
**CANADIAN BROADCAST STANDARDS COUNCIL
PRAIRIE REGIONAL COUNCIL**

CFRN-TV re Eyewitness News

(CBSC Decision 96/97-0149)

Decided December 16, 1997

S. Hall (Chair), D. Braun (Vice-Chair), K. Christensen, D. Dobbie,
V. Dubois and D. Ish

K. Christensen, who sat on other matters during the meeting of December 16, is employed by CKCK-TV, a Baton affiliate station; consequently, she abstained from consideration of this matter

THE FACTS

During its Eyewitness news broadcast of March 3, 1997, CFRN ran a news feature, an "Eyewitness News Extra" on the subject of indoor playgrounds at fast food restaurants in the Edmonton area. The transcription of the entire feature news item follows, beginning with the introduction by the station's news anchor:

News Anchor: Tonight on Eyewitness News Extra: How safe are your kids when they use indoor playgrounds? They might be taking home more than just happy memories. A viewer recently told us that he believes his son got sick from playing in a ball pen. So investigative reporter Janice Johnston tested some of the local facilities to find out if there is foul play.

Video cut to kids playing in one of the indoor playgrounds.

Reporter: How come the balls are so much fun?

Little Girl: Because I get to pour myself in and jump into it.

Reporter: Kids love these places. They dive, roll, throw, bury themselves in ball pens. But wherever there's kids there's germs.

Nelson Fok: You may get food particles in there. The kids can have accidents. The diapers may leak.

Little Girl: The germs are invisible but they are there.

Reporter: Our Eyewitness news team wanted to find out what germs, what bacteria lurk where your kids just want to have fun. We tested the surfaces of balls like these by following instructions from the lab that worked with us, first picking up the balls very carefully from different sections of the ball pit. Then we would drop them into a provided sterile bag. A solution was provided to us. We washed the ball in that solution. And it is that solution that was sent here to the lab for analysis.

We chose six locations at random: a Discovery Zone, Bonkers, Ikea, Galaxyland at West Edmonton Mall and two McDonald's, in Castledowns and St. Albert. Every speck, every growth in these dishes is bacteria. Prairie Biological Research suggests a level over ten thousand should be considered as a trigger to remedy the problem. Here's how the ball pens stacked up. Ikea was the lowest at a 2,600 total bacteria count per ball. There's weekly spotcleaning done here and a thorough washing every three months.

Ikea Representative: Each one is cleaned and dried by hand and then brought back to the ball room. And, while that is happening, the ball room is completely cleaned.

Reporter: Discovery Zone's total bacteria count per ball came in at 2,700, Galaxyland at West Edmonton Mall, 2,800; Bonkers in North Edmonton 4,300. The two McDonald's locations tested highest. Castledowns at 28,000. St. Albert McDonald's 191,000.

Mother: Holy ...

Reporter: One Mom is shocked when we show her the results.

Mother: As it is right now, there are very few occasions when I allow them to go in anyway but there's even going to be less. This is too high. It's unacceptable, in my opinion. I just won't let my daughters play in them.

Reporter: We shared our test results with the president and CEO of McDonald's Western Canada. Ron Marcoux tells us, <As far as we're concerned, the balls are really maintained very very well. If we're not doing something right, we'll make that change, I guarantee it. Maybe cleaning once a week isn't enough. It's not our intention to harm anyone.' Back in the lab further testing of all the samples found no toxic bacteria that could make your child really sick. That surprised a Senior Inspector with the Edmonton Board of Health.

Reporter: So, what does that mean? If there's nothing harmful, then parents don't need to worry?

Nelson Fok: No, not finding harmful bacteria does not mean it is safe. Like I said, the potential for contamination is there.

Reporter: And if your child licks a ball, puts it in his mouth or finishes playing, then sits right down to eat, that contamination can go right into your child's system.

News Anchor: Let's check in with Janice again through live. Janice, what is the bottom line in all of this?

Reporter: The bottom line in all of this, Darrell, is that these ball places are fun places for your kids to play but, when they do go in to play, keep an eye on them. Make sure that nothing goes into the mouth. And, when they're finished playing, well, make sure that they wash their hands off really well before they go on and do the next thing.

News Anchor: A good idea almost any time of the day. In fairness to McDonald's the Board of Health points out that their higher levels could be a natural result of higher traffic and the closeness of their ball pens to food. Was McDonald's surprised by your results, Janice?

Reporter: Definitely. They say that they do their own testing. They've even developed their own cleaning solution and clean those ball pens on a regular basis. I should mention, Darrell, that just a couple of hours ago, we received a fax from McDonald's telling us that they randomly selected three locations to do some testing - we don't know when - and that all of those levels came back at low levels that they believe are not dangerous.

News Anchor: Okay, thanks, Janice Johnston, for that report.

The Complaint

The President and Chief Executive Officer of McDonald's Restaurants, Western Canada, wrote a letter to the President of CFRN-TV on March 5. A copy was sent to the CRTC and that copy, in the normal course of events, was forwarded to the CBSC to be dealt with pursuant to the standard processes regarding complaints made with respect to any of Canada's private broadcasters who are members of the CBSC. The text of that letter is as follows:

It is a rare occasion when I feel compelled to write to senior management of any media outlet about news coverage. The CFRN-TV "Eyewitness News Extra" broadcast during your station's 6 p.m. Eyewitness News on Monday, March 3, 1997, was, in my view, such a strong example of irresponsible TV journalism that I cannot let it go unchallenged.

First, the five-minute report was unduly alarming, using information without proper context to imply that the bacteria counts mentioned pose a serious threat to the health of children who play in these ball pits. That is not so. From our information, your reporter, Janice Johnston, was told by Nelson Fok, the Senior Health and Environmental Consultant for Capital Health in Edmonton, that test results she showed him were insignificant in the health safety context.

Ms. Johnston was less than honest with McDonald's when she called us to request an on-camera interview. In a telephone conversation on February 28, she told me that her tests were conducted through the cooperation of the Public Health Inspector (Mr. Fok). Mr. Fok advises that he and his department were asked to interpret the results, but had no part in the actual testing.

Ms. Johnston faxed to me a copy of a Prairie Biological Research Ltd. report that showed results from two McDonald's restaurants. She did not mention to us that she would report additional lab results showing another McDonald's restaurant with a higher count. I can only assume she was practising "sand bag" journalism, intending to disclose that information to McDonald's only if and when she had us in front of the cameras.

In addition, Ms. Johnston indicated in her telephone conversation with me that the bacteria count for the McDonald's location was, in itself, harmless, just higher than at other locations. That's not the message her report delivered.

Presenting that factual information, of course, would have made viewers ask "What's the story?". Instead, with clever editing, the report cut from a set of numbers to a mother's "Holy lord!" exclamation, thereby creating reason for alarm and concern about health safety.

In my view, that is very bad journalism and, in fact, I suggest that trying to scare the public where there is no good reason to do so is irresponsible in the extreme.

There was nothing in the broadcast report to identify how many balls were tested, or whether the persons who picked the balls out of the Play Place were qualified to do so. Nor was there any acknowledgment that the balls had been picked out clandestinely. Had that been done, the viewers may have shared our concern about the validity of Ms. Johnston's testing process and the accuracy of the results.

I told Ms. Johnston of our concerns in that regard. I also told her of the extensive steps we take to clean and maintain our Play Place locations. And we provided her with the results of random scientific tests conducted by professionals of Norwest Labs and a Health Microbiology professional's interpretation stating that "the results (ranging from 1,200 to 16,000 CFU/ball), are not alarming in any way," and well within the limits expected.

At the very end of a report designed to alarm viewers, Janice Johnston acknowledged our information. She did not acknowledge the credibility of the tests or the fact that the assessment of safety was that of a professional microbiologist. She attributed that assessment to McDonald's.

I suggest that, if you examine what your station has done in this event, you will find the report is inaccurate, alarmist and irresponsible. I can only hope that you will take whatever steps are necessary to improve on the quality of your so-called "investigative" journalism in future. I await your reply.

The Broadcaster's Response

On March 13, the Vice-President and General Manager of CFRN-TV responded to McDonald's and forwarded a copy of that letter to the CRTC. It was also forwarded to the CBSC, which in turn communicated with the President of McDonald's, forwarding a Ruling Request, again a standard procedure. The text of the CFRN-TV reply was as follows:

Thank you for your letter of March 5 regarding our news coverage. Your concern and comments have been taken with complete attention.

I have reviewed the approach to the story with respect to balance and I have been assured that our news department attempted to balance the story and still give the public information concerning the potential hazard of ball pits.

The story was reviewed prior to telecast and some of the "alarmist" elements were subsequently edited prior to airing.

The final comment in Ms. Johnston's live report was that ball pits are fun spots for children, but a reminder to parents not to let children put the balls in their mouth and to make sure they wash their hands once they have finished playing.

Again, thank you for your letter. Your comments and opinions caused much debate in our news operation. Receiving your feedback was beneficial and will help and guide us in future decisions.

The concerns of McDonald's President were unallayed and he requested, on March 25, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

THE DECISION

The CBSC's Prairie Regional Council considered the complaint under the *Code of Ethics* of the Canadian Association of Broadcasters (CAB) and the *Code of (Journalistic) Ethics* of the Radio and Television News Directors Association (RTNDA). The relevant clauses of those Codes read as follows:

RTNDA Code of (Journalistic) Ethics, Article 3

Broadcast journalists will not sensationalize news items and will resist pressures, whether from inside or outside the broadcasting industry, to do so. They will in no way distort the news. Broadcast journalists will not edit taped interviews to distort the meaning, intent, or actual words of the interviewee.

CAB Code of Ethics, Clause 6 (News)

It shall be the responsibility of member stations to ensure that news shall be represented with accuracy and without bias. The member station shall satisfy itself that the arrangements made for obtaining news ensure this result. It shall also ensure that news broadcasts are not editorial. News shall not be selected for the purpose of furthering or hindering either side of any controversial public issue, nor shall it be designed by the beliefs or opinions or desires of the station management, the editor or others engaged in its preparation or delivery. The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening, and to understand events so that they may form their own conclusions.

Therefore, nothing in the foregoing shall be understood as preventing news broadcasters from analysing and elucidating news so long as such analysis or comment is clearly labelled as such and kept distinct from regular news presentations. Member stations will, insofar as practical, endeavour to provide editorial opinion which shall be clearly labelled as such and kept entirely distinct from regular broadcasts of news or analysis and opinion.

It is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of the broadcast publisher.

The Regional Council members viewed a tape of the newscast in question and reviewed all of the correspondence. For the reasons given below, the Council considers that the broadcaster has not breached either of the Codes.

The Perspective of an "Involved" Complainant

On most, but not all, occasions, the CBSC is called upon to deal with complaints filed by viewers or listeners who have no *direct* interest in the news or public affairs report in question. It is interesting, although only peripherally relevant, that there was, in Great

Britain until a short while ago, an entirely different complaints mechanism for dealing with matters in which the complainant felt personally aggrieved by the report. As it happens, in Canada, as in almost every other jurisdiction of which the Council is aware (including Great Britain today, following the merging of the two complaints bodies into the Broadcasting Standards Commission), all complaints, whether from an aggrieved or a “disinterested” party, are treated with equal diligence. That being said, the complaint of an aggrieved party does require *particular* attention to the words used in the letter of complaint on the assumption that the party may be expected to know more about the facts surrounding his or her complaint. The Council is, however, equally aware, that an aggrieved party may come to an issue with a “thinner skin” regarding any allegations made. There is, in that sense, a very particular balance to be brought to the viewing of such issues.

In the case at hand, the President and C.E.O., Western Canada, of food giant McDonald’s complains of the coverage of an aspect of its business activities, namely, children’s indoor playgrounds. The coverage did not focus on McDonald’s alone; it dealt with “six locations [chosen] at random: a Discovery Zone, Bonkers, Ikea, Galaxyland at West Edmonton Mall and two McDonald’s, in Castledowns and St. Albert.” In his letter of complaint, McDonald’s President used terms such as “irresponsible TV journalism”, “unduly alarming”, “pose a serious threat”, “‘sand bag’ journalism”, “clever editing”, “irresponsible in the extreme”, “alarmist” and so on. He also suggested that “less than honest” techniques were used to elicit an on-camera interview and to perhaps surprise the McDonald’s official ultimately interviewed with previously undisclosed information before the camera. It was also alleged that “clever editing” techniques were used to make the report more dramatic, “creating reason for alarm and concern about health safety.”

The Council members watched and re-watched the news story in an effort to determine whether the effect of the story was as dramatic and “alarmist” as McDonald’s President had alleged. The Council’s conclusion is not the same. That being said, there is no doubt, in the view of the Council, that the intention of the news reporter was *not* to recount a story that would *not* attract attention. This alone does not mean that her story would be breach of either of the above-noted Codes. There is not either any doubt, in the view of the Council, that the news reporter would have merely threaded together the interviews she obtained in a chronological or other nondescript order. This also does not mean that her story would breach the aforementioned Codes. There is, in fact, an expectation on the part of the Council that the feature item was “ordered” in the first place because it would be newsworthy and that it was edited to be interesting and to have impact. The question for the Council is whether either goal was achieved at the cost of any contravention of the Codes.

The Allegation of Alarmist or Sensationalised Treatment

McDonald’s President used the word “alarming” or one of its derivations no less than four times in his letter and accused the station of “trying to scare the public”. While the Council members understand that McDonald’s would be concerned over *any* report that cast

aspersions on any of its business practices, their view is that the issue was not alarmist or sensationalised, either as to its substance or as to its treatment.

To begin with, the Council considers that a careful and thorough review of the news feature reveals that there was nothing either particularly dramatic or even of anything more than a normal level of concern for a parent in the report. There was not, for example, any allegation of even a serious illness, much less a death, on the part of any individual in the Edmonton area (or elsewhere) resulting from playing in the ball pens or from any other aspect of the fast food business. Nor is this a small point for, in making this observation, the Council notes that several cases of deaths in fast food chains in the United States have been revealed in the relatively recent past. The present matter stands in stark contrast to such problems. No viewer would have drawn any such dramatic or alarmist conclusions from the Eyewitness News Extra. In this case, the most serious allegation was that “a viewer recently told us that he *believes* his son *got sick* from playing in a ball pen. [Emphasis added.]” While this was apparently the motivation to do the story, the Council considers that the implications of it were largely benign. At two points, there is a mention of germs. In one, the reporter observes that “wherever there’s kids, there’s germs “ and a little girl observes shortly thereafter that “the germs are invisible but they are there.”

Thereafter, the reporter describes the method of conducting the tests, which appears to be reasonable but is not presented so as to fool any audience into believing that this is the equivalent of a formal study on a grave infectious disease which would merit inclusion in a medical journal. The *only* shocked individual in the story as told by the station was a mother, whose concerns were understandable but not likely to frighten *anyone* into doing anything more dramatic than taking the reasonable degree of care with what young children put in their mouths *anywhere*. Even the reporter observed at one point that “back in the lab, further testing of all the samples found *no toxic bacteria that could make your child really sick*. [Emphasis added.]” While her comment was followed with a reaction from a Senior Inspector with the Edmonton Board of Health who said that “the potential for contamination is there,” the conclusion was that the ball pens are fun places to play, that parents should keep an eye on their children, that parents should “make sure that nothing goes into the [child’s] mouth”, and that, when the children are finished playing, parents should “make sure that they wash their hands off really well before they go on and do the next thing.” As the news anchor then concluded, this advice would be “a good idea almost any time of the day.” All in all, the Prairie Regional Council is of the view that the feature news story was not either sensational or significant, much less sensationalized, in terms of the *RTNDA Code of (Journalistic) Ethics*.

Previous CBSC Decisions Dealing with Sensationalization

The Council believes that the foregoing conclusion will be perfectly clear when considered in comparison with other matters in which the CBSC has been called upon to deal with the issue of sensationalization of a news or other story. Two groups of decisions will be referred to. In the first, the CBSC found that the broadcasters had *not* sensationalised the

reporting of the stories, each of which was, in the Prairie Regional Council's view, more dramatic than the news feature under consideration. In the second group, the CBSC found that there had been breaches by reason of sensationalization. These matters will readily be seen to be far more concerning than the matter at hand.

In *CITY-TV re Newscast (Toronto Humane Society)* (CBSC Decision 95/96-0226, October 21, 1996), the broadcaster had reported the case of a couple who had been charged by police with unnecessary cruelty to animals, fraud, and other offences after a police raid revealed that the couple had some 70 cats and dogs living in their home. It showed the couple, the exterior of their residence and also informed viewers about the activities of animal welfare organizations. The complaint came from the couple involved who felt that the coverage was biased and sensationalized for profit. The Ontario Regional Council disagreed.

If sensationalism there was, it arose *out of the story itself* and not from the station's reporting of it. There was no distortion in the recounting of events by CITY-TV.

In *CKEN-AM re Newscast* (CBSC Decision 95/96-0134, February 14, 1997) the broadcaster, in three newscasts, reported on a traffic accident which had resulted in the death of the complainants' daughter. In those newscasts, the broadcaster had added a reference to the fact that the deceased had herself been involved in a traffic accident one and a half years previously in which a man had died. The report did include a reference to the fact that she had been cleared of any wrongdoing in relation to that death. Here, too, the Atlantic Regional Council concluded that there had been no sensationalization of the story. They did find against the broadcaster but only on the ground that the information about the previous accident had been irrelevant background information in terms of Article 2 of the *RTNDA Code*.

In *CTV re Canada AM (News Graphic)* (CBSC Decision 93/94-0071, June 22, 1994), CTV was accused of using the graphic of a firearm to illustrate a case involving the strangulation of a Montreal priest. The Ontario Regional Council found no intention to sensationalize the story.

In the first place, the *opening* words of the news reader were: "The strangling death of a Montreal priest, Reverend ..., has heightened the fears among the city's gay community that someone is stalking and killing homosexuals." While the graphic used was that of a handgun, it was the view of the Regional Council that the gun had been used as a *symbol* of crime, not as an indication of the means of assassination. *Any* doubt on this issue was clearly resolved by the broadcaster in her three opening words "the *strangling* death". Short of not using any background graphic, the Council members were hard pressed to conjure up a generalized depiction of a strangling. ... Furthermore, the Council did not consider that this graphic depiction in any way sensationalized the event, which was in and of itself sufficiently horrifying, without regard for the *method* used in murdering the priest. Consequently, the Council did not consider that the use of the graphic could be considered a sensationalization of the news so as to constitute a breach of article 3 of the *RTNDA Code of Ethics*.

In *CJOH-TV re Nightline News* (CBSC Decision 94/95-0081, March 12, 1996), the Ontario Regional Council dealt with a broadcast report of the vigil held in Minto Park in remembrance of the massacre at the Université de Montréal. A viewer who had attended the vigil objected to the coverage of the event and felt that the broadcaster showed disrespect for women and violated her privacy and that of other women in attendance by showing the final few moments of the vigil despite a collective request to allow them “a private moment of grief/rage/sorrow/etc.” After careful consideration of the questions of “full, fair and proper presentation” of the news as required under clause 6 of the *CAB Code of Ethics* and of sensationalising the news as prohibited by Article 3 of the *RTNDA Code of (Journalistic) Ethics*, the Council concluded that there had been no breaches of either Code.

Although the Council fully appreciates the sensitivity of individuals to the coverage which they or their events receive (after all, no-one is closer to a news story than the person or persons involved *in* the story), it does not believe that there is *any* question of Code impropriety in either respect in this case. The story *as told* was neither sensational nor sensationalized; it was sombre, evocative, thoughtful, even wrenching in the memory of the tragic events which gave rise to the need for the vigil in the first place.

As a result of the important coverage accorded to the Canadian Forces Airborne hazing story by CTV, the Ontario Regional Council dealt with the airing of certain very unpleasant footage. In *CTV re Canada-AM (Airborne Hazing)* (CBSC Decision 94/95-0159, March 12, 1996), the Ontario Regional Council dealt with the use of a lengthy video segment showing the subsequently disbanded Airborne Regiment’s unpleasant hazing practices, which was included in the 7:00 a.m. newscast on *Canada AM*. The Council stated that

A story broadcast simply to engage the public’s attention would likely be characterized as sensationalism and thus in breach of the *RTNDA Code of Ethics*.

The Council explained that this was not such a case. As the Council put the matter,

In the view of the Council, the CTV News Department fulfilled all of its responsibilities. In the first place, it is clear that the story had to be told. With the benefit of hindsight, Canadians know that this story has remained a matter of great institutional importance up to and including the date of this decision and current events indicate that the end of this sorry episode of Canadian military history is not yet in sight. There can thus be *no* doubt but that CTV’s foresight in running the story was entirely justified.

The question is then whether the editorial judgment exercised was appropriate. Members of the Council were aware not only of what material was used by CTV but also, broadly speaking, of how much more video material *might* have been selected. However unpleasant was the material which was used, there were, Council concluded, *much* more explicit and lengthier clips which could have been chosen for airing. If anything, members were hard pressed, in viewing and re-viewing the 15 seconds of material, to find bits which were as visually unpleasant as the warning had suggested. In the view of the Council, CTV News, while clearly not *sanitizing* the report, had *not* either exaggerated or exploited it as a function of what *could* have been shown.

The foregoing examples have been included to provide examples of stories in which the broadcaster had *not* been found to have sensationalized the news items. The Prairie Regional Council considers that the ball pens story is considerably more innocuous both in its nature and in its presentation than any of the above *non*-sensational items. Consider, moreover, the nature of the stories which the CBSC has occasionally found to be sensationalized.

In *CJRQ-FM re Opinion Poll* (CBSC Decision 94/95-0135, March 26, 1996), the on-air host had asked the audience, in conjunction with a standard polling segment, the question “Should taxpayers pick up the tab for sex-change operations that are deemed medically necessary?” A selection of listener’s views were later chosen by the station as a cross-section of listeners’ views and broadcast. One such call contained the following phraseology: “some sick demented obviously mentally disturbed homosexual”, “minces into a hospital or clinic” and “this misfit of the natural order”. Other callers, while agreeing with this point of view, used more temperate language. As the broadcaster had selected this call from among 198 calls received in response to their invitation, the Council also concluded that

the choice of the first caller’s message was made for the purpose of sensationalizing the item, contrary to the provisions of Article 3 of the *RTNDA Code of (Journalistic) Ethics*.

In *CTV re News Report (Police Shooting)* (CBSC Decision 94/95-0213, March 26, 1996), the 7:00 AM newscast included as its final story a 22-second item which showed a woman getting out of her van and being shot by California police. The Ontario Regional Council believed that the network’s coverage of this matter stood in stark contrast to the incident treated in *CTV re CANADA-AM (Airborne Hazing)*, (CBSC Decision 94/95-0159, March 12, 1996). The Council expressed the difference in the two decisions in the following terms:

There was no fundamental relevance of this American story to Canadian viewers, nor was there *any* attempt made to establish such a link. In general terms, there was no editorial context given for the piece, for viewers in any country. Furthermore, except for the moment of the shooting, no story was even told. There had been no information on the reasons for the shooting and no details on whether the woman in question had been armed. There was neither introduction nor follow-up. The Council believes that the airing of the news item simply turned on the *availability* of the video component. The piece ran *because* of the video clip whereas, in the case of the *Airborne Hazing*, there was a story *without* the clip. It was, of course, a better story with it but there *was* a story to be told. In this matter, the Council considers that there was none, other than the “shock value” of the film clip itself.

In consequence, the Council considers that the running of the news item in question constituted a totally unnecessary “pictorial representation of violence”, contrary to the *CAB Violence Code*, and that, in airing the story without providing any context, the broadcaster had sensationalized the news, contrary to the *RTNDA Code of Ethics*.

On balance, then, it is the view of the Prairie Regional Council that, objectively viewed, and when weighed with the CBSC’s previous decisions on similar matters, CFRN-TV cannot be seen as having breached Article 3 of the *RTNDA Code of (Journalistic) Ethics*. This is not,

however, the end of the matter, for, even if the report was not sensationalised, the Prairie Regional Council must assess the fairness and balance in Janice Johnston's report.

Fairness and Balance

The Council here deals only with the on-air portion of the reporter's comments. In the first place, it had no way to determine what transpired during telephone conversations attempting to set up interviews. Not only does the CBSC never have a tape or transcript of such conversations, but it is also not an evidence-gathering body. It does not hold "hearings" in a quasi-judicial sense. It limits its review, in almost all cases, to the evaluation of the on-air program against the Codes which it administers. While the correspondence between the complainant and the broadcaster is always taken into consideration, these letters are treated only as argument and not as evidence. The CBSC members understand that issues of what the broadcaster *intended* to be the effect of the program or the way in which the listener or viewer *understood* the program are not ultimately determinative. What reaches the airwaves is the issue. How then it is evaluated by the fair-minded Regional Council members, representing both the public and industry, who had neither involvement in its creation nor legal interest with the broadcaster is the bottom line. Whether mere coincidence or not, it is remarkable that, to the date of this decision, every single decision has been unanimous, whether for or against the broadcaster. This decision is no exception.

The Prairie Regional Council is unable to assess the scientific rigour of the testing process which the station used. It does, however, believe, from the report, that there was full disclosure of the process used and that the issues and consequences were not of *such* moment that science is material in the determination. Moreover, it does appear that a provincial health official was given the opportunity to be heard on the report and that, beyond the simple *potential* of non-toxic contamination, no serious consequences were alluded to. An Ikea representative appeared on air and the invitation was apparently extended to McDonald's. While no representative of the chain chose to appear, the company was adequately represented in the report. McDonald's President's statement, quoted by the reporter was clear and unequivocal:

As far as we're concerned, the balls are really maintained very very well. If we're not doing something right, we'll make that change, I guarantee it. Maybe cleaning once a week isn't enough. It's not our intention to harm anyone

And then, at the very conclusion of the piece, the following dialogue between the reporter and the news anchor again underscored McDonald's view on the issue. It is quoted earlier in the context of the entire news report but worth reiterating here:

News Anchor: A good idea almost any time of the day. In fairness to McDonald's the Board of Health points out that their higher levels could be a natural result of higher traffic and the closeness of their ball pens to food. Was McDonald's surprised by your results, Janice?

Reporter: Definitely. They say that they do their own testing. They've even developed their own cleaning solution and clean those ball pens on a regular basis. I should mention, Darrell, that just a couple of hours ago, we received a fax from McDonald's telling us that they randomly selected three locations to do some testing - we don't know when - and that all of those levels came back at low levels that they believe are not dangerous.

The Prairie Regional Council has no hesitation in concluding that the broadcaster's presentation of the issue was "full, fair and proper", to quote the words of Clause 6, paragraph 3, of the *CAB Code of Ethics*. Although McDonald's would obviously have preferred that the news feature not air at all, the presentation was, in the view of the CBSC, balanced and McDonald's, even though not on air itself, had its point of view fully and fairly presented.

The Broadcaster's Response

In addition to assessing the relevance of the Codes to the complaint, the CBSC always assesses the *responsiveness* of the broadcaster to the substance of the complaint. In this case, the Vice-President and General Manager dealt with the points raised by the President of McDonald's in a thoughtful way. His position did not satisfy the complainant but the Council is always aware that this is necessarily the case with matters which get to a Regional Council adjudication. It does not in any way diminish the appropriateness of the broadcaster's response.

This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.