
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CKVR-TV re News Item (Car Troubles)

(CBSC Decision 97/98-0235)

Decided July 28, 1998

A. MacKay (Chair), R. Stanbury (Vice-Chair), R. Cohen (*ad hoc*), P. Fockler,
M. Hogarth and M. Ziniak

THE FACTS

On August 20, 1997, during its 6:00 p.m. newscast, CKVR-TV (Barrie) aired a consumer-related news item headed "Car Troubles". The 2-minute report about a woman who bought a used van which failed to live up to her expectations went as follows:

- Anchor: Now, truck troubles for one VR-Lander tonight and possibly a lesson learned for the rest of us. Shane?
- Reporter: Yes indeed, Robert. A Sutton woman tried to save a little bit of money so she bought a used van. Well, the van broke down and that's where the trouble began.
- Purchaser: It's unbelievable. It's very, very frustrating.
- Reporter: Do you feel like you've been taken advantage of?
- Purchaser: I have been more than taken advantage of.
- Dealer: I shouldn't really tell you this but this is stupid and this has gone too far. I'm putting out hundreds of dollars of my own money to satisfy her. And if it hadn't come to this, I should have just said "Sorry, I'm not helping you."
- Reporter: It's a consumer's worst nightmare. On May 1st, [the consumer] bought a used van from this local car dealership, right here behind me. She paid about 36 hundred bucks. Now, six weeks after she got the van, the vehicle just died. Now, she negotiated with the owners of this dealership for about a month and they agreed that both sides would pay 50% of the repair costs. Well, [the consumer] dropped off the van for repairs on July 18 and she came by late last week to see how things were going but when she got here she couldn't believe her eyes.

- Purchaser: One of the so-called mechanics who was fixing, who was apparently fixing, was sleeping in my van and my plates were taken off of my van and put onto another vehicle.
- Reporter: You saw your plates on another vehicle.
- Purchaser: I saw them and I told them to take them off immediately.
- Dealer: He said he fell asleep for ten minutes, for an hour, for half an hour. He said he worked all night and I believe him.
- Reporter: Your employee fell asleep...
- Dealer: He's not an employee. He's a mechanic that does work wherever he can get it done.
- Reporter: She says she saw her plates on another car, though.
- Dealer: No, I don't know anything about that. I would never do that. I mean, I have dealer plates. I don't need to do that.
- Reporter: Now, [the dealer] says he has done everything by the book. In fact, he says he has gone out of his way considering that [the consumer] bought the car and the van "as is", no warranty, no certification. So it's kind of "buyer beware". Now, late word this afternoon, the [consumer]'s van could be ready as early as tomorrow morning. Still no word, yet. The [consumer]s say they have heard that before so they will believe it when the van is actually in their driveway.
- Now a bit of advice to pass your way tonight. If you're buying a used car, if you are taking your car in for repairs, do your homework. An educated consumer is the best kind of consumer. Find out exactly what you need, maybe get references before you take your car to somebody or purchase a car from somebody because you never know what could happen once you drive your car off the lot. Robert.
- Anchor: Good advice. Thanks very much for that, Shane.

The Letter of Complaint

On September 5, 1997, the proprietor of the small town used vehicle business wrote to the CRTC stating that:

I would like your government regulated body to become aware of a situation that the above television station had publicly maligned myself and my business. As a result of a broadcast dated August 20th, 1997 I believe that an unrepairable misrepresentation has been televised.

I am the sole proprietor of a small town used vehicle business, I had sold an auto to a [purchaser], as is, uncertified, no warranty. The vehicle became defective two months after purchase. I would then decide, (with goodwill intended) to help defer her costs of repair, by

contributing professionally and financially. I am quite certain that I was not legally, but possibly morally bound to help.

Due to the length of time for repairs and the unprofessional nature of the mechanics involved, I believe that [the purchaser] felt that she should be given absolute financial exemption. She would solicit a Mr. Shane Foxman, CKVR public advocate, to perhaps overstate, sensationalize, and create the appearance of an injustice in retail sales. A segment in the telecast shows a view of my business, and the reverberating narration of "BUYER BEWARE".

I received many phone calls from strangers and acquaintances alike, because of the show, with some suggesting that I might have to shut my doors entirely. I had not condoned an interview on camera, but when the cameraman forced his way in I did not wish to appear discourteous on film. The interview was honest and unyielding. The interviewer had stated on film that "If it was up to me I would have told her to pound salt!" Meaning that, no dealer responsibility should be assumed and that Mr. Foxman in a reversed roll would not have conceded financial responsibilities. Quite extraordinary considering this opinion would not surface on telecast.

After being advised of the 6 P.M. news telecast upheaval, I immediately contacted Mr. Foxman, and pleaded that the 11 P.M. segment be not shown. He would say that it was not defaming and that I should watch it, and not concern myself with other people's responses. Soon after that conversation I would receive numerous calls of concern, that would lead me to realize, that I had been masterfully duped and exploited, only to further emotional responses from television viewers.

In a small residential area such as this any allegation of impropriety or act of misrepresentation of service or product is a death sentence. I did not deserve this treatment from these sensationalists.

The day proceeding the telecast I had spoke to the newsroom manager and had asked for a copy of the airing. Six hours after my request, I was told no tape would be forthcoming. I am requesting an apology from CKVR.

I hope that the C.R.T.C. will attempt to discern if any improper act has been committed by this medium, and whether this sort of publicly self-asserting, and self-satisfying of untruths should be allowed indiscriminately to ruin small enterprise, such as mine.

The Broadcaster's Response

The Vice President and General Manager for CKVR-TV replied to the complainant on September 29, 1997 with the following:

I have received your letter dated September 5th, 1997 in which you express concern regarding a news story presented in VR Land News on August 20th, 1997.

We reviewed the story produced by Shane Foxman and spoke to Tony Panacci, our News Director, to whom you spoke the following the broadcast. Obviously, in producing a consumer related news item it is our obligation to present the complete picture to our viewers, which means all sides of the story. Our reporter interviewed [the consumer] regarding her complaint, and then interviewed you so that you could present your position, which you did. The point was made quite clear throughout the story that you did more than you were legally obligated to do by agreeing to pay for half the repair costs and you were given the opportunity to explain this during your on camera interview. As a matter of fact,

while you were on camera, there was a quote on the bottom of the screen reading “Doing everything I can”. I understand that during your conversation with Tony Panacci he invited you to come to the station to view the tape of the story, as you had not seen it, but you chose to decline. Since I presume that you still have not seen it, I am including this transcription of the final words in our news report:

“[The dealer] says he has done everything by the book, in fact, he says he has gone out of his way considering [the consumer] bought the car/van “as is” - no warranty, no certification ... so it’s kind of buyer beware”.

The report ends with a suggestion to our viewers that they become ‘educated consumers’.

I feel our actions in the presentation of this news item was [sic] done with the journalistic integrity that we strive for in all our news stories. We have retained a copy of this story, as requested by the Canadian Broadcast Standards Council in their letter dated September 17, 1997.

The complainant was unsatisfied with the broadcaster’s response and requested, on October 1, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

THE DECISION

The CBSC’s Ontario 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:

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 labeled as such and kept distinct from regular news presentations. Member stations will, insofar as practical, endeavour to provide editorial opinion which shall be clearly labeled 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.

RTNDA Code of Ethics, Article 1

The main purpose of broadcast journalism is to inform the public in an accurate, comprehensive and balanced manner about events of importance.

RTNDA Code of 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.

The Regional Council members viewed a tape of the newscast in question and reviewed all of the correspondence. The Council considers that the program in question does not violate any of the provisions of the Codes of Ethics cited above.

Requests for Tapes by Viewers

The complainant stated that “the day proceeding [*sic*] the telecast I had spoken to the newsroom manager and had asked for a copy of the airing. Six hours after my request, I was told no tape would be forthcoming.” According to the broadcaster, the News Director invited the complainant to come to the station to view the tape of the story but the complainant “chose to decline”.

The Council considers it appropriate to note, however, with respect to the complainant’s request for a copy of the broadcast tape in question, that broadcasters are not required, either by law, by any broadcast code or by virtue of their membership in the CBSC, to provide tapes of their programming to complainants or any other member of the public upon request. Each broadcaster’s fundamental legal obligation (under the *Broadcasting Act*) and its CBSC membership obligation is to *retain* logger tapes of the programming broadcast on their station for a period of 28 days (some broadcasters choose to keep logger tapes for longer periods) and to provide copies of these logger tapes *to the CBSC*, if requested by it for the purposes of adjudicating a complaint. While it goes without saying that a broadcaster may at any time provide a logger tape copy to a complainant or other individual, broadcasters are under no obligation to do so. Moreover, once the CBSC complaint process is engaged, it is the moreso appropriate for the involved broadcaster to respond to any such request by saying that the matter is in the hands of the Council and will be dealt with there.

A General Explanation of the CBSC’s Role Regarding “Off-air” Events

In circumstances where there may be any conflict between two versions of what transpired in an off-air telephone conversation, as in this case, the Council is not in a position to make

any determination on that issue since the CBSC does not hear witnesses, carry on investigations or gather evidence in any other way. As stated in *CFRN-TV re Eyewitness News* (CBSC Decision 96/97-0149, December 16, 1997), where there are not agreed facts regarding an off-air matter, the Council is limited to being able to deal with the “on-air” portion of the complaint:

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.

Circumstances often do arise which depend on off-air issues and where there is either agreement on the off-air facts or there is no materially different view of those facts. In such cases, the CBSC is free to express its view of matters, provided they fall under the Codes or standards relating to broadcaster membership.

The Content of the Program

With respect to the substance of the complaint, the Council understands that businesses may be particularly sensitive about being targeted by “consumer report” news segments. Where the report is anything less than positive, the business involved may feel wronged by the broadcaster and complain that the report was unfair or sensationalized. In *CFRN-TV re Eyewitness News* (CBSC Decision 96/97-0149, December 16, 1997), the CBSC noted that a delicate balance must be struck in dealing with “involved” complainants. In that case, the Prairie Regional Council dealt with a complaint from an executive at McDonald’s Restaurants who claimed that a news feature on the subject of indoor playgrounds at specific fast food restaurants in the Edmonton area was “alarmist” and sensationalized. In a preface to its decision in that case, the Council stated:

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 this case, as in the *CFRN Eyewitness News* case, the Council considers that the complaint clearly reflects the complainant’s sensitivity regarding his business more than it does unfairness on the part of the broadcaster. Setting aside for a moment the question of

choice of the subject of the report, the Council considers that the report was fair and balanced and not particularly dramatic, much less sensationalized. The report clearly indicated that the dealer had done “everything by the book” and that the consumer had bought the vehicle “as is”, without certification or warranty. It also presented the dealer’s explanation and denial of the allegations made by the consumer that she saw a mechanic sleeping in her van and her licence plates put on another vehicle.

In *CFCN-TV re “Consumer Watch” (Travel Agency)* (CBSC Decision 95/96-0240, December 16, 1997), the president of a discount travel agency complained that reports about his business did not give “the other side of the issues.” In finding no breach of the Code, the Council made the following comments on the fairness and balance requirement of the RTNDA Code:

It appears to the Council that the complainant, in alleging that the story should have included “the other side of the issues”, considers that the fairness and balance requirement for news reports means that negative comments about a company must be balanced by positive comments. The Council disagrees. Were the complainant’s view correct, there could never be a negative or critical news report. At the end of the day, it is the *reporting of the newsworthy event* which must be evaluated for its objectivity and fairness and not the overall effect of the news report on the person or company who is its subject...

To the extent that the complaint goes to the broadcaster’s choice in doing a report involving the complainant’s business, the Council notes that, under the *Broadcasting Act*, broadcasters enjoy “journalistic, creative and programming independence”. The Council is of the view that this independence is also a cornerstone of the interpretation which should be given to the industry Codes which members of the CBSC have agreed to abide by. Accordingly, the Council does not question the broadcaster’s determination of the newsworthiness of this consumer report.

Broadcaster Responsiveness

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 Council considers that the broadcaster’s response addressed fully and fairly all the issues raised by the complainant. Nothing more is required. Consequently, the broadcaster has not breached the Council’s standard of responsiveness.

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.