
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CTV re News Item (CO Alarms)

(CBSC Decision 98/99-0475)

Decided November 19, 1999

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

THE FACTS

On February 28, 1999, during its late-evening news, CTV broadcast a report on carbon monoxide detectors (CO alarms). The two-and-half-minute report (a full transcript of which can be found in the Appendix to this decision) was introduced by Sandie Rinaldo, whose script used, among other things, the terms “disturbing questions ... over consumer safety”, “potentially lethal hazard of carbon monoxide poisoning” and “a safety issue that is sounding the alarm for a public inquiry”. The body of the item indicated that, according to a new study, “most devices don’t even meet national standards.” The reporter stated that the “testing” had been “observed by the Ontario Fire Marshall’s office” and that 26 detectors had been tested. The news report did not give any further description of the nature or extent of the testing said to have taken place at Toronto’s Seneca College. It did, however, offer the following conclusions: “81% [of CO alarms] failed to meet the new national standard and 58% didn’t meet the old standard which had been in effect for years.”

A viewer complained of this report on March 3. In his letter (which is available in full in the Appendix to this decision), the complainant stated that “[t]his brief piece attempted to destroy an entire industry”. He alleged that the “test” referred to in the report was actually only a “classroom demonstration” and that the information in the report relating to the Fire Marshall’s involvement was also erroneous.

The broadcaster responded to the complaint on April 14. (This letter is also available in the Appendix.) In support of its claim that the report was factually accurate, the broadcaster stated that “CTV News spoke directly to those who conducted the tests, one of whom is a professor at Seneca College, and another, an independent expert”. Responding to the allegation relating to the Fire Marshall’s involvement in the “testing”, CTV wrote:

Seneca College Professor Arman Kassabian attended the testing that was done at Seneca in January and February. In addition to his position at Seneca, Professor Kassabian also works for the Ontario Fire Marshall. In fact, when the Fire Marshall wanted information about the Seneca tests, he relied on Professor Kassabian to provide it.

On April 23, the complainant indicated that he was unsatisfied with the broadcaster's response and requested that the Ontario Regional Council rule on the matter. With his Ruling Request, the complainant also attached a letter in which he stated:

while Arman Kassabian is employed by the Fire Marshall's office he is also an occasional teacher at Seneca and he was there as an observer on his own time and not representing the Fire Marshall's Office. In addition, the response from CTV leads one to believe that the Fire Marshall "relied" on Mr. Kassabian for information as to the Seneca "tests" when they merely asked Mr. Kassabian for the results after being told by a CTV interviewer that tests were conducted at Seneca and there was a high failure rate and that Arman Kassabian was present. The Fire Marshall, in fact had no knowledge of the "testing" until told of same by the said CTV interviewer.

THE DECISION

The CBSC's Ontario Regional Council considered the complaint under the Clause 6 of the *CAB Code of Ethics* and Articles 1 and 3 of the *RTNDA Code of (Journalistic) Ethics*. It viewed a tape of the report in question and reviewed all of the correspondence. The Council is very uncomfortable with some of the statements made in the introduction and in the news report. While it concludes that CTV did not breach any provision of either of the Codes, it does consider the challenged report an unfortunate example of on-the-edge journalism.

The Content of the Report

The Council notes that CTV, in presenting the news item on CO alarms, went further than merely "reporting" on a public safety issue. While the Council notes, parenthetically, that it has no disagreement with CTV's statement, in response to the complainant, that the network's "fundamental responsibility is to the public, not to the promotion of an industry," it is troubled by aspects of the network's approach. With its choice of words and graphics, it appears that CTV sought to present a story which would jostle the public out of its potentially dangerous complacency. It appeared to target such a result by the use of such phrases as "disturbing questions" and "sounding the alarm" and by flashing the word "Fail" in bold red letters next to each of the statistical results of the "testing".

That the broadcaster used such phrases and visuals to emphasize the importance of its report is not problematic *in principle*. While Article 3 of the RTNDA Code states that "Broadcast journalists will not sensationalize the news", the Council takes no issue with *legitimate emphasis* placed by the broadcaster on a news story. This perspective was

exemplified by the recent B.C. Regional Council's decision in *CHAN-TV (BCTV) re News Item (Child Pornography)* (CBSC Decision 98/99-0249, October 14, 1999). In that case, the Council dealt with a complaint concerning the inclusion of pictures of child pornography in a report on a controversial B.C. court decision regarding the possession of child pornography. Concluding that the broadcaster had breached no Code provision by airing the pictures, the Council explained its position on that editorial judgment in the following terms:

After all, the goal of the broadcaster, the Council assumes, was not merely to report a *very* controversial story but to *underscore* the awful result of the judicial determination to authorize the possession of child pornography. Could it have accomplished its goal by simply *telling* the story and interviewing the accused? Probably. It could not, however, have succeeded in conveying the sense of public disgust with the practice *without* adding a visual element.

In that case, the story did not grow out of the news report; it was created by the very controversial decision of a B.C. Court, which had the effect of legalizing the possession of child pornography in the province. The issue clearly warranted the emphasis put by the newscaster on the report through the inclusion of the disturbing photographs. Nor was the nature of the issue ever in doubt. The matter was obvious. A provincial Court had legalized the possession of pornography. Period. In the case at hand, the issue seems unclear. Its seriousness and materiality *depend* on the accuracy of the study and the fairness *and disclosure* relating to the reporting of that study. After reviewing the tape and the transcript again and again, the Council has great difficulty in concluding that the emphasis put on the CO alarms story was warranted and fair. It is, at best, on-the-edge.

The Council's problems with the CTV report include the following issues. In the first place, the Council does not find that the report was anything like irreproachably accurate, which it ought to have been. The inclusion of the declarative words such as "observed by the Ontario Fire Marshall's office" is a case in point. That the Seneca professor who conducted the test *also works* for the Ontario Fire Marshall's office is hardly sufficient to support the claim that the Fire Marshall's *office* was in any way *officially* involved, which is *precisely* the implication of the language used in the newscast. It was likely included to add credibility to the story when, on that point, the Council is unsure as to whether such a conclusion was merited.

Similarly, the Council questions whether the scientifically dependable sense of the phrase "weeks of testing" fairly or accurately describes the so-called "new study", the results of which were reported by CTV. The Council notes that, in a similar but not congruent case concerning a report on the potential dangers of indoor playgrounds at fast food restaurants in the Edmonton area, namely, *CFRN-TV re Eyewitness News* (CBSC Decision 96/97-0149, December 16, 1997), the Prairie Regional Council did not find the news report sensationalized because of the extent of the broadcaster's disclosure of the relatively unscientific nature of the testing, among other things.

[T]he reporter describe[d] 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.

No such description or disclosure of the method of conducting the tests was given to CTV's audience by this report. The viewers were given no *solid* information relating to the *nature* of the testing on the basis of which they might be able to form a judgment regarding its unimpeachability. This contrasts with the CFRN situation, in which the Edmonton audience was informed of the relatively unscientific nature of the study. That, too, is a legitimate form of disclosure which permits a thinking audience to draw reasonable conclusions on the basis of the information proffered, an evaluative opportunity which CTV's viewers were unable to exercise. Moreover, nothing in CTV's response to the complaint negates the allegation that the so-called "tests" may have been nothing more than a classroom demonstration, as alleged by the complainant. They said:

A CTV News team researched this story for several weeks and learned the tests were conducted at Seneca College in January and February. Twenty-six carbon monoxide detectors, available to consumers in the greater Toronto area, were tested against Canadian standards. CTV News spoke directly to those who conducted the tests, one of whom is a professor at Seneca College, and another, an independent expert. CTV News obtained a copy of the test results, which formed the basis of the report. We believe this report is factually accurate.

There was an opportunity *in their own letter* and without the time constraints imposed by a television report to explain something more regarding the seriousness and reliability of the tests at Seneca College which would have left the Council (if not the complainant) with more of a sense of comfort regarding the on-air report of them. They did not take that opportunity. Once again, the network's very choice of language used, "testing", with any qualification or limitation of the term, left a sense of greater dependability than appears to have been merited.

In *CFTM-TV (TVA) re J.E. (Report on HMS 90)* (CBSC Decision 97/98-0472, August 14, 1998) the Quebec Regional Council considered, among other things, the relevance of the unidentified inclusion of a leaflet with an inflammatory title in a report on apparent exaggerated claims made by sellers of a food supplement. The Council found no breach of the Codes but noted that "the omission of minimal identification of the document in question constitutes careless, if not shoddy, journalism at best, and, by one possible interpretation of motive, misleading journalism at worst." It concluded that this was a case of on-the-edge journalism, similar to that dealt with by the B.C. Regional Council in *CHAN-TV re Newscast (Recycling Society)* (CBSC Decision 96/97-0004, March 10, 1997). In that case, the Council concluded that "the newscasts in question were not in breach of the Code provisions cited above but that, in some respects ... they were only on the *edge* of acceptability." The Council noted

[I]t was the duty of the station to ensure that it had all the information it required to tell its story fairly, comprehensively and accurately ... In this respect, the Council considers that the station and its reporter did not succeed in all respects in meeting those standards although it does not believe that the breach was such as to be constitute a breach of the Code. The

Council is of the view that the reporter's principal failure was with respect to the financial issues raised in the newscasts. There is, for example, a difference between "grants" and "contracts for services rendered". The Council does not agree with the broadcaster's justification of the one term for the other as a "break[ing] out of jargon to properly and directly convey meaning". The word "grant" is *not* jargon. It has a well-known meaning and an implication of government largesse. It provides an inherent justification for cautious oversight of the activities of an entity benefiting from such beneficence. It *appears*, on the other hand, that the Society *worked* for its money, that it rendered services for which it was paid. That does not imply that it can do what it wants; the investigation was not unwarranted. The reporter ought, however, to have been "tighter" in his choice of language. Words are, after all, his work.

[...]

[The reporter] then made the sarcastic and apparently unwarranted comment that the wages of the "administrative staff" rose by "12%, which apparently translates to 2%". It appears to the Council that the reporter was reading a line item in a budget and extrapolating from this a conclusion that *each* administrative wage may have risen by an average of 12% rather than that the *overall* administrative wage pot may have increased by that amount, which is essentially the information conveyed both by the Executive Director in her interview and in the letter she provided.

It is, of course, eminently material that she was given the opportunity to be on the record and to present her point of view but, in viewing and re-viewing the tape, Council members believe that the waters were muddied by the reporter in the confused and unnecessarily sarcastic way he chose to introduce the item.

All in all, the Council considers that the reporter, the News Director and the station ought to have exercised greater vigilance in the way they chose to tell this story which they were justified in bringing to the attention of the public. It is not, and cannot be, that *every* inadvertence or inappropriate comment will fall afoul of the various broadcaster Codes. This is a case where they do not but where the Council would have wished that the broadcaster had been further from the edge.

As in the *CFTM-TV* and the *CHAN-TV* cases referred to above, the Ontario Regional Council considers that, in this case, the CTV news report of February 28 on carbon monoxide alarms was an example of on-the-edge journalism.

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 CTV's response addressed the issues raised by the complainant fully and fairly. Nothing more is required. Consequently, the broadcaster has fully complied with 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.

APPENDIX
to CBSC Decision 98/99-0475
CTV re a news story on CO Alarms

I. The Complaint

The complainant sent the following letter to the President of CTV Inc. on March 3, 1999. The complainant also forwarded a copy of his letter to the CRTC's Head Office which forwarded the matter to the CBSC in due course:

I watched your news cast on the evening of February 28 and found your story on CO Alarms including the Seneca College "Test" results very alarming.

This brief piece attempted to destroy an entire industry (an industry I might add that has saved numerous lives) as well as alarming consumers about the chances of survival in a CO emergency. You have brought many consumers to the point of tears for no apparent reason. Allegations were made but no proof of same was offered, placing a cloud of uncertainty over an entire industry.

Patrick Plastics has manufactured S-TECH brand CO Alarms in Canada for 6 years and has achieved ISO 9001 registration. All our CO Alarms are manufactured to UL2034 and CSA standards - utilizing state of the art equipment.

It must be noted that there are other manufacturers of CO Alarms producing a quality product, as well, many regional governments are trying to save lives by mandating the compulsory use of a CO Alarm in the home. CO Alarms that are listed to UL2034, ULC or CAN/CGA-6.19-M93 are high quality products that will no doubt alert you to the presence of CO. In the past, there have been many cases where the quality of a particular aspect of an industry has been called into question, but I can not think of any case where an entire industry has been condemned.

I was appalled when an associate contacted your National News-line in Toronto and was told, and I paraphrase "we only report the News, we are not responsible for what was in it. If you have a problem contact Seneca College." I must say that at least they gave him Seneca's phone number.

Seneca indicated it was just a classroom demonstration and I was really surprised to learn that a Jim Mackie conducted this alleged "Test". What are his qualifications to conduct either a "test" or a "demonstration" of CO Alarms? Your News also said that the Fire Marshall's Office was involved but they claim they had nothing to do with it. Who told you they were involved?

You should note that there has not been one death attributed to a faulty CO Alarm but many lives have been saved by these Alarms. If the number of calls that we and our distributors received is any indication, you have totally undermined the public's' confidence in CO Alarms.

I have written to you in the past pertaining to the W-Five program related to CO Alarms which also involved Jim Mackie (What relationship is there between Jim Mackie and CTV, a customer or a director?) but all I received was a rather evasive response from Ian Mcleod. I

took up his offer of further assistance but he ignored me. I hope that this will not happen again.

II. The Broadcaster's Response

The Vice President of CTV News responded to the complainant's letter on April 14 with the following:

Your complaint letter of March 3, 1999 has been forwarded to us by the Canadian Broadcast Standards Council for our reply.

1. The essence of your complaint is the accuracy of a February 28, 1999 story where CTV News reported a high percentage of carbon monoxide detectors failed in tests at Seneca College.

CTV News responds:

A CTV News team researched this story for several weeks and learned the tests were conducted at Seneca College in January and February. Twenty-six carbon monoxide detectors, available to consumers in the greater Toronto area, were tested against Canadian standards. CTV News spoke directly to those who conducted the tests, one of whom is a professor at Seneca College, and another, an independent expert. CTV News obtained a copy of the test results, which formed the basis of the report. We believe this report is factually accurate.

2. You suggest that CTV News "attempted to destroy an entire industry," and is "alarming consumers" without any proof.

CTV News responds:

CTV News has an obligation to report on issues of public concern. When the issue is the reliability of a safety product, we believe we have an urgent responsibility to inform the public, which is exactly what we have done. Our fundamental responsibility is to the public, not to the promotion of an industry.

CTV's interest in this issue began when there was a mass carbon monoxide poisoning in Lethbridge, Alberta. The occupants of an entire apartment building were gassed. No one died, but it raised many questions. CTV News commissioned independent testing of carbon monoxide detectors. The results showed a high failure rate which was the subject of a special inquiry on W-FIVE, CTV's public affairs program.

CTV News has also reported the Gas Research Institute in Chicago, a recognized world leader in gas safety standards, has also conducted tests which show a high failure rate.

We note, that two weeks after you wrote your letter to the CRTC, the U.S. Product Safety Commission ordered an urgent and mandatory recall of tens of thousands of carbon monoxide detectors that carry the Underwriters Laboratory seal of approval because they didn't work properly. This agency, the product safety arm of the U.S. government, had been monitoring the work CTV News and others in Canada had been doing on this issue. The U.S. Product Safety Commission testing is continuing.

3. You ask about the qualifications of Mr. Jim Mackie, an attributed source for our story, and you question and doubt the involvement of the Ontario Fire Marshall's Office in the Seneca testing.

CTV News responds:

Mr. Mackie is not an employee of CTV nor is he in any way under contract or paid by our company. He is an independent qualified fuel safety technician.

Seneca College Professor Arman Kassabian attended the testing that was done at Seneca in January and February. In addition to his position at Seneca, Professor Kassabian also works for the Ontario Fire Marshall. In fact, when the Fire Marshall wanted information about the Seneca tests, he relied on Professor Kassabian to provide it.

4. You state "there has not been one death attributed to a faulty CO alarm."

CTV News responds:

This statement is the standard phrase from the industry that has been included in press releases from various manufacturers. The statement is misleading.

The key word is "attributed." When people die, coroners attribute the death to carbon monoxide gas. It wasn't the alarm that killed them it was the gas.

A clearer statement might be "how many people would have survived the deadly gas if the CO detector worked properly?" There are many documented cases where people died from gas and the CO detector failed to warn them. A few weeks ago, in Madison Wisconsin a doctor died in his home from carbon monoxide poisoning. His alarm had failed. And recently, in Richmond Hill Ontario, a family narrowly avoided being poisoned by carbon monoxide despite having two CO detectors in the house, one only a few feet from the source of the contamination.

I hope this letter addresses your concerns. The February 28th story as well as other reports CTV has done on this same subject have been accurate and fair and are fully in compliance with all industry codes. I can assure you we at CTV News have been very cautious in reporting a story that might erode public confidence in a product for public safety. We take our responsibility to the public very seriously and that is why we have repeatedly advised consumers that they should not remove their alarms. We have raised public awareness of the dangers of CO poisoning and advised viewers they should not rely on one source of protection. Diligent attention to possible sources of carbon monoxide should be the first line of protection, and a CO alarm should be the second.

III. Additional Correspondence

On April 23, the complainant wrote a further letter to the Council:

I am now in receipt of a response from CTV and wish to comment on same.

It is my opinion that this response is merely "smoke and mirrors" to divert our attention from the fact that CTV's report was based on a flawed "test" that its "independent qualified fuel safety technician" should have known could certainly not be factually accurate. I say this because although I do not know about the other models tested I do know that our model STCO-100 was listed to the previous UL 2034 standard not the one effective October 1/98 and accordingly it could not possibly pass both of the standards. According to the "test" results our unit passed all the tests that it was designed to meet, namely UL2034, 1995. If it had also passed the 70ppm "test" conducted by Seneca, it would not meet UL standards. A

qualified person would know or should have known this fact. Furthermore while Arman Kassabian is employed by the Fire Marshal's office he is also an occasional teacher at Seneca and he was there as an observer on his own time and not representing the Fire Marshal's Office. In addition, the response from CTV leads one to believe that the Fire Marshal "relied" on Mr. Kassabian for information as to the Seneca "tests" when they merely asked Mr. Kassabian for the results after being told by a CTV interviewer that tests were conducted at Seneca and there was a high failure rate and that Arman Kassabian was present. The Fire Marshal, in fact had no knowledge of the "testing" until told of same by the said CTV interviewer.

Accordingly we would ask you to kindly continue to process our complaint.

IV. Notes and Transcripts of the Broadcast in Question

The report in question was broadcast on February 28, during the CTV evening news. The transcript of the short report is as follows:

Sandie Rinaldo: Good evening. There are disturbing questions tonight over consumer safety. Nationwide, home owners have installed carbon monoxide detectors, those small devices that guard families from a potentially lethal hazard of carbon monoxide poisoning. But do detectors actually work? A new study, prompted by a CTV W5 investigation, has found most devices don't even meet national standards. CTV's Jim O'Connell has more on a safety issue that is sounding the alarm for a public inquiry.

Jim O'Connell: They're supposed to save lives. But after weeks of testing observed by the Ontario Fire Marshall's office, most of these carbon monoxide detectors failed. CTV news has learned that of the 26 detectors tested at Toronto's Seneca College, 81% failed to meet the new national standard and 58% didn't meet the old standard which had been in effect for years.

Jim O'Connell: Does that shock you?

Jim Mackie (Fuels Safety Consultants): Absolutely. Absolutely.

Jim O'Connell: Should consumers be shocked?

Jim Mackie: They should be shocked. They should be very concerned about this.

Jim O'Connell: All of the detectors were certified. Most by Underwriters' Laboratories of Canada which is paid by manufacturers to test their products. ULC officials refused to talk about the high failure rate of products that bear their stamp of approval. And why they have never rejected a single detector.

Dorothy Howells (Underwriters' Laboratories Canada): ... we don't have all the information at the moment. We'd like you to leave. We don't have all the information.

Jim O'Connell: At the request of the Ontario Fire Marshall, ULC has re-tested many of the detectors in question but so far has refused to disclose the results.

Peter Ferguson (Former Toronto Fire Chief): We think that if they are going to go through testing, that it should be open to the public.

Jim O'Connell: This former Toronto fire chief is calling for a public inquiry, demanding to know why so many detectors are failing and why nothing has been done about it.

Peter Ferguson: And I think that the interest that should be served here is not the manufacturers' interest. It should be the public interest.

Jim O'Connell: We wanted to speak to the Ontario Fire Marshall who, after all, is one of the province's top public safety officials but he too refused to be interviewed. As for public concern about the reliability of carbon monoxide detectors, in the words of one safety specialist, a false sense of security is sometimes worse than no security at all. Jim O'Connell, CTV News, Toronto.