third language.
- 34 In 2004 [Vidéotron asked](#) the CRTC to add a dozen non-Canadian, primarily third-language programming services to the lists of satellite services eligible for distribution on a digital basis (*Digital Lists*).³⁵ The proposed services included Al Jazeera. The proposed distribution of this service attracted approximately 1,200 comments with "over 500 ... filed in opposition...."³⁶ who argued that the service "had a pattern of broadcasting hate propaganda in contravention of Canadian laws and broadcasting standards."³⁷
- 35 The Commission decided to add the service to the *Digital Lists* but with conditions: these required every BDU that distributed the service to record its programming, to keep the recording for four weeks and if the CRTC received complaints about abusive comment on the program, to keep the recordings for another four weeks (Appendix 2). The CRTC explained that

³⁴ The matter of RT (formerly Russia Today) and RT France differ from that of FOX News because, to the best

³⁵ *Requests to add non-Canadian third-language services to the lists of eligible satellite services for distribution on a digital basis*, [Broadcasting Public Notice CRTC 2004-50](#) (Ottawa, 15 July 2004), at para. 10.

³⁶ *Requests to add Al Jazeera to the lists of eligible satellite services for distribution on a digital basis*, [Broadcasting Public Notice CRTC 2004-51](#) (Ottawa, 15 July 2004), at para. 9.

³⁷ *Al Jazeera Network*, [Broadcasting Decision CRTC 2015-146](#) (Ottawa, 15 April 2015), at para. 15.

- a. It was unable to apply its regulations (and therefore, to prosecute breaches of the regulations) because the CRTC could only prosecute BDUs not the foreign programming service
 - b. It was unable to require the Canadian Broadcast Standards Council (CBSC) which handles many complaints about broadcast programming, to deal with complaints about Al Jazeera because CBSC membership is limited to Canadian broadcasters
 - c. Prosecutions of Al Jazeera under Canada's hate and defamation laws would be ineffective to deal with its programming distributed in Canada, and
 - d. Removing Al Jazeera from the *Digital List* of authorized services "would be disruptive to subscribers and is too blunt an instrument to be relied upon as the primary method to deal with concerns about a potentially small portion of the programming.
- 36 The Commission therefore approved the addition of Al Jazeera for distribution in Canada, provided that BDUs that wanted to offer the service
- Retained a clear and intelligible audiovisual recording of each of the service' programming for four weeks (after broadcast) and for another four weeks after that (if the CRTC received a complaint that it decided to investigate)
 - Agreed not to distribute as part of the service' programming, any abusive comment or pictorial representation, and
 - Could, if they wished, alter or delete the service to remove abusive programming.
- 37 In February 2009 the Ethnic Channels Group Limited (ECGL) asked the CRTC to add the *Al Jazeera English* (AJE) service to the lists of eligible satellite services distributed on a digital basis.³⁸ More than 2600 parties intervened in the resulting CRTC proceeding.³⁹ The CRTC added AJE to its *Revised List* in November 2009 because it found "nothing on the record of the current proceeding to lead" it "to conclude that there is a serious risk that abusive comment will be broadcast on AJE."⁴⁰
- 38 In 2015, the Arabic-language Al Jazeera service applied to delete the conditions of its distribution in Canada⁴¹ as, due to the "responsibility and added cost of monitoring" Al Jazeera, no Canadian BDU had agreed to distribute it.⁴² The Commission received 180

³⁸ *Addition of Al Jazeera English to the lists of eligible satellite services for distribution on a digital basis, Broadcasting Decision CRTC 2009-725* (Ottawa, 26 November 2009).

³⁹ *Ibid.*, at para. 6.

⁴⁰ *Ibid.*, at para. 22.

⁴¹ *Al Jazeera Arabic - Changes to conditions for distribution*, Broadcasting Decision CRTC 2015-146 (Ottawa, 15 April 2015).

⁴² *Ibid.*, at para. 3.

interventions.⁴³ In discussing its approach in this matter the Commission said at paragraph 19 that it

... considers on-air comments to violate the regulations when:

- a the comments are abusive,
- b the abusive comments, taken in context, tend or are likely to expose an individual, or a group or class of individuals, to hatred or contempt,
- c the comments are based on an individual's race, national or ethnic origin, colour, religion, sex, sexual orientation, age, or mental or physical disability.

39 The Commission explained that it considered abusive content in terms of the content's context:

20. Accordingly, the Commission must assess the context in which comments are made to determine if they violate the prohibition on abusive comment. Factors considered in evaluating the context of comments include, but are not limited to:

- the type or tone of the surrounding program or discussion;
- the presence or absence of opposing views;
- the presence or absence of claimed scientific or authoritative backing for the comments or for any opposing views presented in the program;
- the presence or absence of causal links or stereotypes between a protected group and a negative quality.

40 The CRTC granted Al Jazeera's request – provided the service agreed to retain audiovisual recordings and a verbatim transcript of its programming, to respond to complaints about its service. (The language of the complaint would determine the language of the transcript.⁴⁴) The CRTC explained that Al Jazeera's failure to provide the recordings or the transcript or its broadcast of abusive comment might lead to its deletion from the *Revised List*.⁴⁵

IV. Conclusions and recommendations

A. Conclusions

41 Briefly, FRPC shares Egale Canada's concerns about the broadcast of hate speech and abusive programming, and believes that the CRTC must review its approach to the offline distribution of non-Canadian programming services to ensure that their availability does not weaken Canada's social fabric: section 3(1)(d) of the current *Act* says that Canadians' broadcasting system "should ... serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada".

⁴³ CRTC, public process number 2014-8, "Interventions", <https://applications.crtc.gc.ca/ListeInterventionList/Default-Default.aspx?en=2014-28&dt=i&lang=e&S=C&PA=B&PT=NC&PST=A>.

⁴⁴ Broadcasting Decision CRTC 2015-146, para. 28.

⁴⁵ *Ibid.*

- 42 The Forum notes that while the CRTC has developed a set of principles that apply when it approves the distribution of non-Canadian programming services to people in Canada by cable or satellite, it has not set these out in a coherent policy, and has not yet developed a clear set of principles for removing such services when they contravene Canadian programming standards.
- 43 Reviewing the CRTC's materials on non-Canadian programming services it appears that
- a. The CRTC must make a determination on the basis of clear evidence
 - b. The evidence must include
 - i. both the comments complained of, and the context of those comments
 - ii. the type of surrounding program or discussion
 - iii. the tone of the surrounding program or discussion
 - iv. whether 'opposing' views were present or absent
 - v. whether scientific or other authoritative support for the comments was present or absence
 - vi. whether causal links between a protected group and a negative quality were present or absent
- 44 While a Tucker Carlson Tonight program segment was available online, it unfortunately enables just one of the six points made by the CRTC to be addressed:
- a. A segment was available online – was it the actual segment as broadcast? What was the context of the segment within the remainder of the program?
 - b. Is it clear what type of program or discussion surrounded the *Tucker Carlson Tonight* program segment, given that American commentators acknowledge that many of the FOX News channel's programs were and are actually opinion programs that are separate from the network's news division.⁴⁶
 - c. In what way did the remainder of the program – or an earlier/later program – address the issues raised by the segment?
 - d. Did the remainder of the *Tucker Carlson Tonight* program present 'opposing' views?

⁴⁶ Ryan Bort and Dianna Falzone, "[Fox News Just Axed its Investigative Unit, Sources Say](#)", RollingStone (19 May 2023):

Dominion filed a defamation suit against Fox in 2021 for spreading lies about the 2020 presidential election results. The misinformation at the heart of the lawsuit was pushed largely through the network's opinion hosts, which operate independently from its news division and aren't held to typical journalistic standards.

e. Did the remainder of the *Tucker Carlson Tonight* program provide any authoritative support for its views?

f. The segment linked trans gender people and “trans terrorism”.

45 At present, therefore, while Egale Canada has serious concerns about false news and abusive content broadcast in at least one segment of a program that FOX News has now cancelled, it is unclear whether these constitute the record needed by the CRTC to grant the Egale Canada application. A risk exists that if the CRTC prohibits the carriage of the FOX News service because of a segment within a program, the Commission could be accused of arbitrariness in decision-making, especially given the express protection that Parliament has given to freedom of expression in the 1982 *Charter of Rights and Freedoms* and the *Broadcasting Act*.

B. Recommendations

46 Egale Canada asked the CRTC to

- a. ensure that “news broadcast on Canadian airwaves is reliable and objective” (paragraph 6)
- b. hold a public consultation on the continued broadcasting of FOX News in Canada (“Open Letter: Egale Canada calls on the CRTC to Hold a Public Consultation on the Broadcasting of the American Fox News Channel in Canada”),
- c. hold FOX News to the same standards to which it holds Canadian broadcasters (paragraph 4),
- d. investigate whether the continued broadcasting of FOX News in Canada accords with the CRTC’s television regulations, and to
- e. consider whether to remove FOX News from the CRTC’s *Revised List* (paragraph 8)

47 Since the publication of Egale Canada’s open letter, the current *Broadcasting Act* entered into force. It now says that the programming “provided by the Canadian broadcasting system should include programs produced by Canadians that cover news and current events — from the local and regional to the national and international — and that reflect the viewpoints of Canadians”⁴⁷

48 As the Commission works to implement the many requirements of new statutes governing or related to broadcasting, the CRTC will have an opportunity to consider how best to ensure that Canadians present news that reflects Canadian values and respects their constitutional values, rights and freedoms. As Egale Canada wrote, “People in Canadian deserve to know that the news broadcast on Canadian airwaves is reliable and objective, and marginalized groups must be protected from malicious propaganda.”

⁴⁷ S. 3(1)(i)(ii.1).

- 49 For example, as programming choices proliferate – as they should – the Commission could consider whether a pre-requisite for admission to the *Revised List* is that the programming service commits to retain audiovisual recordings of its programming for at least eight weeks after broadcast.

C. *Other options*

- 50 The CRTC could also consider other options to address Egale Canada’s justifiable concerns. It could
- a. include requirements for lawful content as a condition of admission to the *Revised List*
 - b. require programming services seeking admission to the *Revised List* to retain audiovisual recordings of their programming for at least eight months after broadcast so as to enable the CRTC – should it or any other body receive complaints about the service – to request a recording of the programming in question (and perhaps also a written transcript)
 - c. require BDUs to develop a *Code of Conduct* regarding the carriage of non-Canadian programming services whose programming attracts actionable complaints, and /or
 - d. invite BDUs to develop a specialized non-governmental body similar to but separate from the Commissioner of complaints for telecommunications and television services (which focusses on contract disputes between telcos and distributors and their subscribers) and also separate from the Canadian Broadcast Standards Council (CBSC), to receive and administer complaints about non-Canadian programming broadcast in Canada.
- 51 FRPC recommends that following its current proceedings, the CRTC consider inviting Canadians’ views regarding the availability of offline or online broadcast programming content whose broadcast would be unlawful in Canada. Such a proceeding would enable the CRTC to develop a principled, clear, transparent and enforceable regulatory framework for unlawful broadcast content – including other services’ content that it has been or may be asked to address in the future.

Appendices

Appendix 1 Tucker Carlson Tonight, 28 March 2023 – unofficial transcript of segment from 9:00 to 9:18 16

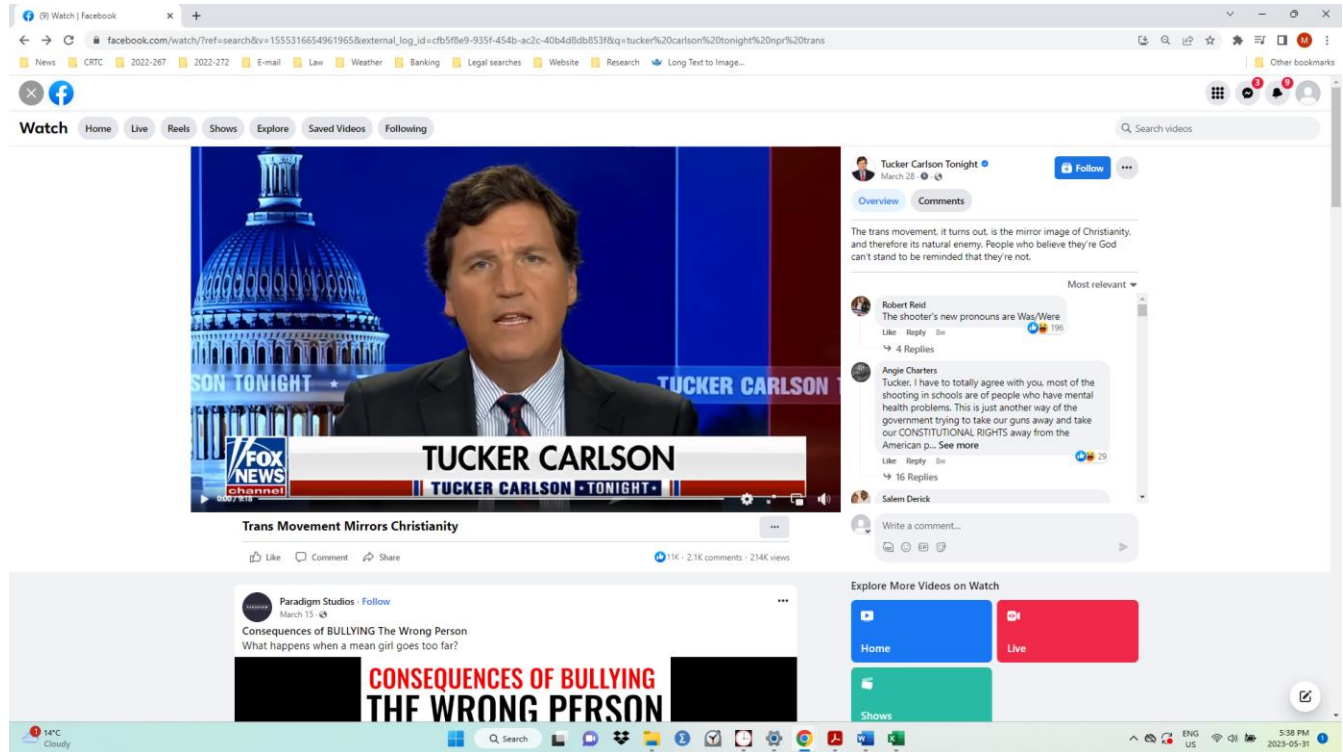
Appendix 2 *Requests to add Al Jazeera to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2004-51 (Ottawa, 15 July 2004) – selected extracts 39

Appendix 1 Tucker Carlson Tonight, 28 March 2023 – unofficial transcript of segment from 9:00 to 9:18 pm

Source:

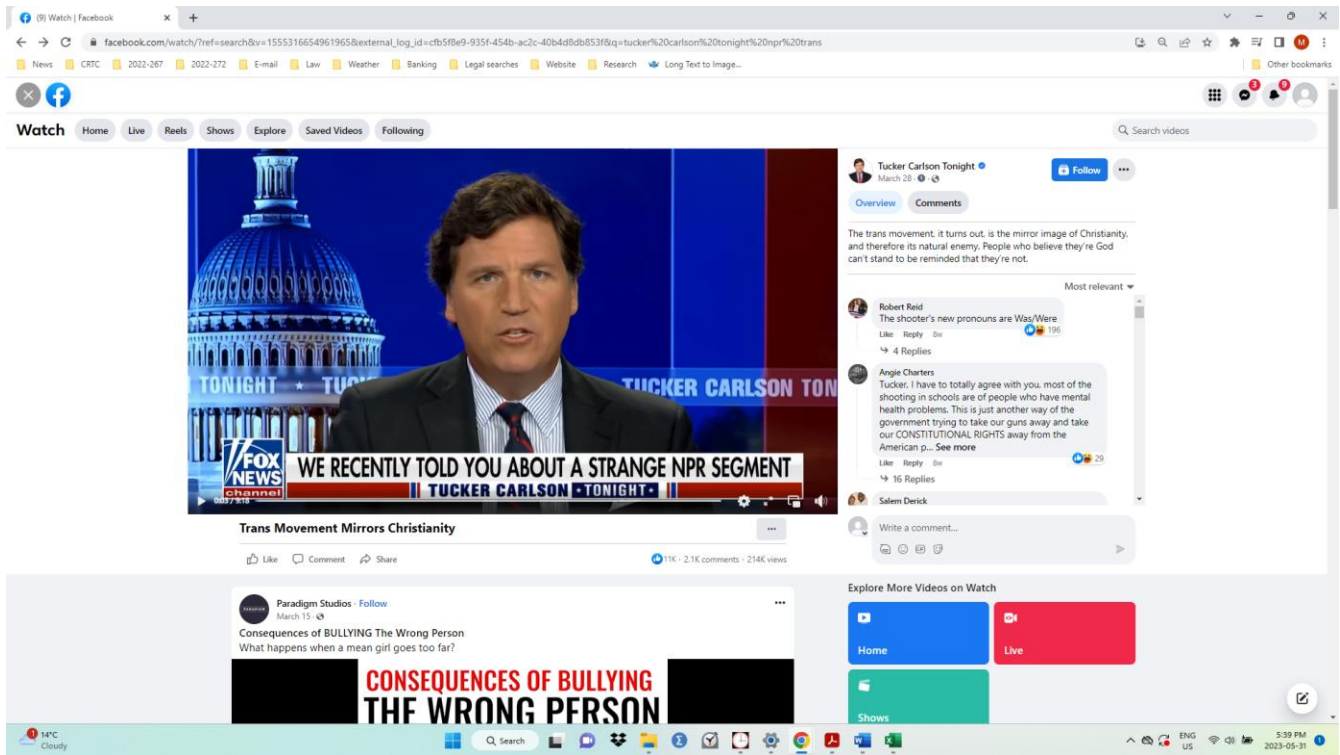
https://www.facebook.com/watch/?ref=search&v=1555316654961965&external_log_id=cfb5f8e9-935f-454b-ac2c-40b4d8db853f&q=tucker%20carlson%20tonight%20npr%20trans

0:00



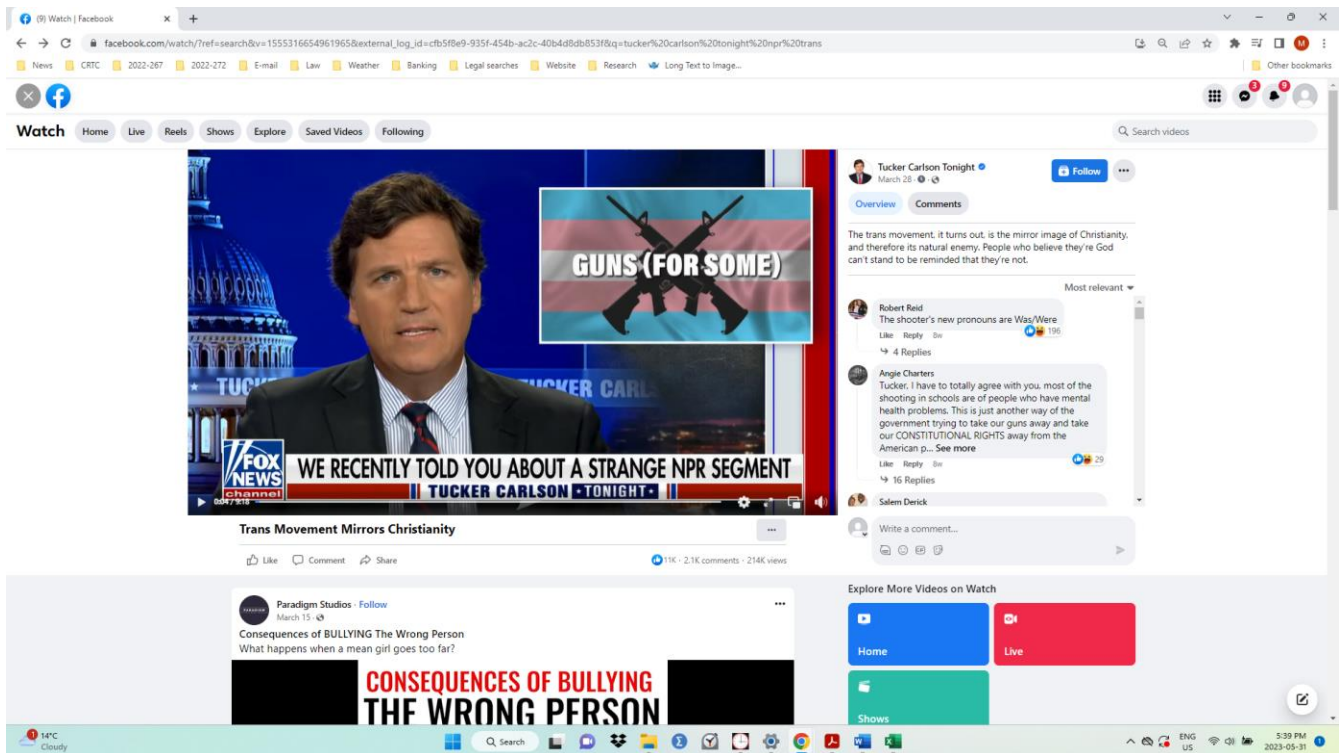
The screenshot displays a Facebook Watch interface. The main video player shows Tucker Carlson on a set with the US Capitol dome in the background. The video title is "Trans Movement Mirrors Christianity". Below the video, there are engagement buttons (Like, Comment, Share) and statistics (11K likes, 2.1K comments, 214K views). To the right, a comment section is visible with several user comments. Below the video player, there is a section titled "Explore More Videos on Watch" with buttons for "Home", "Live", and "Shows". The bottom of the image shows a Windows taskbar with various application icons and a system clock indicating 5:38 PM on May 31, 2023.

It was just last week that we noticed that parts
0:03



Facebook Watch interface showing a video titled "Trans Movement Mirrors Christianity" by Tucker Carlson Tonight. The video features Tucker Carlson speaking in front of the US Capitol. A banner at the bottom of the video reads "WE RECENTLY TOLD YOU ABOUT A STRANGE NPR SEGMENT". The video has 11K views and 214K comments. Below the video, there is a post from Paradigm Studios titled "Consequences of BULLYING The Wrong Person" with a thumbnail showing the text "CONSEQUENCES OF BULLYING THE WRONG PERSON". To the right, there are comments from Robert Reid and Angie Charters.

of the transgender movement
0:04



Facebook Watch interface showing a video titled "Trans Movement Mirrors Christianity" by Tucker Carlson Tonight. The video features Tucker Carlson speaking in front of the US Capitol. A banner at the bottom of the video reads "WE RECENTLY TOLD YOU ABOUT A STRANGE NPR SEGMENT". A graphic overlay on the right side of the video shows a transgender flag with the text "GUNS (FOR SOME)" and two crossed rifles. The video has 11K views and 214K comments. Below the video, there is a post from Paradigm Studios titled "Consequences of BULLYING The Wrong Person" with a thumbnail showing the text "CONSEQUENCES OF BULLYING THE WRONG PERSON". To the right, there are comments from Robert Reid and Angie Charters.



seem to be getting militant and possibly dangerous. We did a whole segment on it on Thursday night.

That segment was sparked by an NPR segment we had heard and never expected to hear. NPR is always and as a matter of editorial policy completely opposes civilian ownership of firearms with the possible exception of maybe IRS agents. Yet here suddenly was that very same station, National Public Radio, positively urging trans people to buy guns, as many guns as possible, and if necessary to use them.

The world is dangerous, explained one trans gun owner. You have to be dangerous back.
0:59

And that seems strange to us. Is the United States really a dangerous place for Trans people? Well, West Baltimore is dangerous, you could easily get murdered there.

But if you're Trans in this country, obviously there are many downsides, but there do appear to be some benefits. It's a lot easier to get into Harvard, for example, [it's] definitely easier to get a job at CitiBank, or in the Biden White House. If you're transgender and can so much as fly a kite, the Pentagon will happily make you an F-35 pilot, just so Hollywood can make a movie about it.

1:09

Identifying as trans, whatever again its downsides, does convey a status in this country, which is why so many young people now do. Not a lot of 19-year olds are pretending to be car mechanics or linemen for regional power companies in Eastern Ohio, but plenty of college freshmen do pretend to be members of the opposite sex and why wouldn't they?

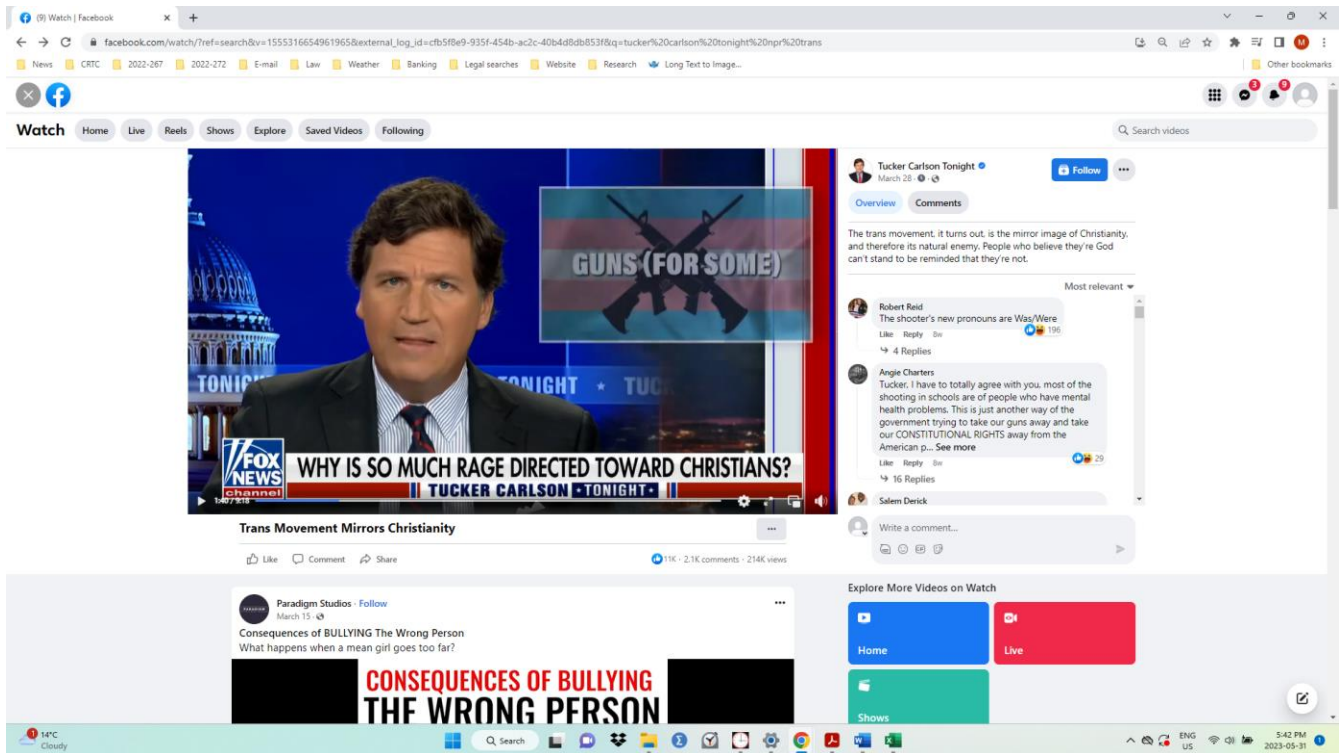
1:30

The people in charge despise working class whites, but they venerate the trans community. People are just responding to incentives: it's rational in a way.

1:39

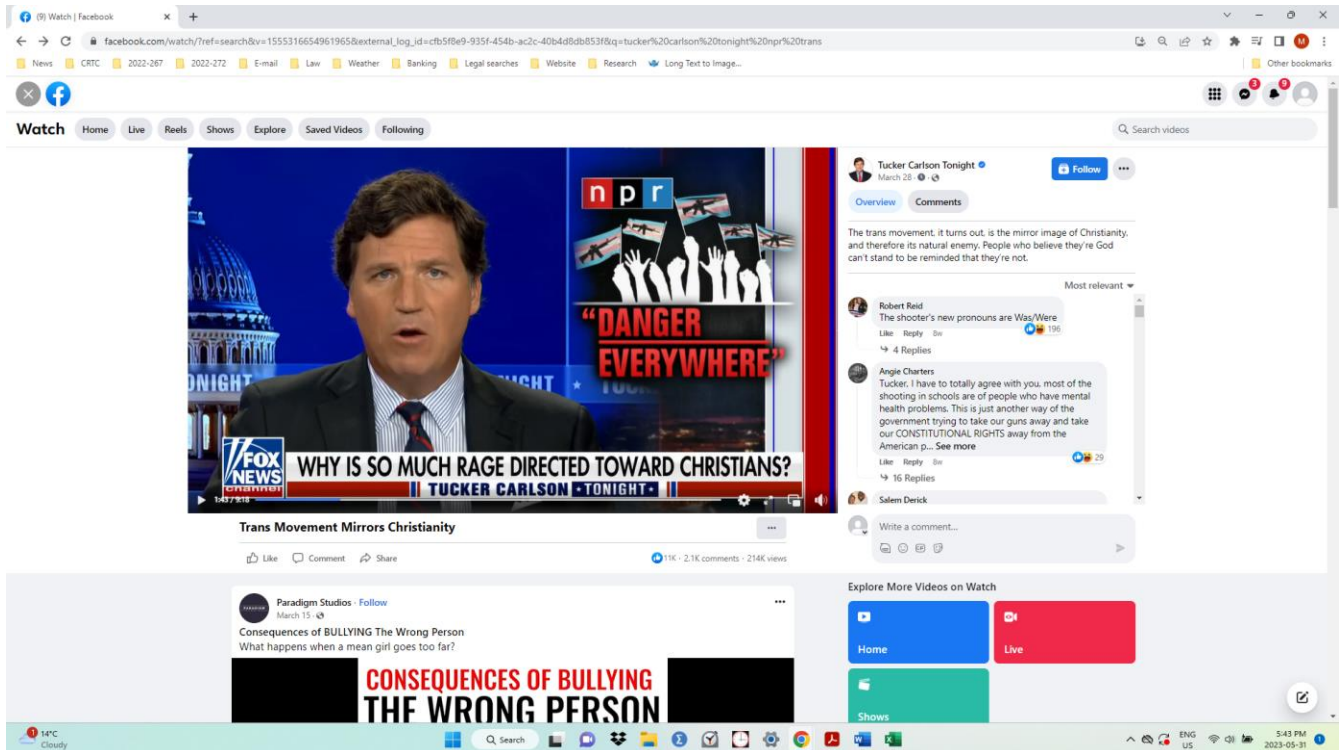
But that does not explain

1:40



Facebook Watch interface showing a video titled "Trans Movement Mirrors Christianity" by Tucker Carlson Tonight. The video features Tucker Carlson speaking, with a graphic overlay that reads "GUNS (FOR SOME)" and "WHY IS SO MUCH RAGE DIRECTED TOWARD CHRISTIANS?". The video has 2.1K comments and 214K views. Below the video is a post from Paradigm Studios titled "Consequences of BULLYING The Wrong Person".

the anger
1:43



Facebook Watch interface showing a video titled "Trans Movement Mirrors Christianity" by Tucker Carlson Tonight. The video features Tucker Carlson speaking, with a graphic overlay that reads "DANGER EVERYWHERE" and "WHY IS SO MUCH RAGE DIRECTED TOWARD CHRISTIANS?". The video has 2.1K comments and 214K views. Below the video is a post from Paradigm Studios titled "Consequences of BULLYING The Wrong Person".

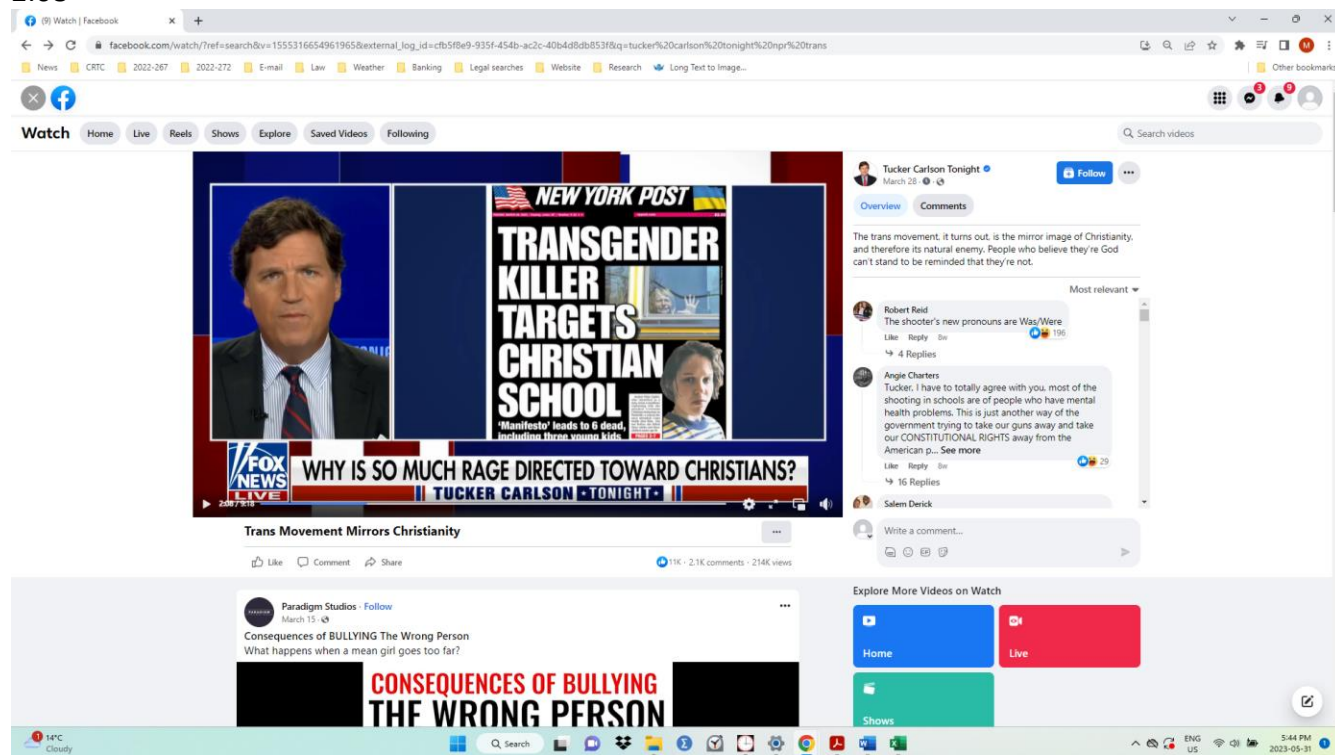
that we heard in that NPR segment. Why are some trans people so angry and why do they seem to be mad specifically at traditional Christians? We can't think of any trans person who's ever been murdered by a Pastor: as far as we know that has never happened.

1:57

So it's not an actual threat of violence from Christians that's inspiring some trans people to buy AR 15's. No, it's got to be more fundamental than that.

And it is. The trans movement

2:08

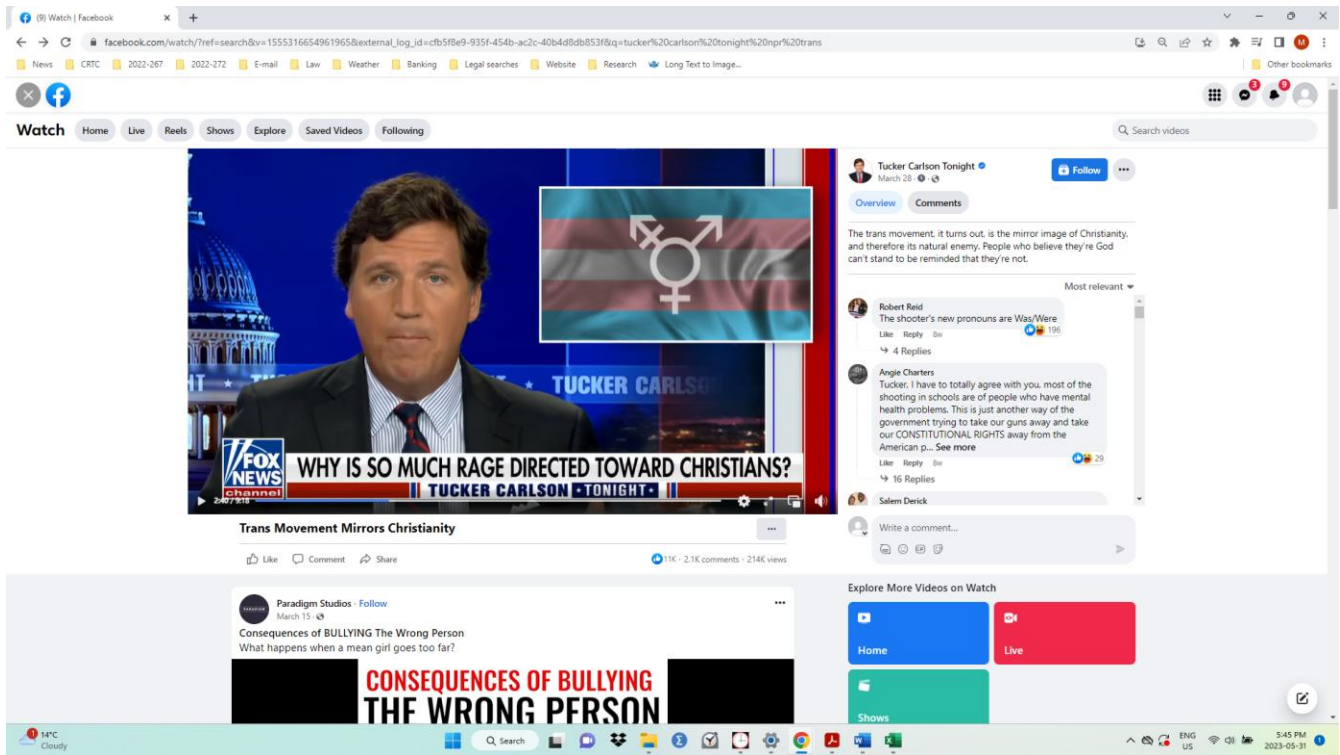


is the mirror image of Christianity and therefore its natural enemy. In Christianity the price of admission is admitting that you're not God. Christians openly concede that they have no real power over anything and for that matter, very little personal virtue. They will tell you to your face that they are sinful and helpless and basically absurd. They're not embarrassed about any of this, they brag about it. *That Saved a Wretch like Me* goes the most famous Christian hymn ever written in English.

2:39

The trans movement takes the

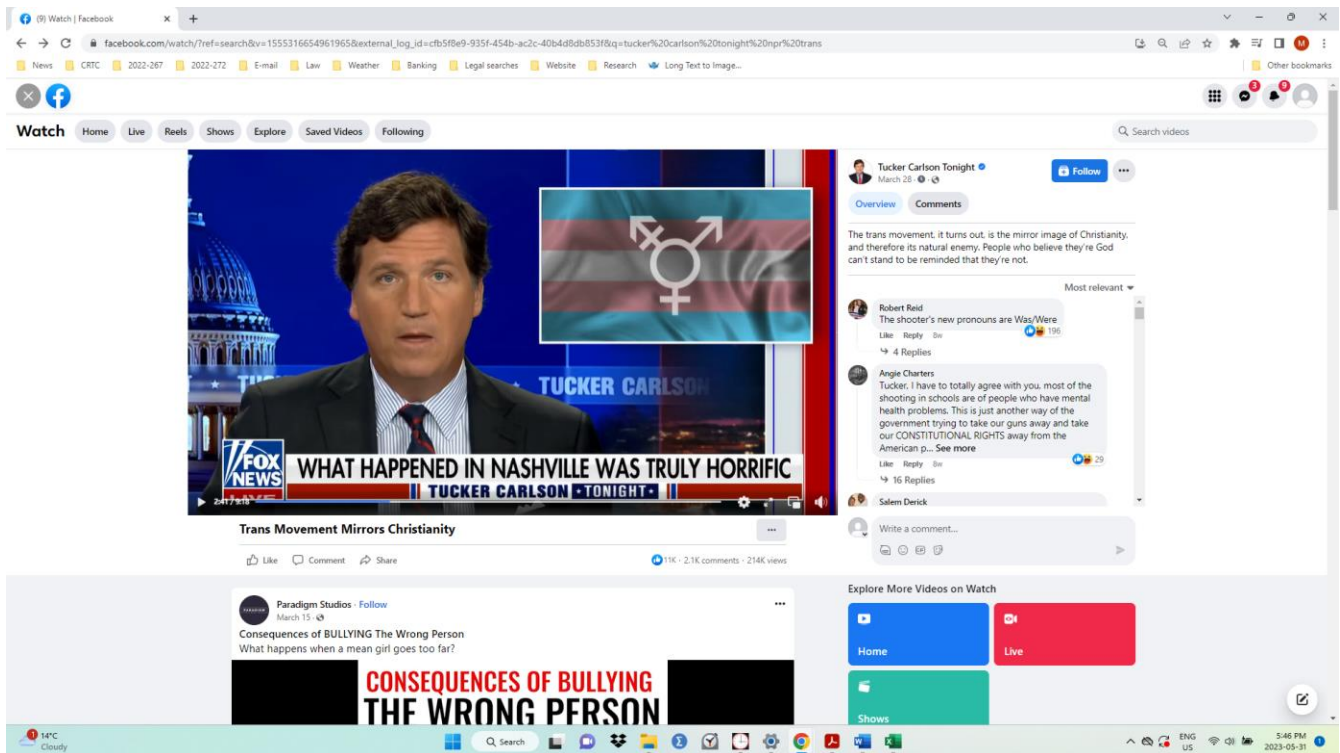
2:40



The screenshot shows a Facebook Watch interface. The main video is titled "Trans Movement Mirrors Christianity" and features Tucker Carlson speaking. A trans flag is overlaid on the video. The video description reads: "The trans movement, it turns out, is the mirror image of Christianity, and therefore its natural enemy. People who believe they're God can't stand to be reminded that they're not." Below the video, there are comments from users like Robert Reid and Angie Charters. The interface also shows a sidebar with "Explore More Videos on Watch" and a bottom navigation bar with "Home", "Live", "Reels", "Shows", "Explore", "Saved Videos", and "Following".

opposite view.

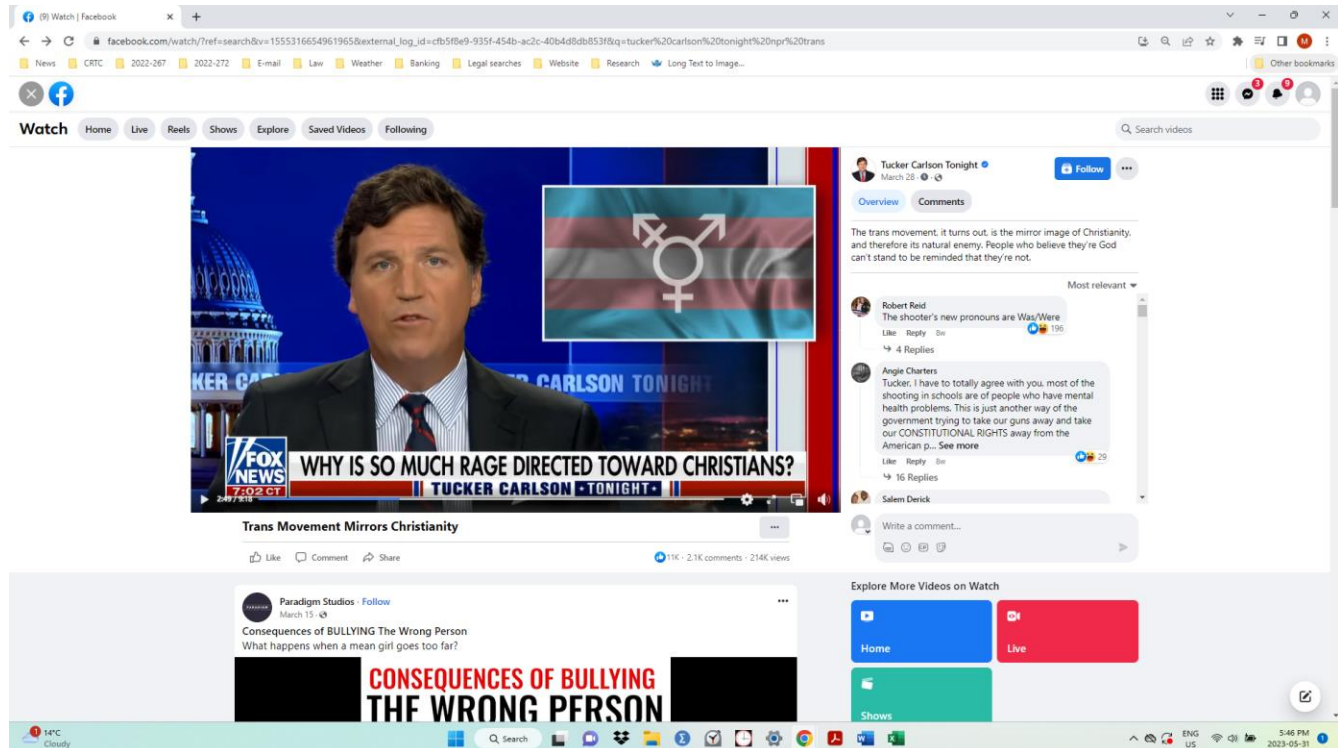
2:41



This screenshot is identical to the one above, showing the same Facebook Watch interface with Tucker Carlson's video. The video title is "What Happened in Nashville Was Truly Horrific". The video description is the same: "The trans movement, it turns out, is the mirror image of Christianity, and therefore its natural enemy. People who believe they're God can't stand to be reminded that they're not." The comments and sidebar are also the same.

Trans ideology claims dominion over nature itself. We can change the identity we were born with, they will tell you

2:49



with wild-eyed certainty.

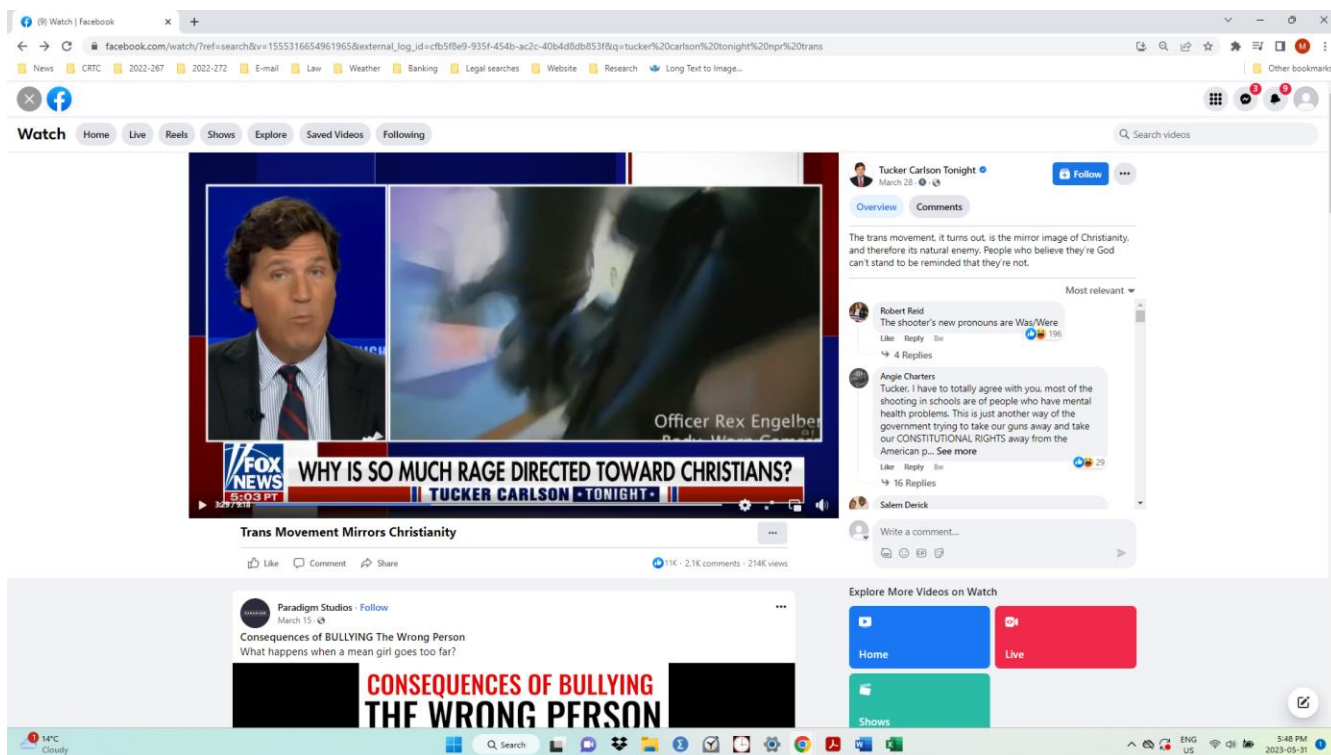
2:51

Christians can never agree with this statement because these are powers they believe God alone possesses. That unwillingness to agree that failure to acknowledge a trans person's dominion over nature incites and enrages some in the trans community. People who believe their God can't stand to be reminded that they're not. So Christianity and transgender orthodoxy are wholly incompatible theologies. They can never be reconciled. They are in a collision course with each other. One side is likely to draw blood before the other side.

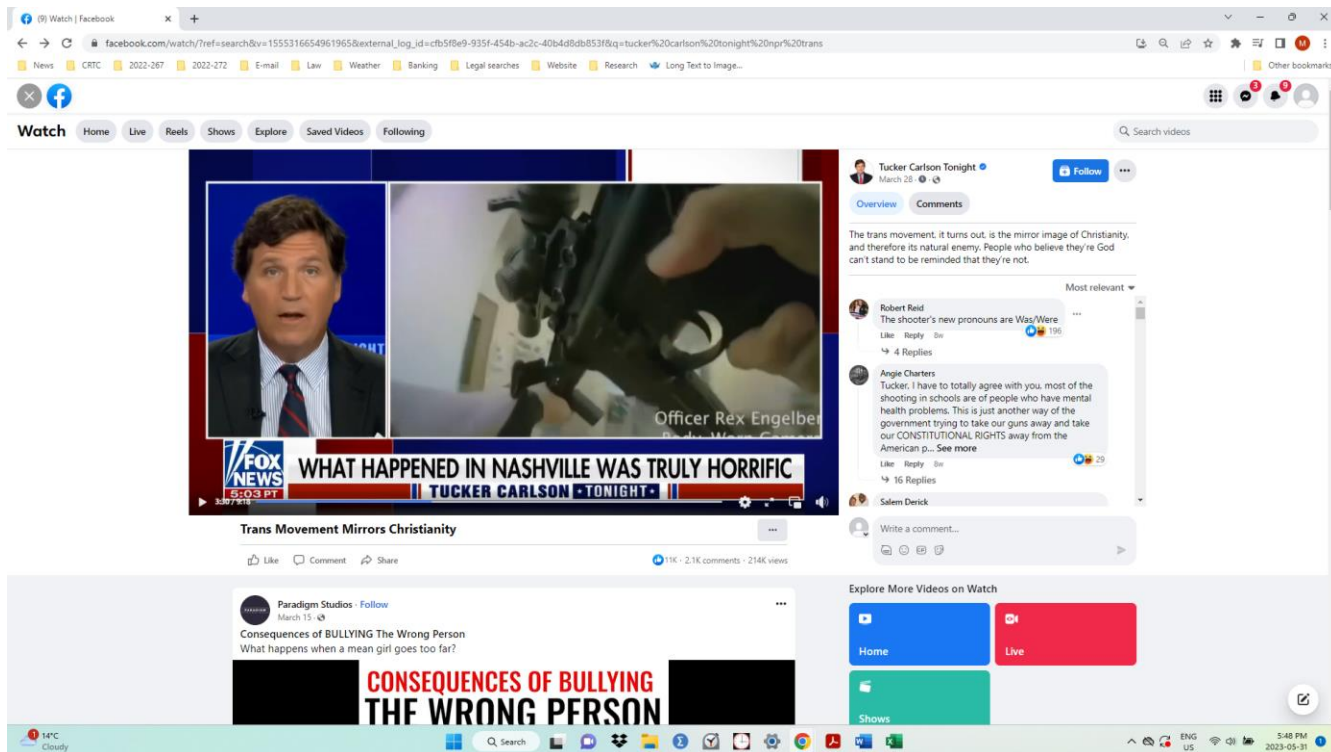
3:26

That what we concluded last week.

3:28



Yesterday morning tragically
3:30



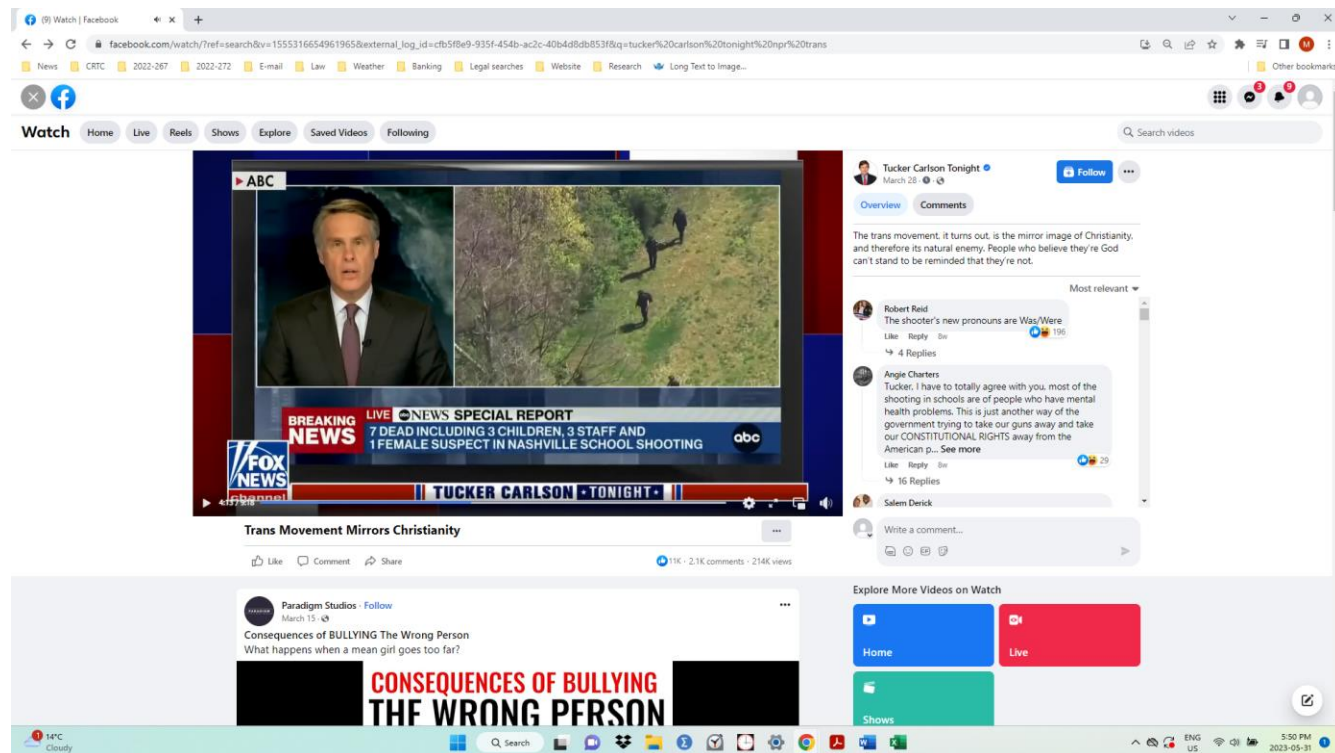
our fears were confirmed. A self-identified trans person called Audrey Hale committed mass murder at a Christian school in Nashville. Hale burst into a place called "The Convent School" and executed

three nine-year olds as well as three adults. Police have released body-cam footage from the end of the massacre. We're showing you just a small part of it – you can see the rest online if you want. We're not going to show it because that's too awful and sad.

3:54

But was almost as sickening to see in a far more subtle and insidious way, was the media coverage of yesterday's tragedy. Here's Terry Moran of ABC News, for example, suggesting that Christians were murdered in Tennessee because they infringed on the rights of transgender people. Watch.

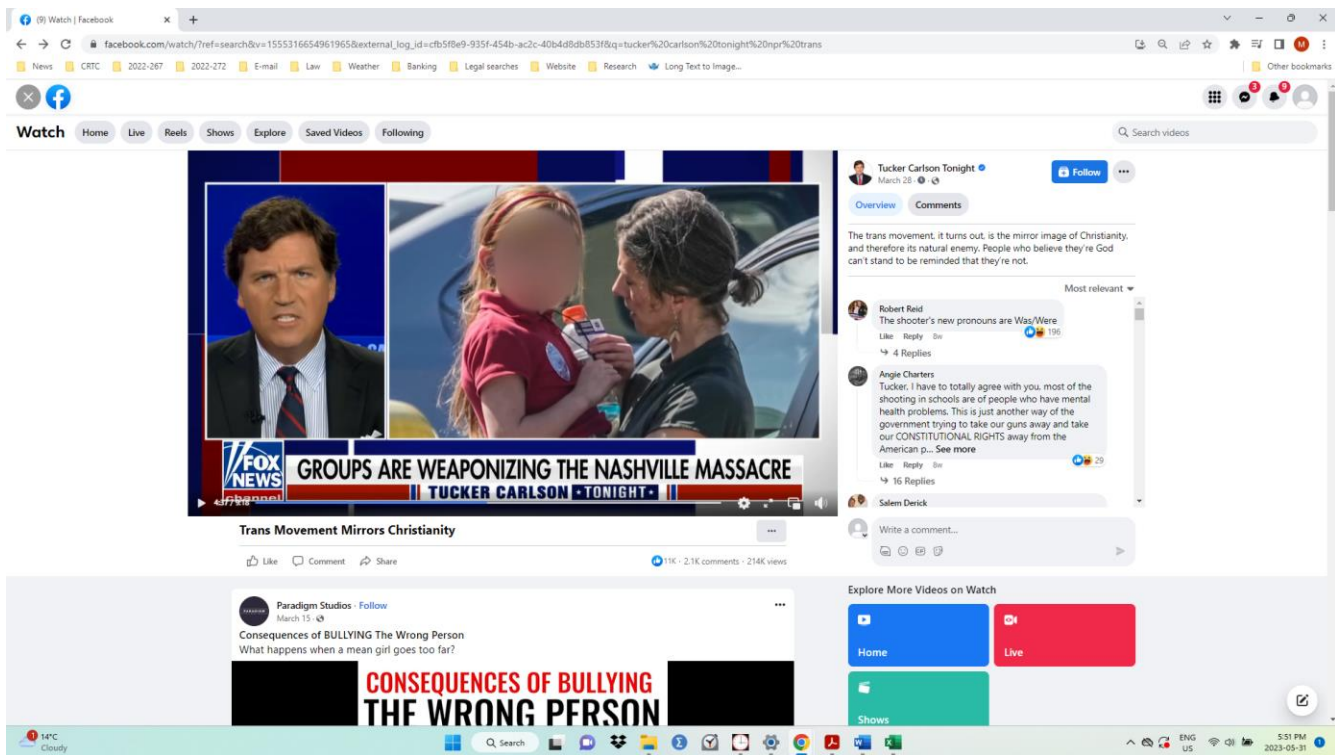
4:11



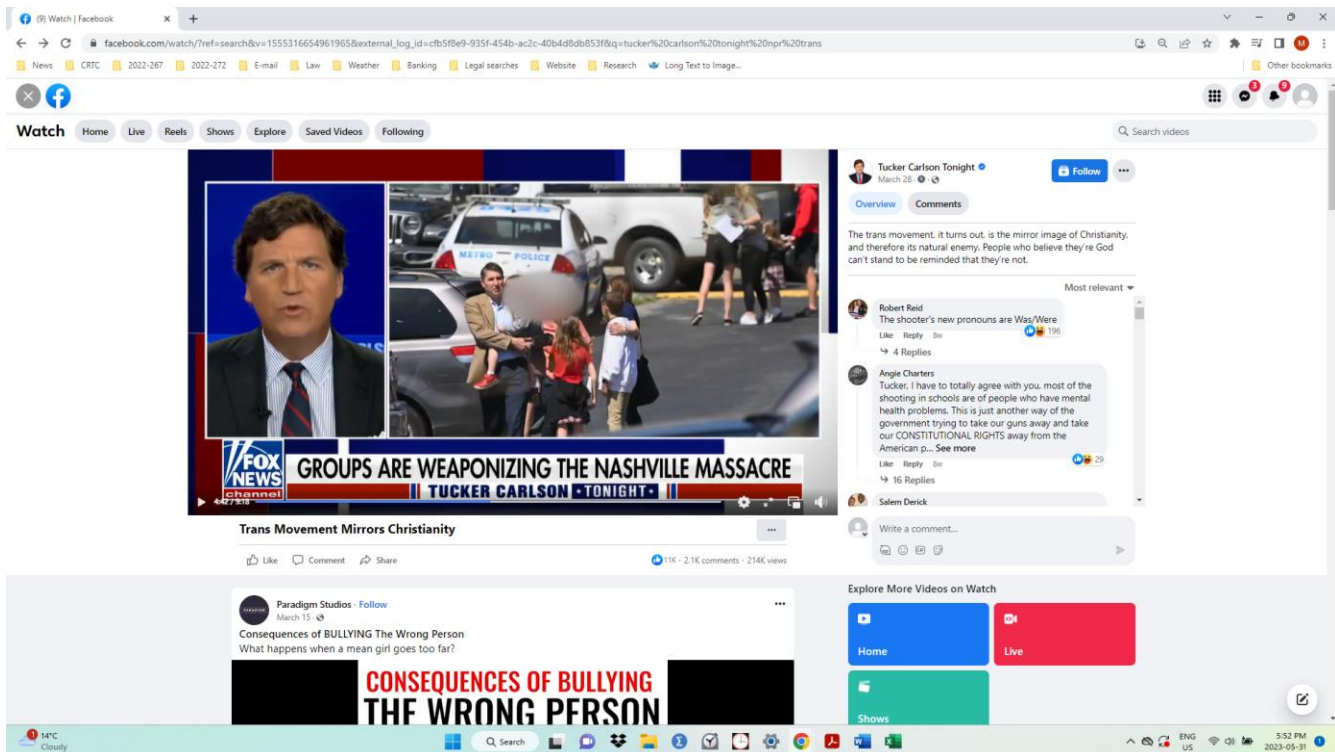
[Video clip]

Audrey Hale was – identified herself as a transgender person. The state of Tennessee earlier this month and the governor signed a bill that banned transgender medical care for minors as well as a law that prohibited adult entertainment including male and female impersonators after a series of drag-show controversies in that state.

4:37



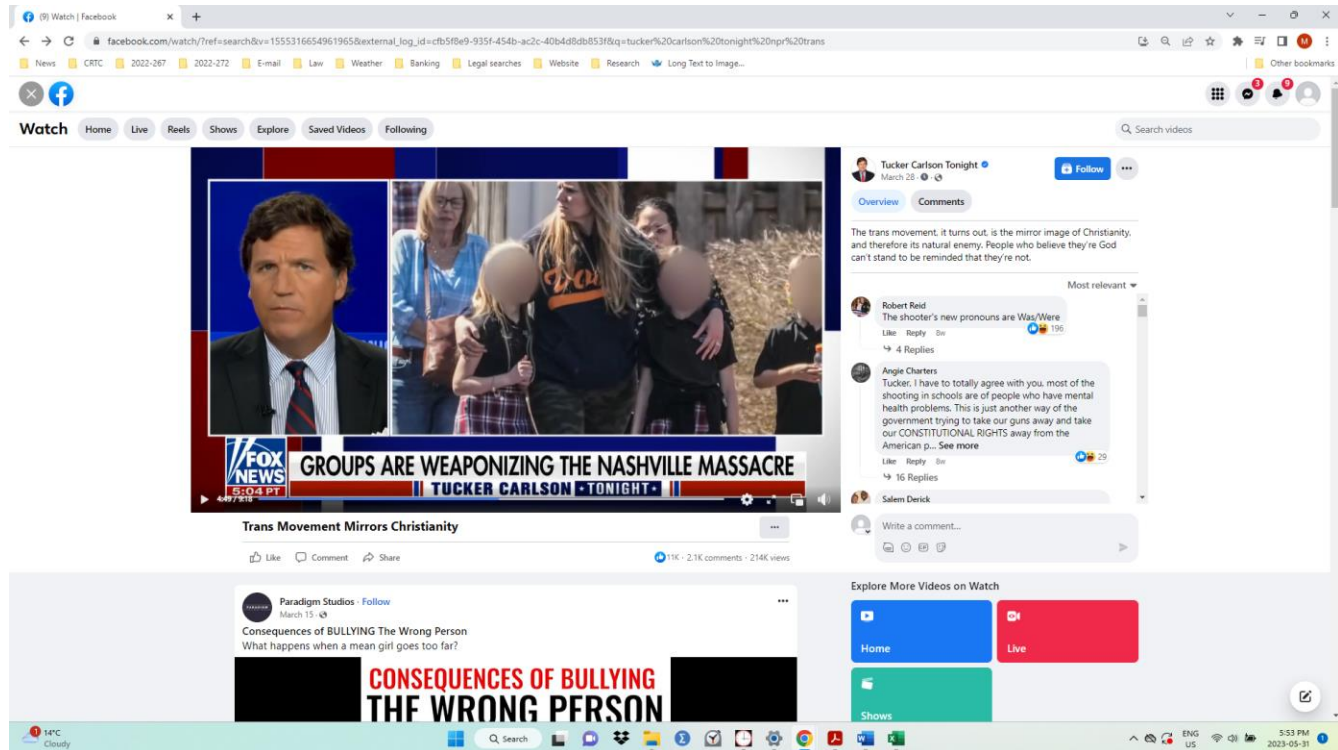
The state of Tennessee bans the sexual mutilation of children: children
4:42



get shot to death in a school. It's cause and effect. That's what ABC News is telling you.

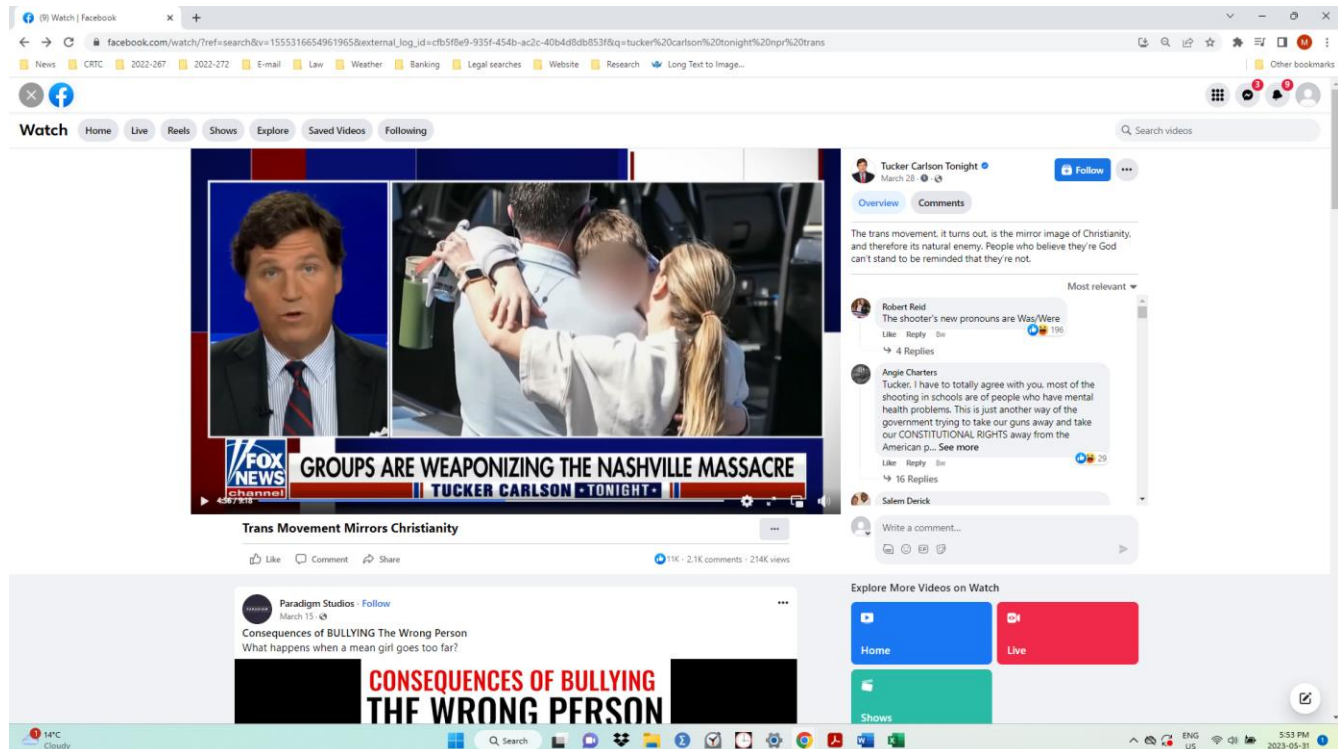
4:49

That's not far



from justifying mass murder. But others took the next step. A group

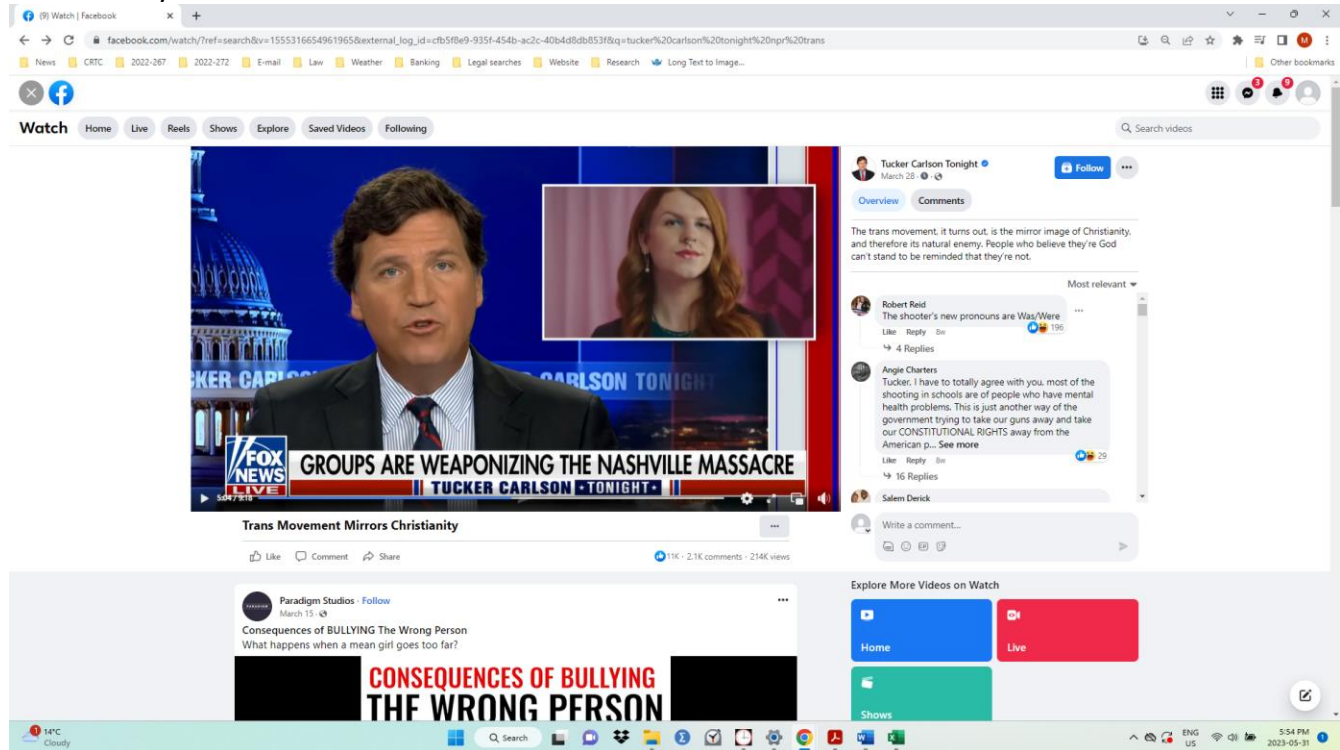
4:56



called the Transresistance Network said that the shooter's death was a complex tragedy that resulted from quote – Anti-trans bias.

5:03

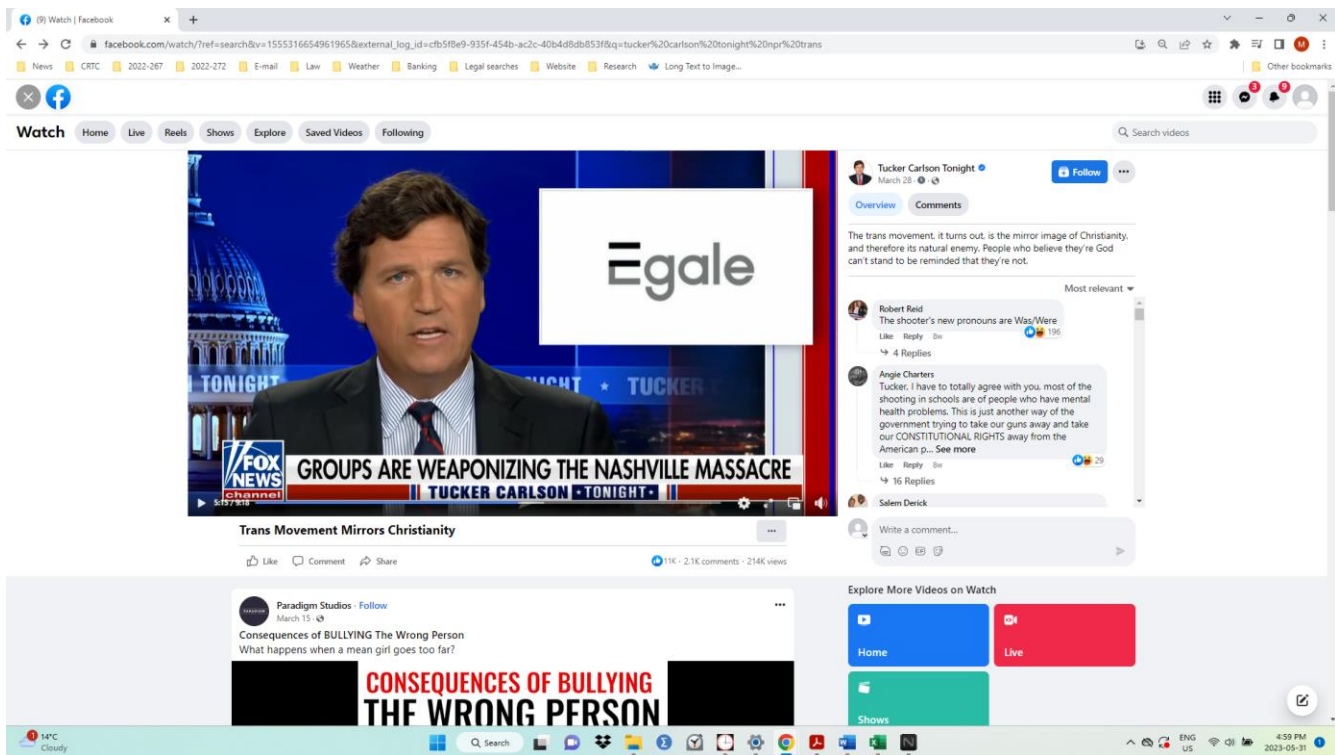
The Hershey Chocolate



Company's new Trans Spokesperson, meanwhile, someone called Fae Johnstone, posted messages after the shooting complaining about quote trans misogyny.

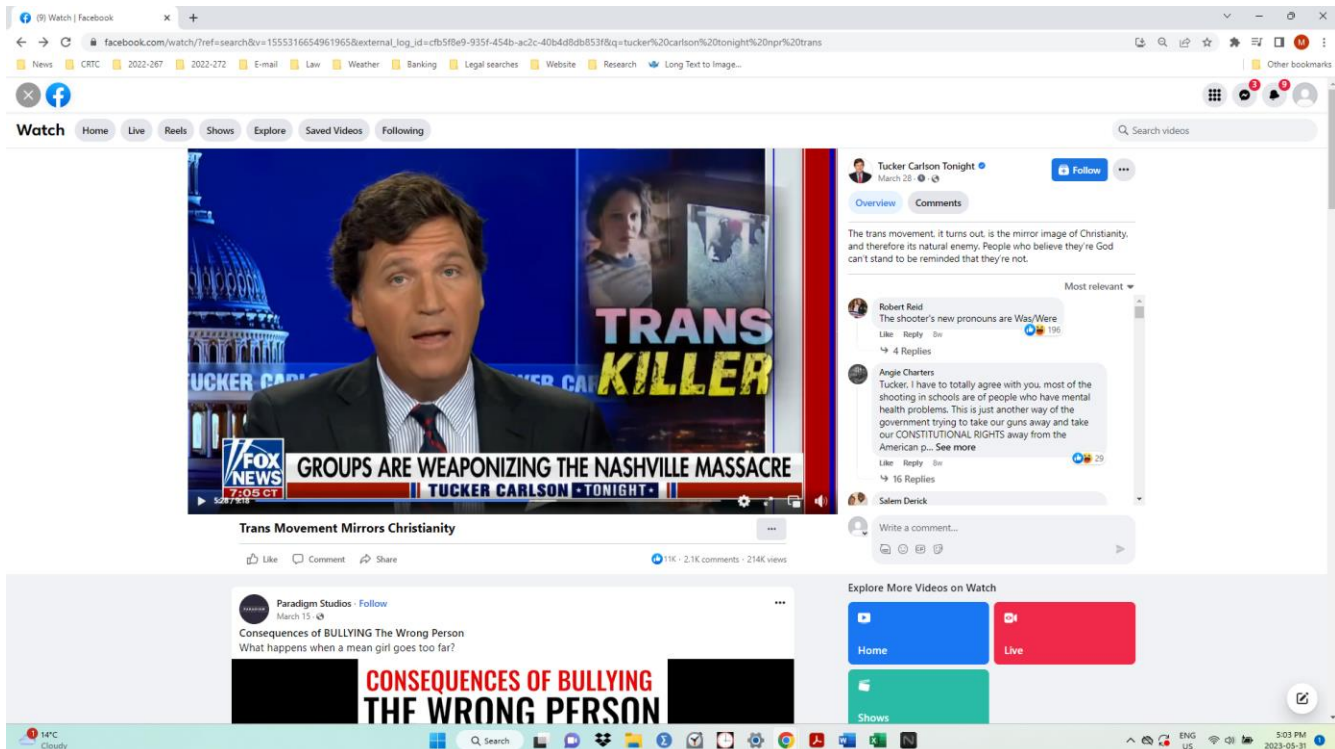
5:12

In Canada,

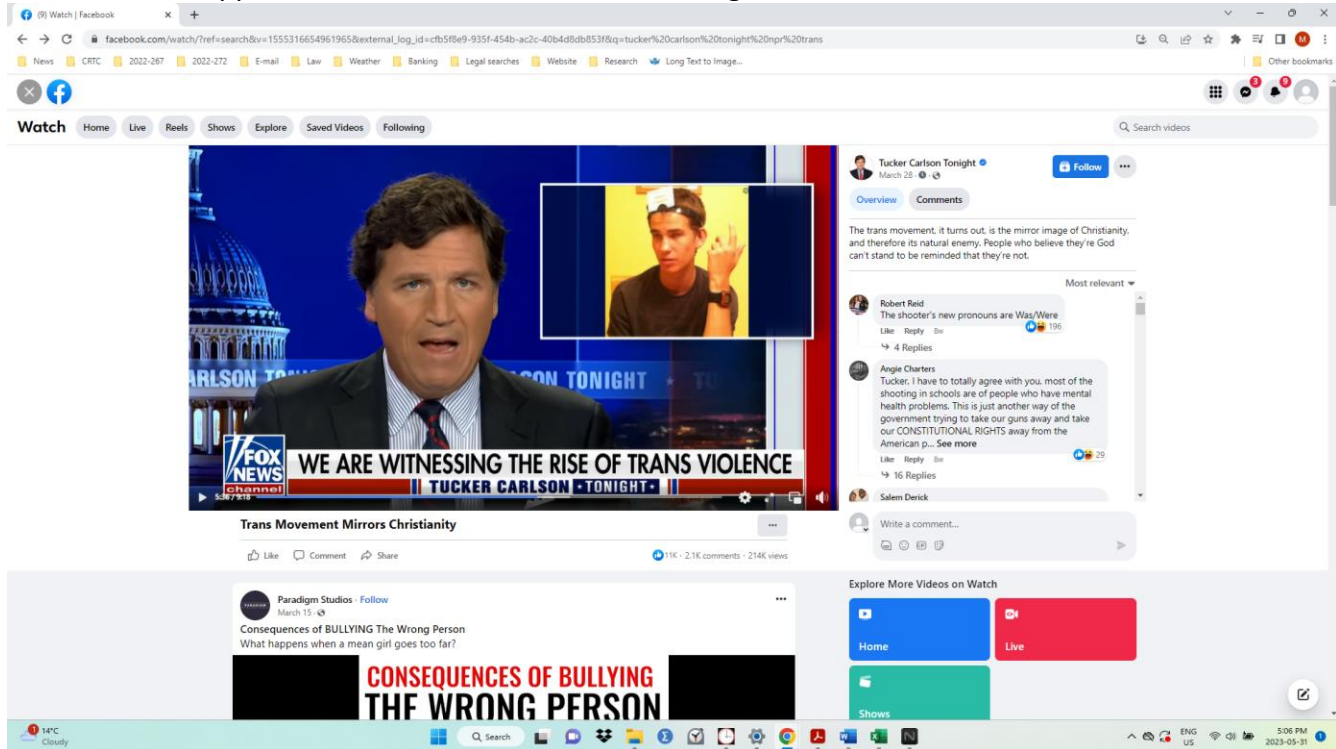


a tax-payer funded trans rights organization put out a statement that ignored the murder of children in Nashville entirely and instead claimed there has been a, quote, exponential rise in anti-trans violence. That is a lie, it's a provable lie

5:28



and in fact the opposite is true. We seem to be watching the rise of trans terrorism.



facebook.com/watch/?ref=search&v=1555316654961965&external_log_id=cfb5f8e9-935f-454b-ac2c-40b4d8db853f&q=tucker%20carlson%20tonight%20npr%20trans

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Tucker Carlson Tonight March 28

Overview Comments

The trans movement, it turns out, is the mirror image of Christianity, and therefore its natural enemy. People who believe they're God can't stand to be reminded that they're not.

Most relevant

Robert Reid The shooter's new pronouns are Was/Were Like Reply 195 4 Replies

Angie Charters Tucker, I have to totally agree with you, most of the shooting in schools are of people who have mental health problems. This is just another way of the government trying to take our guns away and take our CONSTITUTIONAL RIGHTS away from the American p... See more Like Reply 16 Replies

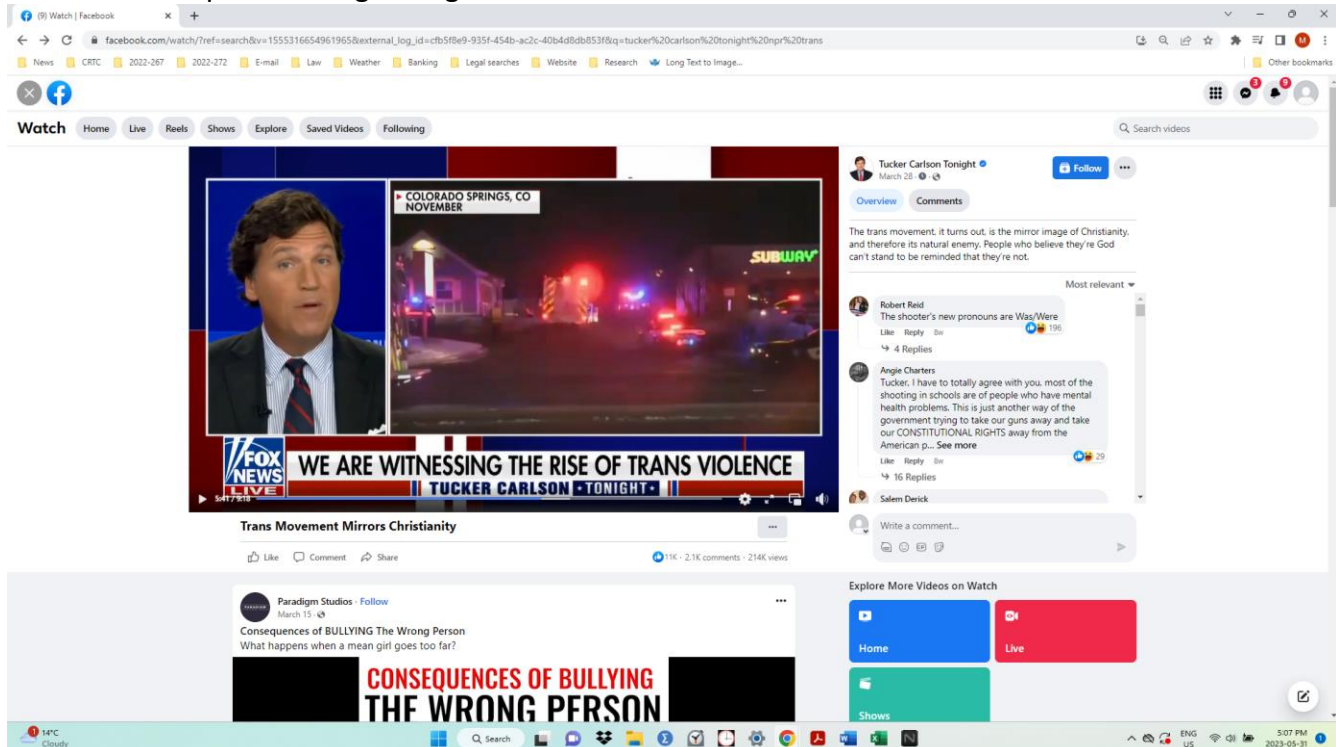
Salem Derick Write a comment...

Explore More Videos on Watch

Home Live Shows

14°C Cloudy

The man who tried to murder Supreme Court Justice Brett Cavanaugh after the repeal of *Roe v. Wade* identified as a quote trans gamer girl. The man



facebook.com/watch/?ref=search&v=1555316654961965&external_log_id=cfb5f8e9-935f-454b-ac2c-40b4d8db853f&q=tucker%20carlson%20tonight%20npr%20trans

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Salem Derick Write a comment...

Explore More Videos on Watch

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14°C Cloudy

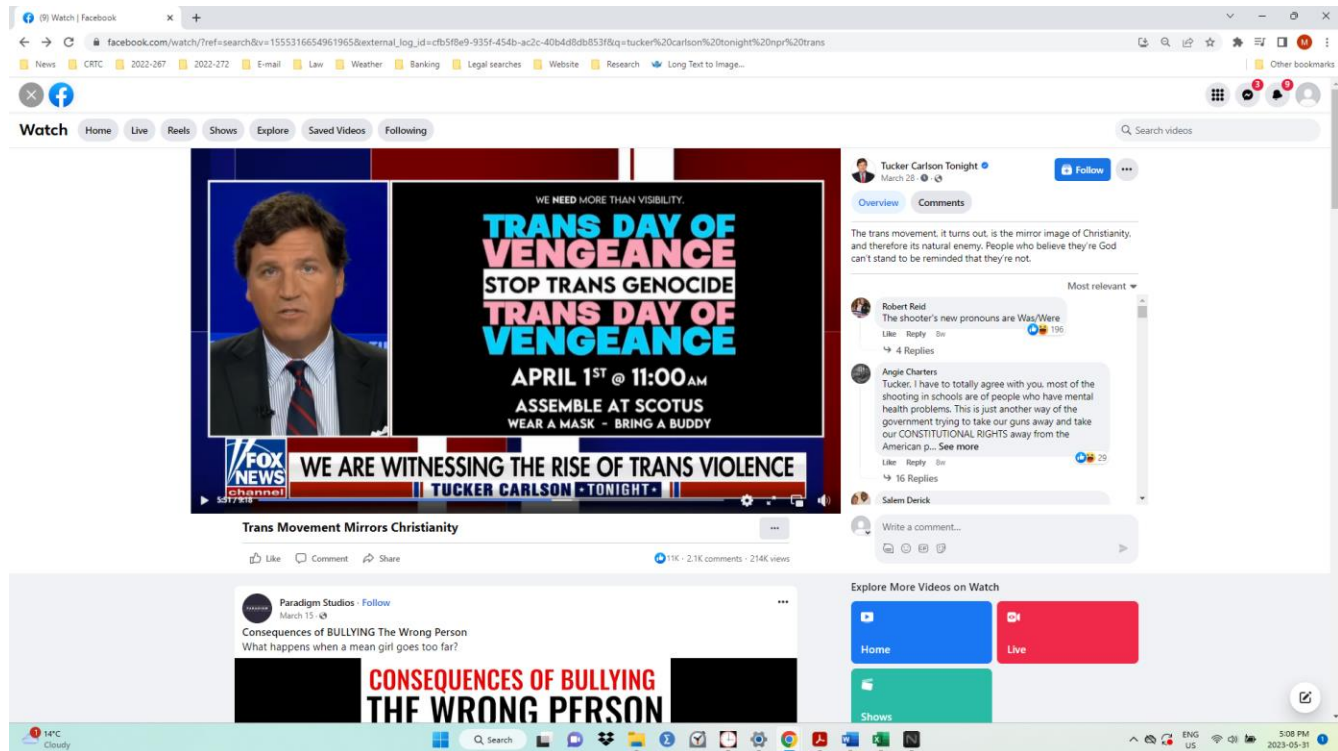
who shot up a night club in Colorado in this past November and murdered five people identified as non-binary. And now this.

5:49

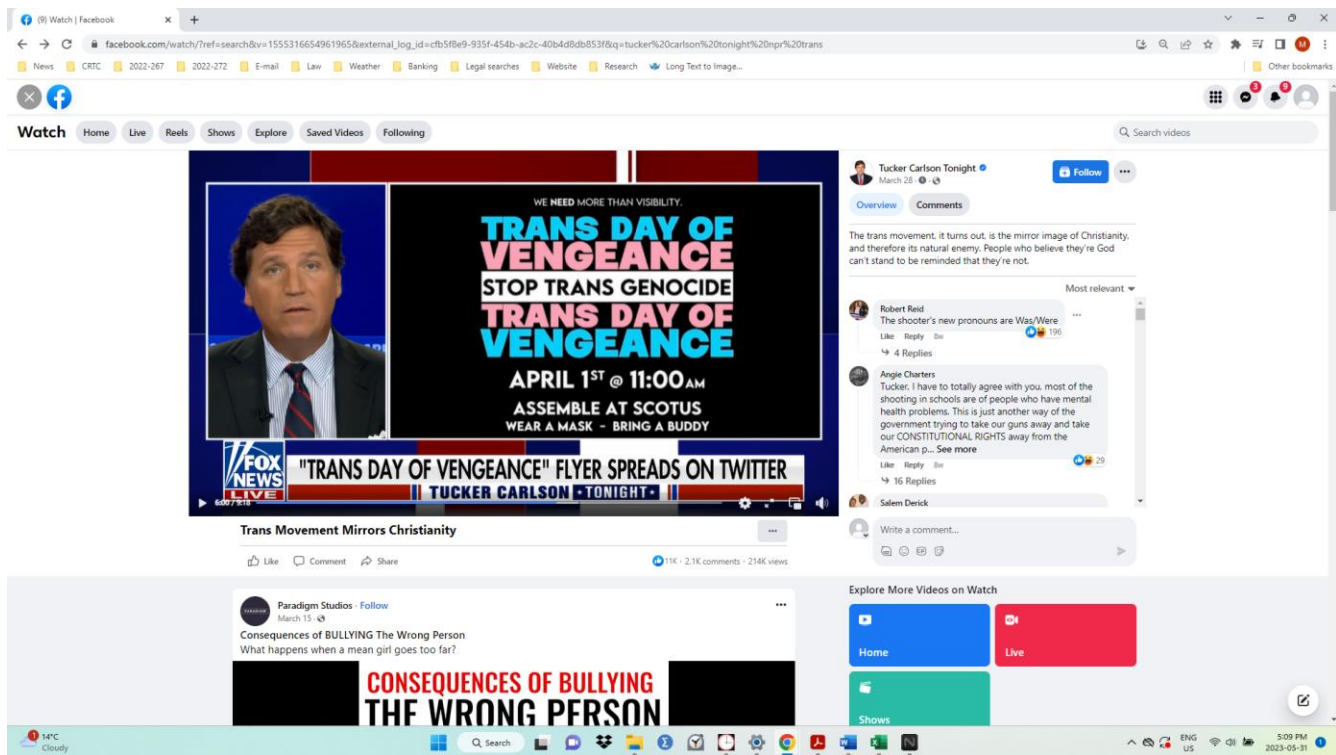
And there could be more.

5:51

Antifa has announced



This coming Saturday is the quote Trans Day of Vengeance. Vengeance for what? That's not explained, but the suggestion is there will be violence in Washington this weekend.



Trans Movement Mirrors Christianity

Paradigm Studios · Follow
March 15 ·

Consequences of BULLYING The Wrong Person
What happens when a mean girl goes too far?

CONSEQUENCES OF BULLYING THE WRONG PERSON

Tucker Carlson Tonight · March 28 ·

Overview Comments

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Most relevant

Robert Reid
The shooter's new pronouns are Was/Were
Like Reply · 196

Angie Charters
Tucker, I have to totally agree with you, most of the shooting in schools are of people who have mental health problems. This is just another way of the government trying to take our guns away and take our CONSTITUTIONAL RIGHTS away from the American p... See more
Like Reply · 29

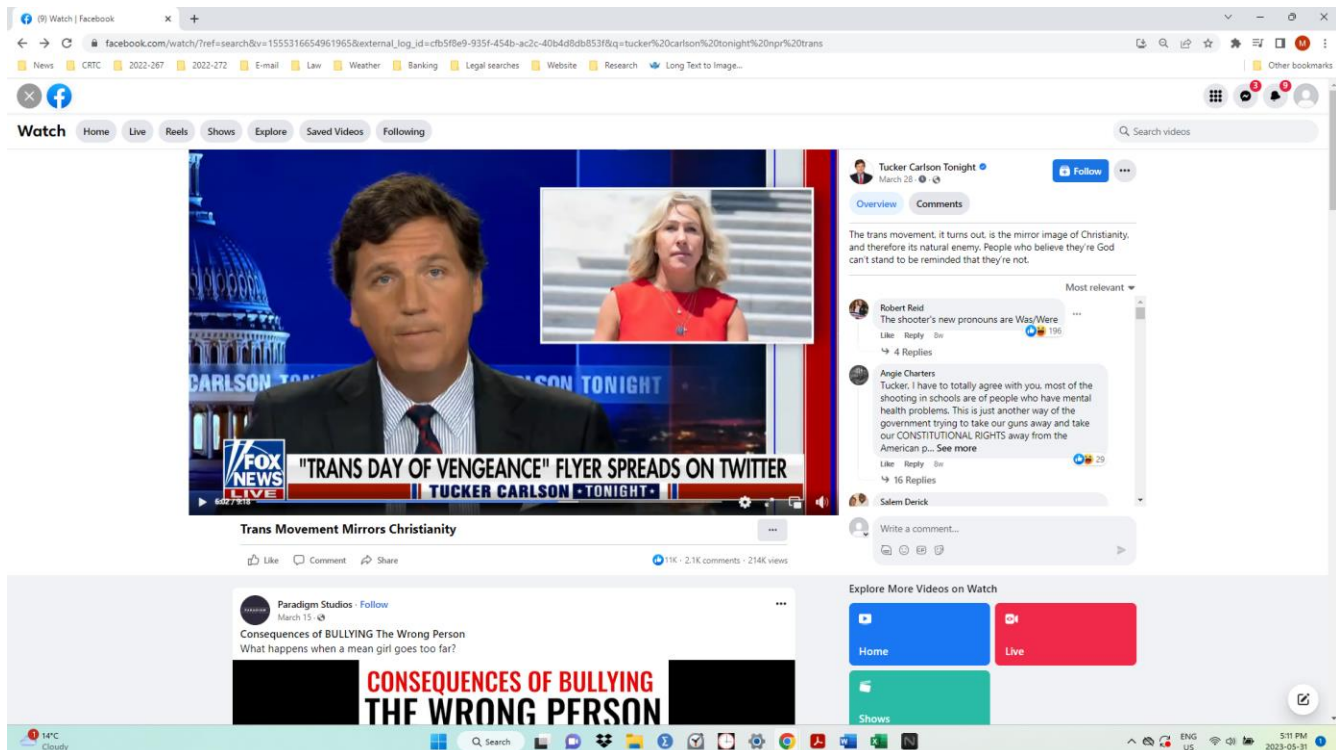
Salem Derick

Write a comment...

Explore More Videos on Watch

Home Live Shows

6:02



Trans Movement Mirrors Christianity

Paradigm Studios · Follow
March 15 ·

Consequences of BULLYING The Wrong Person
What happens when a mean girl goes too far?

CONSEQUENCES OF BULLYING THE WRONG PERSON

Tucker Carlson Tonight · March 28 ·

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Like Reply · 29

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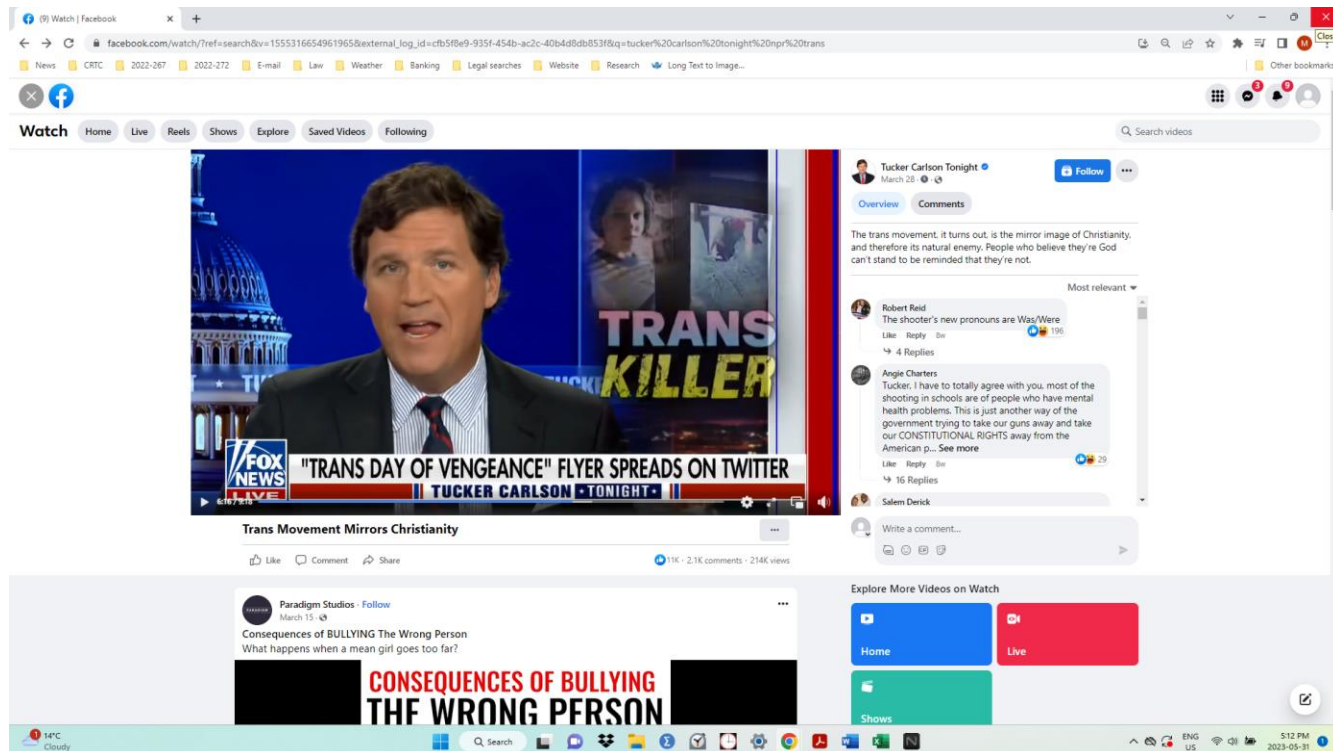
Write a comment...

Explore More Videos on Watch

Home Live Shows

Congresswoman Marjorie Taylor-Green tweeted about this today, because if there's a day of vengeance coming the rest of us should probably know about it. And for doing so immediately had her official Congressional Twitter Account suspended.

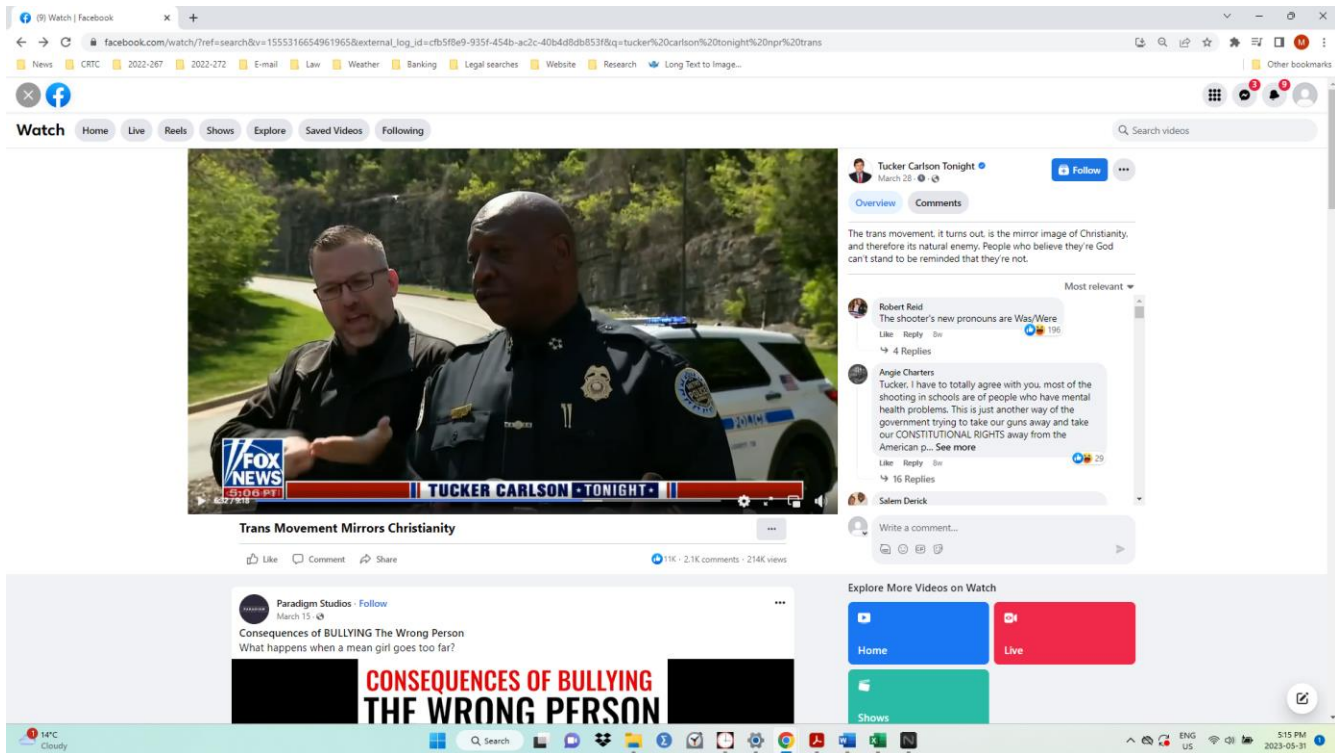
6:16



The screenshot shows a Facebook Watch interface. The main video is from 'Tucker Carlson Tonight' and is titled 'Trans Movement Mirrors Christianity'. The video content shows Tucker Carlson speaking, with a large graphic in the background that reads 'TRANS KILLER'. Below the video, there is a post from 'Paradigm Studios' titled 'Consequences of BULLYING The Wrong Person'. The post includes a video thumbnail with the text 'CONSEQUENCES OF BULLYING THE WRONG PERSON'. The Facebook interface shows various navigation tabs like Home, Live, Reels, Shows, Explore, Saved Videos, and Following. The video has 2.1K comments and 214K views. The bottom of the screen shows a Windows taskbar with various application icons and a system clock indicating 5:12 PM on 2023-05-31.

You're not supposed to talk about any of this, apparently, and the authorities in Nashville certainlyh are not planning to talk about it – they're doing their best not to. Here's the policy chief explaining that while he's happy to talk about the shooter's guns, he's not going to tell you anything about the shooter's motives. Watch.

6:31



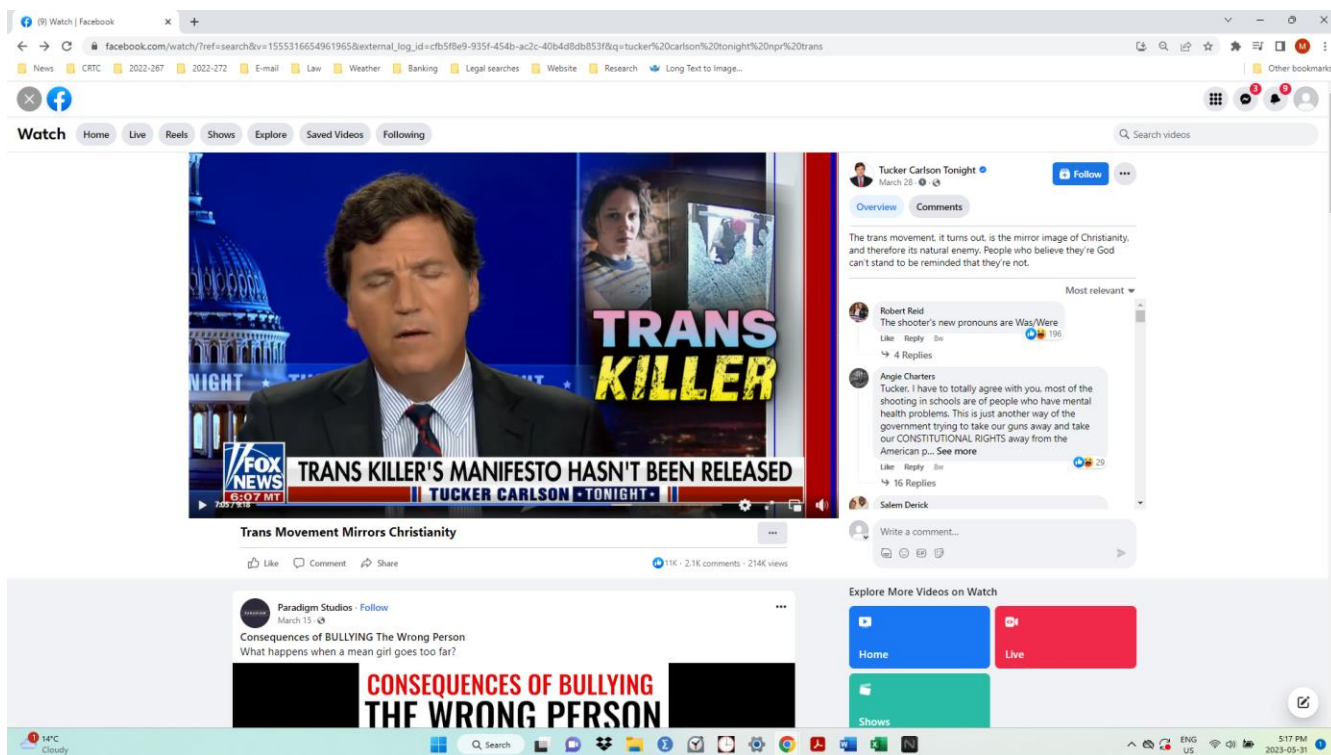
[Video]

[unclear] there's several different writings about several different locations

...

I have not read the entire manifesto

7:04

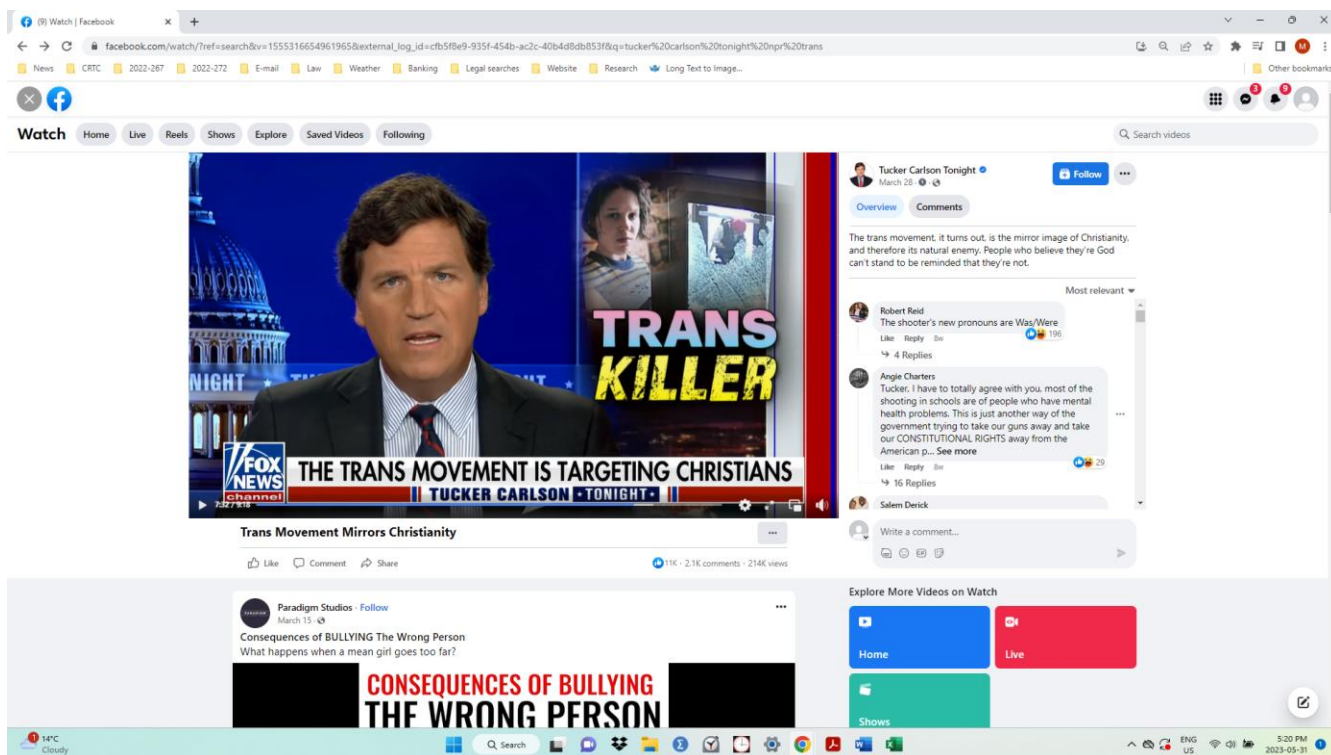


Well, that's interesting. Within what seemed like minutes we saw pictures of the rifles, and the pistol, we now have horrifying body cam footage from within the school – so unsettling we're not going to show it to you, but somehow we can't see the manifesto in which the killer explained why she killed. Why is that? It's not accidental.

7:27

Well, you know exactly why it is: because it would make the obvious undeniable.

7:31

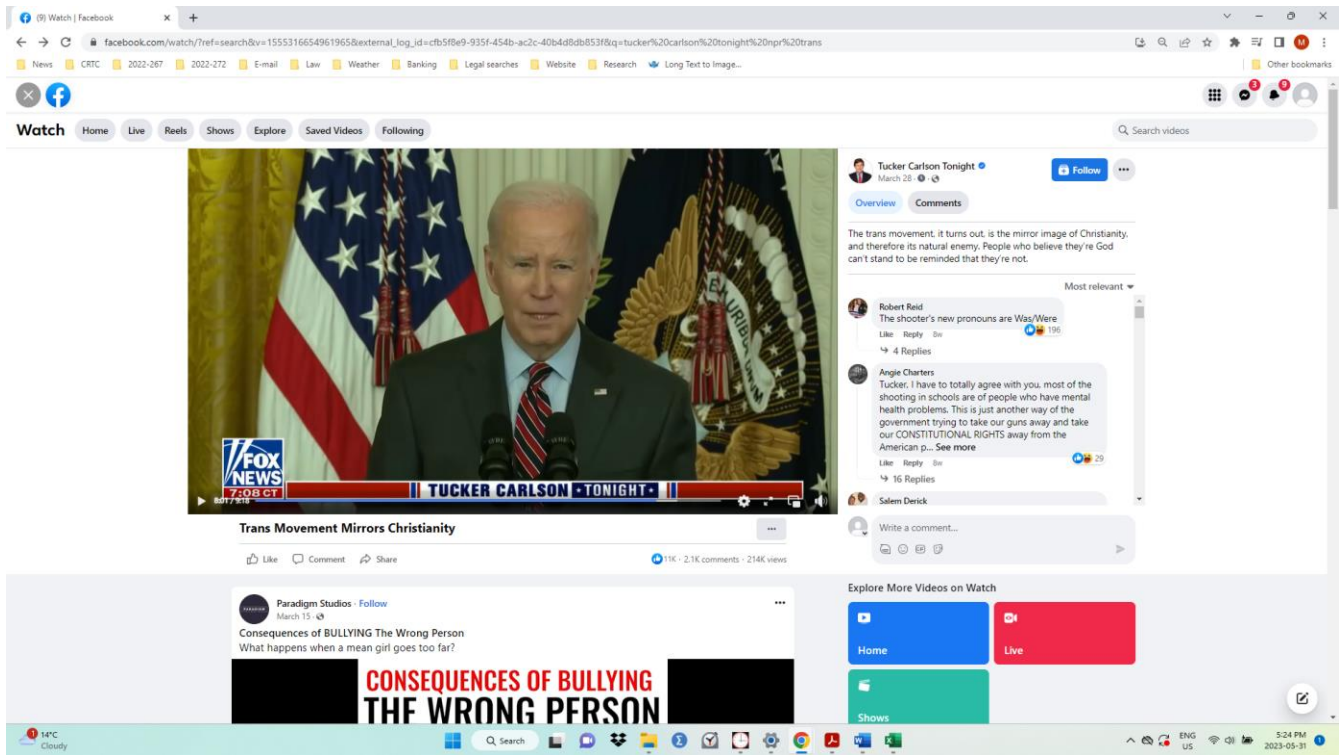


The trans movement is targeting Christians, including with violence. Most Christian leaders in this country don't want to admit that. Admitting it might force them to take deeply unfashionable positions. But it is true, and anyone who is paying attention knows that it's true. And so, like most true things at this point, it is officially suppressed.

7:52

Here for example is Joe Biden, yelping again about how it's all your fault when these tragedies happen, because you've got guns at home. This is from yesterday.

8:01

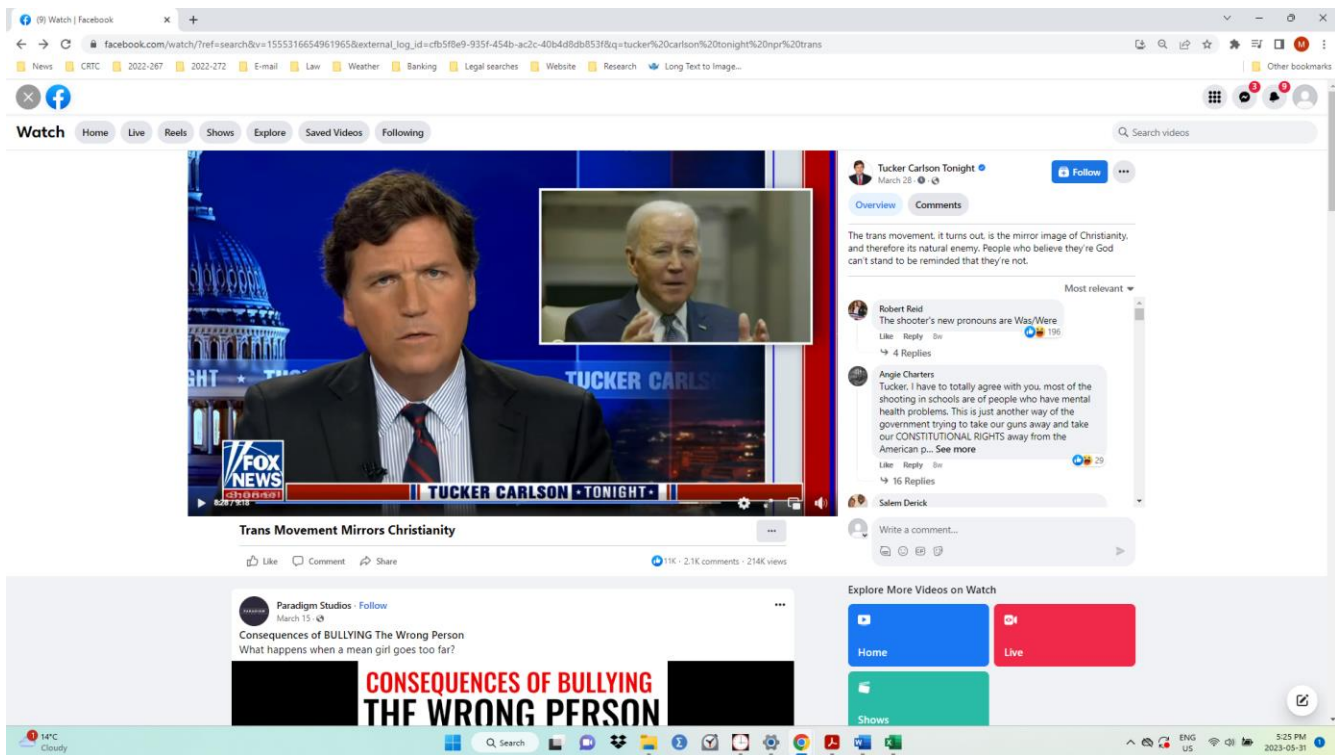


[Video]

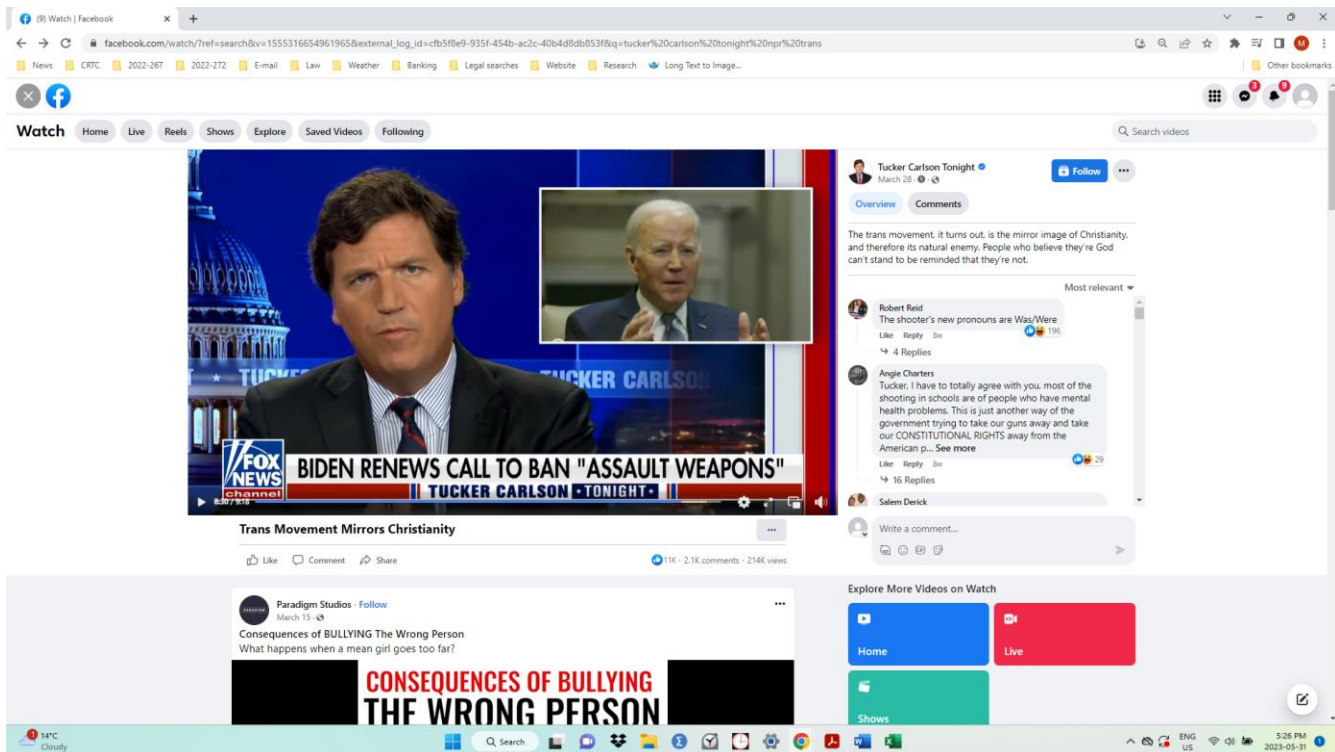
We have to do more to stop gun violence. It's ripping our communities apart.

....

8:27



So we're going to prevent you
8:30



from learning why this shooter did it, and we don't have to guess, because she wrote a whole manifesto about why she did it, and we know that she did that because she told a friend of hers on

Instagram that she did it – but we can't see it, we can only talk about the guns. We can't know what kind of drugs she was taking, hormones or SSRIs or benzodiazepines, we can only guess.

8:52

We can only talk about the guns. Pass my assault weapons ban! That will fix the problem. But Joe Biden is lying about that. He knows he's lying and you know that he's lying. Yesterday's massacre did not happen because of lax gun laws. Yesterday's massacre happened because of a deranged and demonic ideology that is infecting this country with the encouragement of people like Joe Biden. Let's start by being honest about that.

Appendix 2: *Requests to add Al Jazeera to the lists of eligible satellite services for distribution on a digital basis, Broadcasting Public Notice CRTC 2004-51, (Ottawa, 15 July 2004).*

Selected extracts

53. The Commission is not persuaded by the minority of those who commented in this proceeding that Al Jazeera is something other than a legitimate news service, that it somehow operates under the guise of a seemingly legitimate news agency but that its real objective is to promote terrorism and hate, or that it is primarily a vehicle for shock, not information, and that it should be denied authorization on this basis

...

56. A central factor in the Commission's consideration of the requests to add Al Jazeera to the digital lists is the submission of opposing parties that Al Jazeera has a pattern of broadcasting comments that expose Jews to hatred or contempt on the basis of religion or ethnic origin, contrary to Canadian values and the broadcasting policy objectives set out in the Act. A number of opposing comments included examples of abusive statements that the parties submitted had been broadcast by Al Jazeera in the past. Some of these statements are set out in the appendix to this notice. Because opposing parties argued that there are no regulatory mechanisms to deal with the broadcast of such statements by non-Canadian services, the preferred position of most of these parties was that the Commission deny the requests to add Al Jazeera to the digital lists.

....

61. In regulating and supervising the Canadian broadcasting system to prevent abusive comments that would undermine Canadian broadcasting policy objectives set out in the Act, the Commission must be mindful of section 2(3), which provides that the Act "shall be construed and applied in a manner that is consistent with the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings." The Commission must also take into account the provision of section 2(b) of the Charter, which guarantees freedom of expression to everyone. The Commission must consider the freedom of expression rights of broadcasting undertakings as well as those of potential viewers.

...

66. The Commission [addressed anti-Semitic references] broadcast on Al Jazeera. ... While the Commission accepts that some of the statements, if presented in the context of a forum challenging anti-Semitism, might not be considered as likely to expose Jews to hatred or contempt, it notes that neither the sponsors nor any supporting parties submitted any evidence that the statements were actually presented in any such context.

67. The Commission also notes the submissions of a number of supporting parties that it is important to distinguish between the statements of Al Jazeera hosts and statements made by guests or viewers. ... the Commission considers that there is a line between reporting on hate as news in newscasts or news coverage, as opposed to facilitating its expression or directly expressing, condoning or adopting it. In this case, it does not appear that any of the statements in the appendix were news reports.

68. At the same time, based on the record of this proceeding, the Commission finds that a decision to deny the requests to add Al Jazeera to the digital lists, which would mean that the service could not be distributed by any BDU in Canada, would not strike the appropriate balance between protecting against the harms of abusive comment and respecting freedom of expression for the reasons that follow.

69. First, the Commission notes that most of the statements from Al Jazeera broadcasts provided by opposing interveners were provided in isolation with almost no context in which to evaluate them. Context, including cultural context, is particularly important given that the statements provided were translations from Arabic and, as such, may not have conveyed the full intent and meaning of the original words in the Arabic culture. Other important considerations include the nature of the program and the circumstances during the program in which the statements were made. It would not be appropriate for the Commission to deny the requests to add Al Jazeera to the digital lists based on statements that the parties submitted were broadcast in the past but for which adequate context was not provided. In coming to this conclusion, the Commission does not, in any way, minimize the potential harmful effect of the statements or the possibility that, if considered in context, some or all of them might have been contrary to Canadian broadcasting policy.

70. A second reason why the Commission considers that it cannot demonstrably justify a decision to refuse to add the entire Al Jazeera service to the digital lists and thereby deny Arab Canadians and other potential viewers the benefits of the diversity such programming would provide is because the Commission has before it only a relatively small number of statements that parties submitted were broadcast by the service. Parties did not always identify what Al Jazeera program statements came from. When the program source was identified, the Commission notes that only a few programs, mostly The Opposite Direction, were cited frequently. The Commission has no evidence that the majority of Al Jazeera programs raise any concerns about abusive programming. The relatively limited number of statements is too slim an evidentiary base upon which to characterize the entire programming of a service that has, to the best of the Commission's knowledge, been broadcasting 24 hours a day, 7 days a week, since 1996.

71. Finally, most of the statements cited were made well over two years ago and may not provide accurate examples of Al Jazeera's current programming. The Commission notes the commitments included in the reply comments of the CCTA and Vidéotron that Al Jazeera would take the necessary steps to avoid abusive comment and would be more sensitive to the way opinions are expressed. The Commission also notes the submissions in these reply comments that Al Jazeera "has a great respect for Canadian laws and regulations," and "will be a proud addition to the Canadian Broadcasting System." In light of the statements in the appendix to this notice, the Commission would have concerns about accepting at face value the statement from the representative of Al Jazeera that the service will not broadcast abusive comment, especially because the Commission has no regulatory

power over Al Jazeera. On the other hand, the Commission has no basis on which to treat the statement as untrue or to disregard it.

...

Accordingly, the Commission has decided to add Al Jazeera to the digital lists. However, this alone does not fulfill the Commission's responsibilities. The Commission still has the duty under the Act to balance, on the one hand, freedom of expression, the broadcasting policy objectives of programming diversity, the provision of programming drawn from international sources, the provision of differing views on matters of public concern and a broadcasting system that safeguards, enriches and strengthens the economic fabric of Canada, with, on the other hand, the policy objectives of ensuring that programming reflects the equal rights of Canadians and the multicultural and multiracial nature of Canadian society and that the system safeguards the cultural, political and social fabric of Canada.

73. In light of the statements that Al Jazeera has, according to parties, broadcast in the past and the potential harmful effects of such statements, the Commission determines as a finding of fact that there is sufficient credible evidence to establish that future Al Jazeera programming, taken in context, could include abusive comment that could be contrary to Canadian law and be inconsistent with the section 15 Charter value of equality that underlies Canadian broadcasting policy. Given the seriousness of these matters and the fact that the Commission's abusive comment regulation does not apply to non-Canadian programming distributed by BDUs, the Commission has a duty to consider whether it is reasonable and necessary to authorize Al Jazeera, subject to certain measures, in an effort to prevent, to the greatest extent possible, the distribution of abusive comment on the service and thereby draw an appropriate balance among all of the objectives, rights and values articulated in the preceding paragraph.

74. Before considering specific measures, however, the Commission notes the arguments of a number of supporting parties that, even in the event that Al Jazeera were to broadcast hateful material, a number of mechanisms already exist to deal with such concerns after the broadcast. Some of the mechanisms identified by these parties were Commission regulations, the CBSC, criminal hate speech laws, defamation laws and the ability of the Commission to delist the service.

75. The Commission is not persuaded that these mechanisms are either currently available or, that if they are, they would be effective to deal with abusive comment that may be broadcast on Al Jazeera. First, the Commission notes that the prohibition on abusive comment contained in section 8(1)(b) of the Regulations applies only to programming that a distribution undertaking originates and, therefore, would not apply to the Al Jazeera service. Second, membership in the CBSC is not open to non-Canadian broadcasters. Third, the Commission is doubtful that hate and defamation laws would be effective to deal with Al Jazeera programming distributed in Canada. Finally, delisting would be disruptive to subscribers and is too blunt an instrument to be relied upon as the primary method to deal with concerns about a potentially small portion of the programming.

Recordings to provide context

76. The first measure considered to address concerns about abusive comment is a requirement that a licensee of a BDU that distributes Al Jazeera retain an audio-visual recording of each Al Jazeera program for a period of four weeks and provide such recording to the Commission upon request, if the Commission wishes to investigate whether any abusive programming has been distributed. The purpose of this measure would be to ensure that the Commission and licensees of BDUs will be able to verify and assess the context of the programming in the event of any future concerns about abusive comment on Al Jazeera's programming. Pursuant to section 5(2)(g) of the Act, the Commission must consider the administrative burden that this requirement would impose on licensees of BDUs wishing to distribute Al Jazeera. The Commission finds that the expense to a licensee of a BDU of retaining such recordings would be minimal. Most licensees of large BDUs are already required to keep such recordings pursuant to sections 28(2) and (3) of the Regulations for programming that they originate.

77. The Commission also finds that it would contribute to the achievement of the policy objectives of the Act if the Commission were to accept and investigate any complaints about abusive comment on Al Jazeera. The Commission would, of course, provide the relevant licensees an opportunity to comment before it would make a determination on any such complaints. Audio-visual recordings would permit a contextual and evidence-based examination of any future concern about potential abusive comment on Al Jazeera. The Commission considers that such an examination would be necessary before it could properly exercise its power to delist the service, given the right to freedom of expression. The Commission finds that the requirement for audio-visual recordings is necessary in conjunction with a public complaints process to ensure the right and proper balance between the various rights and broadcasting policy objectives.

Responsibility of distributors

78. The second measure considered is a requirement that a BDU distributing Al Jazeera not distribute, as part of that service, any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability. In conjunction with this measure, the Commission would permit a BDU distributing Al Jazeera to alter or delete the programming service in the course of its distribution solely for the purpose of complying with the requirement.

79. The Commission is of the view that it is necessary to impose the requirement that no abusive comment be distributed as part of the Al Jazeera programming service on licensees of BDUs distributing Al Jazeera to prevent, to the greatest extent possible, the distribution of abusive comment on the service pursuant to the Commission's statutory responsibility to regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in section 3(1) of the Act. The policies that are most relevant to such a requirement are found in sections 3(1)(d)(i) and (iii) and section 3(1)(h) and are paraphrased as follows:

1. The Canadian broadcasting system should serve to safeguard, enrich and strengthen the cultural, political and social fabric of Canada;

2. The Canadian broadcasting system should, through its programming serve the needs and interests, and reflect the circumstances and aspirations, of Canadians, including equal rights and the multicultural and multiracial nature of Canadian society; and

3. All persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast.

80. The CCTA argued in its reply comment that responsibility for content should reside with the originator of the content, that is, Al Jazeera. The Commission considers that this is simply not viable. The Commission does not license Al Jazeera and has no direct jurisdiction over it. The only link the Commission would have to Al Jazeera is through the licensed BDU that makes the choice to distribute Al Jazeera and maintains a contractual relationship with that service.

81. The Commission recognizes that this measure is a restriction on the freedom of expression of BDUs and, potentially, of viewers of Al Jazeera. However, the right to freedom of expression is not absolute; it is subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. The Commission considers that this requirement is justified because it is demonstrably necessary, based on the record of this proceeding, to ensure that Al Jazeera programming distributed in Canada reflects the circumstances and aspirations of Canadians, including equal rights and the multicultural and multiracial nature of Canadian society. The Commission also considers that the requirement is minimally impairing. It does not deprive BDUs and Canadian viewers of the Al Jazeera service.

82. How a licensee of a BDU exercises its responsibility, at first instance, will be up to the licensee. The Commission would not necessarily find it unreasonable if different licensees of BDUs exercised this responsibility in different ways. Some might be more proactive than others. No licensee of a BDU is actually required to alter or curtail the Al Jazeera signal as a result of this notice. The Commission considers that the relationship that a licensee of a BDU that is distributing the service will have with Al Jazeera, especially in light of the commitments made on Al Jazeera's behalf by its agent in this proceeding, may well provide the licensee with other options to deal with abusive programming concerns. If a licensee does alter or curtail the programming, the Commission requires it to exercise the power sparingly to alter or delete only to deal with abusive comment. The Commission recognizes the additional administrative burden that licensees wishing to distribute Al Jazeera will face as a result of this measure. The Commission, however, does not expect this administrative burden to be excessive, although it is difficult to determine the precise extent of such a burden before Al Jazeera is distributed.

83. The Commission also notes that, under this measure, the range of options available to licensees of BDUs to deal with any abusive comment on Al Jazeera is greater than those available to the Commission. Although the Commission retains the ability to delist the Al Jazeera service, many parties argued that delisting was too blunt a measure.

Conclusion

84. In light of all of the above, the Commission approves the addition of Al Jazeera to the digital lists. The revised digital lists are set out in Revised lists of eligible satellite services, Broadcasting Public Notice CRTC 2004-52, 15 July 2004. These lists note that authorization to distribute Al Jazeera is subject to the licensee of the BDU having a condition of licence governing the distribution of Al Jazeera. The Commission is prepared to consider expeditiously applications by licensees of BDUs for a condition of licence that would:

1. Require a BDU distributing Al Jazeera:

a) to retain and provide a clear and intelligible audio-visual recording of each Al Jazeera program distributed on its undertaking for a period of

i) four weeks after the date of distribution of the program; or

ii) eight weeks after the date of distribution of the program, if the Commission receives a complaint about abusive comment from a person regarding the program or for any other reason wishes to investigate abusive programming and so notifies the licensee before the end of the period referred to in paragraph (i); and

b) not to distribute, as part of the Al Jazeera programming service, any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability.

2. Permit a BDU distributing Al Jazeera to alter or delete the service in the course of its distribution solely for the purpose of complying with requirement 1(b) above.

* * * End of document * * *