
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CTV re News Item (Topless in Public)

(CBSC Decision 96/97-0235 and 0242)

Decided February 20, 1998

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

THE FACTS

On June 10, 1997, during its 11 p.m. newscast, CTV aired a report on the controversy surrounding the issue of women exposing their breasts in public. The issue had arisen in a very public manner six months earlier when, in December 1996, the Ontario Court of Appeal made such exposure legal by throwing out the charge of committing an “indecent act” laid against a woman walking topless on the streets of Guelph. The immediate repercussions of the decision were not seen until warmer weather permitted women wishing to take advantage of this new-found freedom to take their tops off and Ontario Premier Mike Harris made a comment about “in-your-face” toplessness which was the trigger for the CTV story.

CTV’s report included scenes of topless women and women in bathing suits. The visual component is the only aspect of the 22-minute report which generated complaints. Accordingly, rather than refer to a transcript of the report (which is often included in CBSC decisions dealing with complaints about news items), the Council finds it necessary to provide a *description* of the scenes contained therein. While the Council recognizes the wisdom of the adage “a picture is worth a thousand words”, it offers the following brief description of the CTV report in question.

The first scene following the anchor’s introduction and reference to Premier Harris’s statement is that of a woman in a bikini kneeling on a beach about to remove the top portion of her bathing suit. Once the woman is topless, a special effects video distortion obscures her breasts while she is interviewed. She is then shown from a different camera

angle, without the video distortion but with a bicycle wheel strategically placed in order to obstruct a clear view of her breasts.

As the report progresses, scenes are shown from a protest at which a topless Gwen Jacob (the woman who spearheaded the debate and whose charge was reversed by the Ontario Court of Appeal) is speaking. Ms. Jacob is seen from the shoulders up. It is clear that she is topless but her exposed breasts are not included in the shot.

Many of the scenes contained in the report depict persons (both male and female) on the beach. The women in the beach scenes include some who are in full bathing suits and some who are topless. The topless women are seen either from a distance or from the back.

Other scenes include a woman dancing topless on a stage at a senior citizens function, a topless woman seen from the back mowing the lawn and a topless man lying on a park bench.

The Letters of Complaint

The CBSC received two complaints about the report. The first complainant wrote to the CRTC on June 24, 1997; that complaint was forwarded, in accordance with customary practice, to the CBSC. This letter stated in part:

Once again as a woman and a human being I became (and remain) outraged and appalled as I surveyed the 11:00 p.m. news coverage the week of June 9 - June 15, 1997. This disgusting display was portrayed for three evenings on ... the CTV Network. This great Canadian news coverage was in fact one of the most pornographic, dehumanizing, degrading and exploitative media coverages of women that I have seen.

You may ask "How were women exploited on this coverage?"

Close up and explicit shots of women's breasts and buttocks

Interviews with men re contests as to who could take off women's bras the fastest

An interview of a pub owner in Grand Bend who advertises that they welcome topless women so that their male customers can ogle them

Squeegee kids shown topless washing cars

Shots of prostitutes and strippers taking advantage of the new law so they could ply their trade

Shots of women on beaches with breasts and buttocks in full view

How does this type of coverage portray women?

- Degrades
- Dehumanizes
- Portrays them as body parts only
- Exploits
- Implies that this is the “norm” and is sanctioned by the majority
- Devalues
- Portrayed as sexual objects

What does this say about women in our society?

- There is a pathology in our society toward women
- We do not have equal rights
- We are not taken seriously
- Our self image and self worth are negatively affected
- We are portrayed as stupid, sexual objects

How does this affect our lives?

It promotes:

- Fear
- Poor Self Image
- Anger & Rage
- Depression
- A sense of helplessness
- Sexual abuse/sexual attacks
- We do not have equal health funding
- There is no pay equity
- Loss of safety

All of the above affect every aspect of a woman’s daily life. Our basic needs and rights to good health and safety are seriously undermined.

The law regarding toplessness was the result of one woman and one crown attorney. It was never intended to be a media event of degradation and exploitation of women. Nor was it intended to be used as an excuse to dehumanize women and men also in the process. The situation has become deplorable. Why? Because the media has seized on this insanity and exploited it for their own gain.

The second complainant also wrote to the CRTC on June 24,1997; that letter was also forwarded to the CBSC. In her letter, she detailed her concerns as follows:

I am appalled and horrified that public funding is being used for the type of degrading and exploitative media coverage that it was my misfortune to witness on CTV ... What on earth do you think you are doing? Who do you think your audience consists of (or did consist of?) [?] Dirty old men who get their jollies watching close ups of bare breasts and buttocks?

This type of coverage is American sleaze. Come on....has the media really hit bottom at last? Run out of other news, have you? Somalia getting a little stale? Nothing else new so you

decided to embarrass thousands of decent women and men so you could provide some “titillating” coverage? No pun intended, but I can see you using that in one of your headlines.

You have just lost my total respect and support. Moreover, I really resent my tax dollars going to support the type of organizations you have become. I always thought I could trust Lloyd Robertson, but it has totally shattered my faith when I see him involved in garbage like this.

Politicians, take note ... responsible people who vote are not in favour of tax dollars used this way.

The Broadcaster’s Response

The Vice-President, Corporate Communications, and Director of Programming for CTV, responded to both complainants with the following:

This is in response to your letter concerning the June 10th CTV News report on the Ontario government’s ruling that allows women to show their breasts in public.

CTV News believed the story merited coverage. It was an issue that was dealt with by the Human Rights Commission, the courts, and the legislature. It was a story our viewers would expect to be covered on CTV News and Canada AM. As you know, the announcement by the Ontario government drew serious comment from women’s groups and provincial leaders.

Our coverage dealt with the reaction to the legislation as well as the ruling itself. In fact, on Canada AM, host Valerie Pringle interviewed Erika Kubassek of the Moral Support Movement and Denis Davey of the Hamilton Spectator, representing two sides of the reaction to the legislation.

Our coverage was not pornographic, sensational, degrading or titillating. We covered the story in a professional and tasteful manner in adherence to all broadcast codes and CTV’s journalist practices and policies.

Further Correspondence from the Complainants and the Broadcaster

The complainants were unsatisfied with CTV’s response and requested, on August 20th and 28th respectively, that the Ontario Regional Council consider their complaints. The first complainant returned her request for a ruling with a letter addressed to the CBSC’s Executive Director. This letter stated in part:

Their [CTV’s] letter did not address my concerns about sex role portrayal, exploitation and degradation in the media (cameras focussing on specific areas of the body which is in violation of [the] *CAB Code of Ethics*, Sexual [sic] Role Portrayal Guidelines, #4, Exploitation).

CTV did not indicate that they reviewed any of their video tapes aired between June 9 - June 15, 1997. I perceived it to be a very defensive letter.

The second complainant attached the following letter, addressed to the Vice President, Corporate Communications, and Director of Programming for CTV, to her request for a ruling:

I was referring specifically to the 11 p.m. news coverage that ran the week of June 9 - 15th, anchored by Lloyd Robertson wherein there were close up shots of women's breasts and buttocks, shots of squeegee kids topless, and interviews with men who were holding contests to see who could take a woman's bra off fastest. These were a few of the subjects covered in the interest of "enlightening" the public on the great topless debate. To me the topless issue provided an opportunity for coverage which was pure sensationalism and CTV took full advantage of it.

Your portrayal of women in the aforementioned incidents has, in my opinion, contravened the CAB Code of Ethics, Section 4, Sex Portrayal Guidelines, Exploitation. Allow me to refresh your memory "Television and radio programming shall refrain from the exploitation of women, men and children. Negative or degrading comments on the role and nature of women, men or children in society shall be avoided. Modes of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex."

In short, I am not satisfied with your reply and I felt it was a generalized letter, written too late and given so little thought that you did not even bother to sign it yourself. I encourage you to explore this matter further, to take more care in your research and to view the tapes that I am referring to.

The CTV spokesperson responded to the complainant's second letter as follows:

I received your letter today and respect your decision, and in fact encourage you to proceed with the CBSC regarding your complaint about the CTV News coverage of the topless issue in Ontario.

I do, however, want to assure you that I did screen the tapes you referred to. On a second screening today of the June 10th report introduced by Lloyd Robertson and reported by Tom Waters there was no footage of women's buttocks, no footage of topless squeegee kids and no interviews with men holding contests to see who could take off a woman's bra fastest. There was footage of women's breasts but these were not in CTV's opinion either exploiting women or degrading to the female sex. To be absolutely certain our research department did not overlook another report I am asking them to review the week's tapes again. The complete video record will be sent to the CBSC as they have requested and will be reviewed by their regional council.

THE DECISION

The CBSC's Ontario Regional Council considered the complaint under Clause 4 of the Canadian Association of Broadcasters (CAB)'s *Sex-Role Portrayal Code* and Article 3 of the *Code of (Journalistic) Ethics* of the Radio-Television News Directors Association (RTNDA). These clauses read as follows:

CAB Sex-Role Portrayal Code, Clause 4 (Exploitation)

Television and radio programming shall refrain from the exploitation of women, men and children. Negative or degrading comments on the role and nature of women, men or children in society shall be avoided. Modes of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex. The sexualization of children through dress or behaviour is not acceptable.

Guidance: "Sex-ploitation" through dress is one area in which the sexes have traditionally differed, with more women portrayed in scant clothing and alluring postures.

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.

The Regional Council members viewed the tape of the report in question, as well as Canada AM broadcasts dealing with the issue provided by CTV, and reviewed all of the correspondence. The Council considers that CTV's report on the topless issue which aired on June 10 did not violate any of the provisions of the Codes cited above.

A Discrepancy in the Description of the Newscast Content

In the first place, the Ontario Regional Council notes a discrepancy between what the complainant alleged was broadcast by CTV and what was *actually* broadcast. The Council does not deny that the complainants may have seen some of the reports which they describe as having been aired by CTV *somewhere* but it does not believe that the following components of the complaints were broadcast by the network as alleged. The Council did not find, for example, that the report included "interviews with men re contests as to who could take off women's bras the fastest", "An interview [with] a pub owner in Grand Bend who advertises that they welcome topless women so that their male customers can ogle them", "Squeegee kids shown topless washing cars" or "Shots of prostitutes and strippers taking advantage of the new law so they could ply their trade". The Council notes that CTV had been equally unsuccessful in finding such segments.

CTV's Vice President of Communications and Director of Programming stated in an e-mail response to the second complainant's explanation for her request for a ruling by the CBSC that "To be absolutely certain our research department did not overlook another report I am asking them to review the week's tapes again. The complete video record will be sent to the CBSC as they have requested and will be reviewed by their regional council." After reviewing the tapes, the Ontario Regional Council concludes that the CTV explanation of the contents is correct.

CTV's Entitlement to Broadcast Controversial Issues

A careful review of the complaints reveals that the issue for the complainants relates more to the matter being covered than the coverage of the matter. Television broadcasters did not, after all, create the issue. That was accomplished, in the first place, by Gwen Jacob, the woman from Guelph who first went topless in that town in a challenge to the law which

appeared to prohibit such disrobing in public. Leaving aside the question of *where*, if at all, five of the video reports alleged in the first complaint letter of June 24 were actually broadcast, it is pertinent to note that all six examples listed there relate to specific *events*. The bra removal contests, the pub invitation to topless patrons, the topless squeegee kids, the prostitutes and strippers “taking advantage of the new law” and the topless women on beaches would all constitute reports on what has happened or what is happening.

The point is that the story drove the coverage, not vice versa. The coverage was visual but so is the medium. To argue that television broadcasters should *avoid* the visual component of this story or any other must fundamentally depend on an evaluation of the broadcaster’s entitlement to *tell* the story. It is true that there is an issue related to *how* the story is told (and that issue will be dealt with next), but the *first* question relates to *which* stories can be told.

In this regard, the Ontario Regional Council considered two previous CBSC decisions, namely, those in *CTV re CANADA-AM (Airborne Hazing)* (CBSC Decision 94/95-0159, March 12, 1996) and *CTV re News Report (Police Shooting)* (CBSC Decision 94/95-0213, March 26, 1996). In the former, the Council was called upon to deal with controversial, if not also unpleasant, video footage of an issue of importance to the public. It said, among other things, that

In a democratic society, one of the fundamental rights of individuals is access to the news of the day. It is the cornerstone of the citizens’ collective knowledge base and the foundation of their own ability to evaluate public policy and the performance of their governments at all levels. Consequently, broadcasters’ reporting of the news is more than a right; it is a responsibility.

...

Thus, if anything, there must be a greater tolerance by society in the reporting of *reality* than in the *creation* of dramatic programming to entertain the public. ... The Code recognizes that society has a right, if not an obligation to have presented *to it* the reality of the news, however unpleasant or even intolerable that news may be from time to time.

This does not, however, open the floodgates to *every* bit of reality which could be defined as news or every bit of every story which *ought* to be brought to the attention of the Canadian public. Elements of editorial judgment must be exercised on many levels. Since, in the first place, there are innumerable stories competing for the time available in any newscast, a story ought to be reported for reasons “beyond simply engaging the audience’s attention”.

That a story *may* engage the audience’s attention does not, needless to say, militate against its being broadcast. That the story challenged in this case likely would engage the attention of many people is undeniable. It is, after all, a tale of challenge to normative values and does include a relatively gentle sensual, if not sexual, component. Those who object to the baring of breasts at all in public places are, it goes without saying, entitled to espouse and trumpet that view. Whether those who are of that view are entitled to force all

other views on the subject off the public stage is another matter. They cannot, of course, expect to be entitled to do so.

In the second case noted above, *CTV re News Report (Police Shooting)* (CBSC Decision 94/95-0213, March 26, 1996), the Ontario Regional Council applied the same principles but came to a contrary conclusion. The Council viewed the story of a California police shooting as sensationalized for the following reasons:

The Ontario Regional Council considers that the application of these principles here must lead to a conclusion differing significantly from that in the *Airborne Hazing* matter. In that case, the item was significantly longer (about 70 seconds) and the video component, which was only used halfway through the piece, lasted 15 seconds. ...

Most relevant of all to the members of the Ontario Regional Council is the issue of *context*. In the *Airborne Hazing* case, the issue was itself relevant to Canadians; it involved Canada's armed forces; and it was not the first disturbing story related to Canada's recent military experiences.

Bare Breasts

Regarding the scenes which *were actually included in the CTV report*, it is relevant to note that the mere exposure of breasts does not necessarily entail a breach of the Codes. In *CITY-TV re Fashion Television* (CBSC Decision 93/94-0021, February 15, 1994), a viewer was offended by the exposure of women's breasts as a part of the fashion report. The Council concluded that this was not *per se* a breach of the Code.

The fact that CITY-TV aired a story on the place of women's breasts in today's fashion was not exploitative. ... The Council felt that the concern of the complainant may be with what the international fashion designers are doing, but Council's view was that the reporting of those design trends did not exploit women or present a negative or degrading portrayal of women. As a result, the program did not constitute a breach of the *Code*.

In another decision regarding CITY-TV's broadcast of the program *Fashion Television* (CBSC Decision 94/95-0089, March 26, 1996), the Council stated that it did "not consider that the showing of partially clothed or even naked models is equivalent to pornography or sexual explicitness."

The Council also considers it relevant to note that the Ontario Court of Appeal stated in its decision regarding Gwen Jacob's toplessness that "There was nothing degrading or dehumanizing in what the appellant did." The Court of Appeal included the following quotation from a related decision on the topless issue:

Undoubtedly, most women would not engage in this conduct for there are many who believe that deportment of this nature is tasteless and does not enhance the cause of women. Equally undoubtedly, there are men today who cannot perceive of woman's breasts in any context other than sexual. It is important to reaffirm that the Canadian standards of tolerance test does not rely upon these attitudes for its formulation. I have no doubt that, aside from

their personal opinions of this behaviour, the majority of Canadians would conclude that it is not beyond their level of tolerance.

The Conclusion

On the basis of the two decisions cited above, the Ontario Regional Council has no hesitation in finding that the coverage of the topless issue by CTV was entirely justified. This issue, like many others in the news, was controversial, but it was also Canadian, relevant to other Canadians (whichever side of the substantive issue they might favour) and entitled to coverage, including the expected *visual* component. Moreover, the Council can find *nothing* in the CTV coverage itself which can be described, to use the words of the complaints, as degrading, dehumanizing, exploitative or devaluing. Moreover, there is certainly nothing in the coverage which implies that the Jacob behaviour or that of any of the other persons taking advantage of the Court ruling was normative. As to the acknowledgment of a woman's breasts as sexual, it would be hard to argue the contrary position. It is perhaps for this reason that, in ordinary social situations, breasts, like male and female genitalia, are generally clothed. There is nothing in CTV's coverage which *creates* any of the circumstances described by the complainants. To the contrary, the network's coverage was, in the view of the Council, tasteful, conservative, *unexploitative* and fair.

The Council finds that CTV was mindful of the level of tolerance of its viewers when it broadcast its June 10 report on the topless issue. No prolonged or close-up scenes of bare breasts were included in the report; rather, CTV chose to edit out such scenes through the use of image distortion or creative photography. The Council notes that these steps were taken by CTV despite the fact that the report aired at 11 p.m., well after the watershed hour (which, although created for the purpose of the *Violence Code*, has generally been used by broadcasters as a rough threshold for all types of "adult content").

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 complainants. Consequently, the broadcaster has not breached the Council's standard of responsiveness. Nothing more is required.

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.