
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CTV re *W5* (“Lawn Wars”)

(CBSC Decision 95/96-0187)

Decided October 21, 1996

A. MacKay (Chair), R. Stanbury (Vice-Chair), P. Fockler, T. Gupta,
M. Hogarth and M. Ziniak

THE FACTS

CTV’s well-known and well-respected public affairs program *W5* was, at the time of the complaint, broadcast weekly on Tuesday evenings. It is a magazine format show, each episode being composed of multiple news features, investigative reports and current affairs segments. On April 9, 1996, one of the *W5* segments broadcast was entitled “Lawn Wars”. In brief, the segment, as the title suggests, told the story of the conflict between two Toronto neighbours who were “warring” over issues related to the states of their respective properties. Since the way which *W5*’s producers chose to tell the story is a part of the issue, the Council will not, at this point, delve any further into the characterization of the issue or the presentation of the segment, beyond providing a transcript of the 8 minute 15 second piece.

Eric Malling (W5 host): Bickering neighbours and their yards. It sounds like the subject of a National Film Board short subject. But, as Christine Nielsen reports, the neighbours are real enough and their lawn war is pretty basic.

Christine Nielsen: What better way to unwind from a stressful day teaching kindergarten; but, as she sits on her front porch admiring beautiful gardens, Hyla Fox is not relaxed. She’s feuding with her neighbour. Let’s just say she’s not a cat person and her neighbour is. But it goes much further than that. Hyla complains that the yard next door assaults her senses.

Hyla Fox: It’s when I come home and see the dirt and the grossness and I smell it that my stomach gets into a knot.

Sandy Bell (the neighbour): This piece of land is an ecosystem.

Christine Nielsen: Sandy Bell and Hyla Fox live in opposite halves of a Toronto duplex. And where their front yards meet, their values collide.

Sandy Bell: It teaches my son that we can coexist with nature. We can be in harmony with it. We don't have to conquer it anymore.

Christine Nielsen: Hyla says Sandy's yard is unconquered, all right.

Hyla Fox: There's no element of design here. There's no element of thought, of planning. It's just what comes up, comes up and grows and lasts forever, dies and is still there the next year.

Sandy Bell: My neighbour prefers to have an industrial monoculture.

Christine Nielsen: Industrial monoculture. To environmentalists that means grass and chemicals. Hyla says she doesn't use pesticides and she admits that she hates having to cut the lawn. But she thinks, if she can do it, then Sandy should.

Hyla Fox: The environment is not Sandy Bell's concern; it's more or less that she is very lazy.

Sandy Bell: Ah! The laziness thing. Right.

Christine Nielsen: Sandy has heard that charge before. But she insists that she works hard on her wild yard.

Sandy Bell: This is a going concern. This is a cultivated garden that I put time and money and love into.

Christine Nielsen: And she is not alone on her war on the traditional lawn. Some 400 people showed up in Toronto for a week-end conference on gardening. The message: lawns are an environmental hazard because of pesticides, excessive watering and all those lawn mower fumes.

Ken Druse: I think that the lawn as it exists is a dinosaur. It can't persist.

Christine Nielsen: So who is this guy? Some radical eco-zealot who couldn't care less about landscaping? Hardly. Ken Druse is the gardening editor for the mainstream magazine *House Beautiful*. And his message about the lawn strikes a chord with this crowd.

Conference Attendee: I don't think I'll ever look at a lawn the same way.

Second Conference Attendee: Definitely, I'm starting to think that there's something wrong with it. Definitely.

Third Conference Attendee: I think it's unnatural. I think it's imposed. I think it's eco-system unfriendly.

Christine Nielsen: Mind you, the ladies at the Balmy Beach Lawn Bowling Club won't give up their grass so easily.

Lawn Bowler: I don't think we could live without grass.

Second Lawn Bowler: I wouldn't enjoy the summer without the lawn.

Third Lawn Bowler: We wouldn't know what to do in the summer without our bowling. Think of it. It would be terrible.

Christine Nielsen: And they are more than ready to defend their turf should any anti-lawn activists show up here.

Lawn Bowler: We'll just kick' em off, that's all. "Go home."

Second Lawn Bowler: Get them drunk and send them home.

Christine Nielsen: But Hyla and Sandy are home and they've been playing real hard ball. Hyla Fox: May 31st, just after the grand rainfall.

Christine Nielsen: When Toronto City Council was thinking about liberalizing its lawn by-law, Hyla Fox borrowed a video camera and did a running commentary.

Hyla Fox: Here we are at Sandy Bell's. Trash weeds are almost four feet tall.

Christine Nielsen: When it saw these pictures, the Council actually toughened the law. Sandy was fined \$50 and was told, if she didn't cut her lawn, the city would.

Sandy Bell: I just find the whole thing completely violating and quite frightening, really.

Christine Nielsen: Violating, frightening. In Waterloo, Ontario, Elizabeth Vandreunen [*phon.*] felt the same way when she heard the city inspector was coming to inspect her lawn.

Elizabeth Vandreunen: I cried. I cried a lot.

Christine Nielsen: But she needn't have. City inspector Brian Desler [*phon.*] says Waterloo actually encourages natural gardens. The only rule: keep it short close to the fence line.

Brian Desler: The only area concern would be trying to maintain this one-metre buffer strip back here. Anything growing here is hardly over two feet, so we're not too bad as far as compliance with the buffer strip.

Christine Nielsen: It's not so easy in Toronto where Sandy Bell ended up in court. She was fighting the city's order on the grounds that it violates her Charter right to free expression. Not that Sandy or Hyla have had much trouble expressing themselves. These days, there's so much tension across the back fence that, when we were talking to Hyla, Sandy's boarder started shouting from the window.

Christine Nielsen: Why don't you come out and talk to us?

Mary Laughlen: I'd love to.

Christine Nielsen: Mary Laughlen says Hyla just doesn't understand the new landscape.

Mary Laughlen: You know, it's a post-partum period where people have to get used to chaos and a lot of other things.

Christine Nielsen: But the talk quickly degenerates.

Mary Laughlen: Why do you take my music and play it back to me?

Hyla Fox: It was me playing.

Christine Nielsen: Suddenly it's piano playing, and then the gloves really come off. Someone mentions cats.

Mary Laughlen: And they're very beautiful cats.

Christine Nielsen: Is this your guy here?

Mary Laughlen: Yeah, this is Beebop.

Christine Nielsen: Hyla says Beebop and his buddies have been trespassing in her yard and she can prove it.

Hyla Fox: I have photographs of the cats here.

Mary Laughlen: We can't train cats.

Christine Nielsen: Like cats, the natural lawn is not for everyone. You can actually hear the difference. Hyla's lawn is silent. Sandy's speak for itself.

Sandy Bell: There's lots of insects in here.

Christine Nielsen: So I guess that is part of the idea - right? I mean, you want the bugs here, I assume.

Sandy Bell: Oh, absolutely, this is at home for them and for the kids, and you know, the cats.

Christine Nielsen: Shh. Don't say the "c" word again.

Sandy Bell's son: I can hear a cricket. Come here.

Christine Nielsen: And to be fair, where else on this street could Sandy's son chase bugs through tall grass?

Sandy Bell's son: Oh my God, look at them all. They live underneath there. I didn't know that.

Christine Nielsen: The attractions in this patch of herb and wilderness are best seen at close range, like the foxglove and the yarrow and the little yellow poppy that matches the fire hydrant. But what is missing is some kind of neighbourhood harmony.

Sandy Bell: Obviously my neighbour has a different aesthetic, different belief system, different opinion than I do. I just don't understand why there isn't tolerance.

Hyla Fox: There's a certain element of respect that you have to show your neighbours and your community.

Sandy Bell: Why are two women having a conflict over gardens, for goodness sake?

Christine Nielsen: The answer likely has more to do with the women than with gardening styles or lawn by-laws. After all, when neighbours get along, they can put up with a lot. But when they're unhappy with each other, there's no telling where trouble will pop up next.

The Letter of Complaint

The complainant, who was one of the two property owners in question, was very displeased with *W5's* presentation of the segment and sent the following letter of complaint to the CBSC on April 14.

On Tuesday, April 9, 1996, CTV's *W5* aired a segment entitled Lawn Wars. I was interviewed extensively for that piece and participated solely because it was the highly esteemed *W5* doing the story. My trust, it seems was completely misplaced as the story they broadcast on National Television was slanted, biased, distorted, heavily weighed [*sic*] in favour of one side, improperly edited, sensationalized and worse yet, turned into a comedy, at my expense.

To say that I was embarrassed and humiliated is an understatement.

I'm writing now to request that an independent third party examine the tape to determine if my impressions are correct and if so, provide the producers with advice on how to present an accurate story, without distortions, without malice.

Here are the basics. [My neighbour] and I share a wall in a semi attached home in downtown Toronto. Since she moved in, about 5 years ago, I have been faced with all kinds of major problems such as: noise, including a year and a half of her learning to play a full drum set; abuse by her boarders and their pets; dirt and garbage that attracted rodents (the Health Department ordered her to clean up); garage sale leavings which, although covered by a giant rug, remained on her front porch for 8 months. The icing on the cake, however, was her lawn. She refused to take care of her property. Weeds grew and remained there year after year. Finally, when the City of Toronto fined her and threatened to cut it down, she suddenly announced that she was doing it for environment [*sic*] reasons. A save-face tactic to be sure.

[My neighbour] got the environmentalists behind her and they funded her court appearances, supplied her with correct information and statistics and helped her find various weeds to add to her collection.

In frustration, because the City was about to pass a by-law allowing so-called natural gardens, and believing it incorrectly to be like an English wild flower garden, I took a video. After seeing it, they changed the by-law, making the new laws even stronger.

I told the producers this story but I also told them the bottom line for me was a market value issue. Who would want to live next door to this mess? The condition of her property depreciated the value of mine substantially. That was my issue; my reason for agreeing to be part of the *W5* story. I clearly said it on camera. They left that on the cutting room floor.

Instead they focussed on the cat issue. Yes, I did tell them that her cats dug up most flowers I planted; that they urinated on them and destroyed most things I put in; that they sprayed my house and that the smell was revolting. But it was a tiny part of the story I told them. They blew it up and made it THE story. They portrayed me as an animal hating, mean-spirited

crazy goof. They turned the story into a cheeky, comical cat tale. And, as the executive producer told me on the phone when he tried to placate me, "Well, [it] was just a trivial story."

Not to me. All my money is tied up in that house. Not being able to sell it or losing \$20,000 or \$30,000 is mightily [*sic*] important to me. Maybe it's trivial to him.

On [my neighbour's] side were the people they taped at an environmental convention; a woman in the same position as [my neighbour] but living in a small community; [my neighbour] herself and her boarder who didn't speak about this issue at all, rather she just berated me, lying that I taped her playing the piano and then played it back to taunt her???? (I also have a piano and I can play Bach as badly as the boarder, who incidentally moved out the day after the piece was taped.)

On my side was a brief interview with me (horribly edited, clipped) and some old ladies lawn bowling. Why they chose them is beyond me since they weren't bowling on their own properties, weren't experts, weren't involved or knowledgeable about the issue and were involved in a sport that obviously required a clean, grassy surface. They did not talk to any of my neighbours, several of whom called the producer ..., asking to be interviewed; nor did they show the petition that was signed by all the neighbours. They did not interview an expert gardener or horticulturist, nor did they talk to the city inspectors.

I am a freelance journalist. If I submitted such an article my editors would simply send it back to me and ask to get a more accurate picture of both sides. The fact checkers would quickly find a story distortion. Who are the fact checkers at CTV's W5, anyway?

For your information, I did write a piece for THE GLOBE AND MAIL on this very issue. Please note how I carefully examined both issues. Mine and hers. How come television journalists are exempt from using the same code of ethics the rest of us have to follow?

When I speak to groups about the media, writing, interviewing, journalistic morals, values and expectations, you better believe this story will be told and retold. I'll do everything in my power to let the public know how W5 and CTV works; to show the public that in Canada, there are very few broadcast standards. People who do taped interviews should have a written contract and be given other protections so that con artists like [the producer] aren't given free reign to cause pain and humiliation.

The Broadcaster's Response

The Vice President of CTV News replied to the complainant on May 21.

I am sorry you did not like the segment. I have reviewed the tape of the story and cannot agree with your claim that the segment was "*slanted, biased, distorted, improperly edited,*" and so on.

You seem to be upset by the fact that [your neighbour] was given air time to explain her views. But you were also interviewed. While not everything you said was used -- a normal practice in television -- your statements make your opinion clear. You accuse Sandy Bell of laziness and that suggests that she doesn't really believe in the environmental aspect of her garden.

It is a quite simple story about differences in horticultural philosophy between two neighbours. Not every issue was covered. For example, the reporter and producer chose not to deal with

the market value issue. That was a subjective choice but that does not mean that the story was not valid and that it deserves the kind of condemnation you have given it in your letter.

The complainant was unsatisfied with this response and requested, on May 25, 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 Clause 6 of the *CAB Code of Ethics* as well as Article 1, 3 and 4 of the *Radio Television News Directors Association (RTNDA) Code of Ethics*. The texts of these clauses read as follows:

Clause 6, *CAB Code of Ethics* (News and comment):

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 analyzing 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.

Article 1, *RTNDA Code of Ethics*

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

Article 3, *RTNDA Code of Ethics*

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.

Article 4, *RTNDA Code of Ethics*

Broadcast journalists will always display respect for the dignity, privacy and well-being of everyone with whom they deal, and make every effort to ensure that the privacy of public

persons is infringed only to the extent necessary to satisfy the public interest and accurately report the news.

The Regional Council members viewed a tape of the broadcast in question and reviewed the correspondence. The Council members consider that, for the reasons discussed at greater length below, *W5's* treatment of the issue was not “full, fair or proper”, and that, while not in breach of the terms of either Article 3 or 4 of the *RTNDA Code of (Journalistic) Ethics*, the network had contravened Clause 6 of the *CAB Code of Ethics* and Article 1 of the *RTNDA Code of (Journalistic) Ethics*.

Which Story to Tell?

In a general sense, the Ontario Regional Council agrees with the position which the CTV Vice President takes on the matter of the focus of feature stories told in the context of a program like *W5*. When he points out that “not every issue was covered”, the head of the CTV News Department is also saying that a broadcaster is under no obligation to cover every angle of every story. With this generalized position, the Council has no disagreement. The Council is fully aware of the pressures of deadlines, and the resource and time restrictions which are a fact of life in broadcast journalism.

It would extend this generalization further to say that, most of the time, viewers should not expect that every issue, every facet, every nuance of every story *can* be covered. The Council also agrees with CTV's position that the “subjective choice” made by the show's producers to leave out an item of concern to the complainant does not, *in and of itself*, lead to the inescapable conclusion “that the story was not valid.” While, as noted above, the CBSC considers that this segment was in breach of the two Codes of Ethics, it is because of the *way this story was handled*, and not because the CBSC takes issue with the two general principles dealt with in this paragraph.

A CBSC Precedent

The CBSC has previously explained its position on the entitlement of broadcasters to choose the story which they wish to tell. In *CFTO-TV re News Report (Pollution Study)* (CBSC Decision 92/93-0178, October 26, 1993), the broadcaster aired a news story in which it had referred to a U.S. air pollution study but basically focussed on the related local issues which it considered relevant to its viewers. The newscast cited *certain* results of the study, but also referred to efforts of the Canadian federal and provincial governments to issue smog warnings and encourage Canadians to help reduce levels of air pollution, and included interviews with representatives of the Ontario Government and the consumer advocacy group, Pollution Probe. The emphasis of both interviews was on the relationship between the motor vehicle and pollution.

On the day of the broadcast, a viewer wrote a lengthy letter, in which he stated, among other things, that the report was “particularly shameful and irresponsible [because the station had] turned it into a sensationalized philippic against the pettiest and least meaningful target available, while totally ignoring the significant sources of the problem” The Council considered that the special knowledge of the complainant and his familiarity with the study had led him to prefer that the broadcaster deal with the American pollution study in depth *rather* than with the local Canadian concerns to which the broadcaster had següed. While the Council took no issue with the complainant’s substantive position on the American study, it disagreed with his expectation that he was entitled to force the broadcaster to tell the story which *he* believed should have been told. The Ontario Regional Council stated:

It should first be noted that the complainant’s letter revealed in-depth technical expertise in the area. Indeed, this seemed to be at the root of the complaint. CFTO-TV’s report had deviated from the thrust of the American study, but the Regional Council did not consider that the station had foisted an *inaccurate* report upon the public. The reporter had *briefly* referred to the American report as the *lead* to his story. In stating (emphasis added), “The fine particles come *mostly* from the burning of fossil fuels which, *among other things*, power our cars,” he seems, even according to the complainant’s explanation, to have not inaccurately reflected the summary of the American study.

It is here that the complainant and the station parted company, for CFTO-TV used the American report only as a “top” to its story, which dealt with a local perspective, oriented more particularly toward the automobile. It did not *represent* that this was the essence of the study, or even a part of it. The complainant was obviously dissatisfied that the report did not adequately explain the American study; *this was not the story which CFTO-TV chose to tell*. In that, it was not inaccurate or biased. At worst, it simplified the more complex issues raised by the study. This does not, however, constitute a breach of the CAB *Code of Ethics*.

The Application of the Precedent to This Case

While the Council strongly agrees with CTV’s Vice President that, in general, a citizen cannot force a particular story to be told or insist that a particular perspective on a story be taken, it does not agree with *his* application of the general principle to *this* case. The relevant excerpt from his letter follows.

It is a quite simple story about differences in horticultural philosophy between two neighbours. Not every issue was covered. For example, the reporter and producer chose not to deal with the market value issue. That was a subjective choice but that does not mean that the story was not valid [...].

The CBSC’s disagreement with the broadcaster flows from the fact that the Council members do not consider that the segment was, as represented by CTV’s Vice President, “a quite simple story”. It is the broadcaster which so characterized “Lawn Wars” because *it* chose to tell the story that way when, in reality, the story had a far more serious side to it. It is the broadcaster which chose to tell the story flippantly, although invited not to do so. While there is a side to the story which is undeniably amusing, there is surely a serious

dollars and cents issue, one which the complainant described in the following way in her letter: “I told the producers this story but I also told them the bottom line for me was a market value issue.” Distilling complex issues into understandable elements for their audiences is a daily fact of life for broadcast journalists; however, *simplifying* a story and *trivializing* a story are two very different acts.

While the refusal of *W5* to deal with the “market value issue” was, as the broadcaster admits, “a subjective choice”, the Council does not believe that it was a fair and proper choice. The segment could certainly have focussed, as it did, on the light side of the issue, while being prepared with *some* attention to the financial and social component of the neighbourhood problem. The *total* elimination of that element resulted in the conversion of a matter with a serious aspect into a buffoonish tale. It was *W5*'s choice to do the story or not, but, in telling it the way it did, it used its enormous national credibility as a leading public affairs program to unfairly denigrate the complainant's very real and substantive concerns. It stepped outside of its own serious journalistic tradition to marginalize the concerns of the complainant, to trivialize what for her was a serious predicament and, in the view of the Council, to make her look foolish.

In this sense, the Ontario Regional Council believes that, contrary to the requirement of Clause 6, paragraph 3, of the *CAB Code of Ethics*, CTV's treatment of “Lawn Wars” was not the “full, fair and proper presentation of news, opinion [and] comment.” It also considers that the treatment of the segment was not “accurate, comprehensive and balanced”, as required by Article 1 of the *RTNDA Code of (Journalistic) Ethics*.

When the Council refers to *balance*, it is not referring to the reportage of *evolving* stories or events of a fixed duration such as an election campaign, where issues of balance and comprehensiveness can be judged over time, with the expectation that, over the course of the extended coverage, most if not all points of view connected with the issue will be addressed. In this particular instance, it was clear there would be no additional report. Consequently, the Council believes that the responsibility of the broadcaster to ensure balance and comprehensiveness, as expressed in Article 1 of the *RTNDA Code of (Journalistic) Ethics*, would, if anything, be slightly greater on the basis that this was a stand-alone item.

Other Issues

The CBSC agrees with the view expressed by CTV's Vice President, News, that “While not everything you said was used, [this is] a normal practice in television.” It is, in the Council's view, important that members of the public appreciate that this is the case. All news and public affairs stories, whether in the print or electronic media, begin large and are pruned small. The result is that, in all likelihood, only a *part* of what any interviewee says to a reporter in any medium will be used. The question ultimately relates to the *choice* which is made.

The Council does not consider that there was any editing of a taped interview so as “to distort the meaning, intent, or actual words of the interviewee” in breach of Article 3 of the *RTNDA Code of (Journalistic Ethics)*. The editing choice made by the broadcaster was to eliminate an entire issue from treatment. While the brief interview with the complainant was, in her view “horribly edited, [and] clipped”, there was no distortion of her point of view on the issues retained in the segment. She (and the Council) would have liked to see another issue treated but the decision not to do so has nothing to do with the prohibition in Article 3.

Broadcaster Responsiveness

The CBSC always recognizes the broadcaster’s obligation, as a CBSC member, to be responsive to complainants. In this case, the Regional Council considers that the response from the broadcaster dealt directly with a number of the issues raised by the complainant. It was not lengthy but it was sufficiently responsive. Consequently, the station did not breach the Council’s standard of responsiveness.

CONTENT OF THE BROADCASTER ANNOUNCEMENT

The station is required to announce this decision forthwith, in the following terms, during prime time and, within the next thirty days, to provide confirmation of the airing of the statement to the CBSC and to the complainant who filed a Ruling Request.

The Canadian Broadcast Standards Council has found that CTV breached provisions of the Canadian Association of Broadcasters’ *Code of Ethics* and the Radio Television News Directors Association’s *Code of (Journalistic) Ethics* in its broadcast of “Lawn Wars”, a segment of *W5*, on April 9, 1996. The CBSC found that, by dealing with a dispute between neighbours flippantly and failing to consider, even briefly, the significant social and financial implications of the story, *W5* had not provided the “full, fair and proper presentation” of the subject as required by the *CAB Code of Ethics* or the “accurate, comprehensive and balanced” presentation of the subject required by Article 1 of the *RTNDA Code of (Journalistic) Ethics*.

This decision is a public document upon its release by the Canadian Broadcast Standards Council.