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**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL PANEL**

CKVR-TV re a News Report (Panned Hunt)

(CBSC Decision 00/01-0761)

Decided June 7, 2002

R. Stanbury (Chair), M. Ziniak (Vice-Chair), R. Cohen (*ad hoc*), M. Oldfield,  
J. Pungente, C. Reyes

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**THE FACTS**

On October 3, 2000, CKVR-TV (The New VR, Barrie, Ontario) broadcast a news item about an individual who had filed an application to establish a deer-hunting park on his property in Coldwater, Ontario. The report included interviews with three individuals: a woman who was opposed to the hunt park; a man familiar with the laws involved in the issue; and the hunt park owner, Mr. Grignon. This interview with Mr. Grignon showed him opening the gates to his property, which appeared to be a densely wooded piece of land. This part of the segment was followed by scenes of antlered animals in an unwooded but fenced field. The report concluded with a shot of one antlered animal in a pen.

On March 26, 2001, the CBSC received a complaint about the news report from one of Mr. Grignon's neighbours (the full text of all correspondence can be found in the Appendix). Although this was nearly six months after the broadcast, well beyond the 28-day period during which broadcasters are required to retain logger tapes, the complainant had himself obtained a tape of the newscast from the broadcaster during that period. It was that tape which serves as the basis for this decision.

The complainant explained that he owned a deer breeding operation 30 km down the road from Mr. Grignon's proposed hunt park property and that the animals shown in the news segment had actually been his deer. He outlined his concerns with the broadcast. He argued, first, that the news crew had not asked for his permission to film his animals, and he declared his suspicion that they had trespassed on his property in order to obtain the footage. Second, he stated that the program fraudulently depicted the hunt park as an open area and argued that the footage misrepresented both *his* breeding operation and Mr. Grignon's hunt park.

CKVR-TV responded to his complaint on May 24. The broadcaster explained that

After they interviewed Mr. Grignon our crew was informed that there were no animals to photograph there at this time and were directed to a farm where they could get visuals of deer and elk. We are a visual medium and so it was important for us to show our viewers the type of animals we were referring to in our story.

They also stated that the reporter and photographer “did not enter any fenced areas [or] what they perceived to be private property,” and that the visuals were shot “from the roadside with a telephoto lens.”

The complainant requested on August 26 that the matter be adjudicated by the CBSC Ontario Regional Panel.

## THE DECISION

The Ontario Regional Panel examined the complaint under the following news provisions of the Canadian Association of Broadcasters’ (CAB) *Code of Ethics* and the Radio Television News Directors Association of Canada’s (RTNDA) *Code of (Journalistic) Ethics*. The relevant portions of those provisions are cited below:

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

It shall be the responsibility of member stations to ensure that news shall be presented with accuracy and without bias. The member station shall satisfy itself that the arrangements made for obtaining news ensure this result. [...] 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.

[...]

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 (Journalistic) Ethics, Article 1 (Accuracy):*

Broadcast journalists will inform the public in an accurate, comprehensive and fair manner about events and issues of importance.

### *RTNDA Code of (Journalistic) Ethics, Article 4 (Privacy):*

Broadcast journalists will respect the dignity, privacy and well-being of everyone with whom they deal, and will make every effort to ensure that news gathering and reporting does not unreasonably infringe privacy except when necessary in the public interest. [...]

The Ontario Panel Adjudicators viewed a tape of the news item and reviewed all correspondence. The Panel concludes that CKVR-TV is in breach of the two foregoing Code provisions concerning news accuracy, but not of the provision regarding privacy.

### **A Preliminary Matter: The Extent of the CBSC's Mandate**

The complainant directly raises the issue of trespassing when he asserts in his letter that "The news crew entered my property without permission, they entered a fenced area that is posted without my permission. This is generally called trespassing which is a criminal offence." Since trespassing is a criminal offence, the Panel is unable to comment on this issue. Not being a court and having no jurisdiction to make rulings with respect to matters under the Criminal Code or any other laws, the CBSC cannot respond to this concern of the complainant; it renders decisions only with respect to the broadcaster Codes it has been mandated to administer.

Moreover, the CBSC is generally unable to address issues associated with the off-screen activities of broadcasters or reporters. Except in very unusual circumstances, the CBSC must limit its adjudication to what actually appeared on-screen in its evaluations.

### **An Invasion of Privacy?**

From the correspondence, in which the broadcaster readily admits that these scenes were filmed at a farm down the road from Mr. Grignon's hunt park property, it appears that the animals shown in the report are likely those belonging to the complainant. (Whether this is or is not definitively the case, the Panel considers that its appreciation of this issue will be the same.) The question for the Panel to decide is whether the use of the footage, without first obtaining the permission of the animals' owner, constitutes an invasion of that owner's privacy.

It must readily be acknowledged that, being a visual medium, television broadcasters will wish their news broadcasts to be supplemented by video footage. It must equally be acknowledged that they are not, on that account, at liberty to choose just any footage for that purpose. Factors that will assist in determining acceptability of such footage will include the extent of the identifiable images, on the one hand, and the justifiability of their use, on the other.

In one relevant, but not absolutely congruent, circumstance, namely, *CIHF-TV re News Item (Random Neighbourhood Shooting)* (CBSC Decision 97/98-0622, November 25, 1998), the Atlantic Regional Panel examined a news report about a pellet gun shooting incident in a rural neighbourhood. The broadcast included a visual image of the house from which the shot was alleged to have originated. The complaint came from the owner of the house who felt that the inclusion of the footage was unfair to his family, particularly since the shot was alleged to have been fired by a visitor. With respect to his allegation of invasion of privacy, the Panel noted that "no individual or individuals is, or are, named" in the report. Accordingly, it concluded:

While it may be true that the house may be distinctive in its neighbourhood, and indeed that some friends, neighbours or relatives may have been able to identify the owner of the house on this basis, there is insufficient information in the report to make it clear to others who the possible perpetrators of the alleged offence might be.

Similarly, in a matter involving individuals rather than property, namely, *CTV re Canada AM (Airborne Hazing)* (CBSC Decision 94/95-0159, March 12, 1996), the Ontario Regional Panel put the matter in the following terms:

The point is that the issue is not so much the recording and broadcasting of the *image* of the individual as it is the *identification* of the person. Where the broadcaster provides no information which permits the public at large to identify the individual, such as in this case, the broadcaster has not interfered with that person's right to privacy. The fact that the individual filmed and those close to him may know who he is does not interfere with his right to be free from identification by the public at large.

In the matter at hand, the filmed subjects are deer rather than people and the Panel considers that the likelihood of their identification by viewers in general is non-existent. Nor does the Panel consider that, as a herd, the animals will be identifiable by the general audience as belonging to the complainant. Furthermore, the broadcaster has done its best to avoid the filming and broadcast of any signage or markings which would facilitate that identification.

Although the foregoing point is determinative of this matter, the Panel considers it important to add its perspective that the broadcaster logically sought to provide the audience with a more specific sense of the subject matter and relevance of the type of animal, broadly speaking, that was involved in the story. It takes no issue with the broadcaster in *this* respect. Its problem is not with any alleged invasion of privacy; it is with the accuracy of the video clip and the method of its presentation, matters discussed below. There is no breach of any codified standards relating to privacy.

### **Inaccuracy of the Report**

The problem for the Panel relates to the choice and use of video images to accompany the story; it stems to a considerable extent from the broadcaster's failure in some way during the report to *identify* the footage as either *not* belonging to the hunt park or even being illustrative of the circumstances in which the animals would be hunted.

The report begins with an interview with a woman opposed to the hunt park. At this point the viewer has no real idea what the nature of the hunting environment even is. It is at this point that the broadcaster chose to insert the video clip of a group of antlered animals *in an open field*, filmed, the broadcaster has explained, through a wire fence as the reporter narrates that the woman "is upset with plans for exotic animals to be hunted *in a fenced-in area* just outside her village [emphasis added]." During the interview with Mr. Grignon, the hunt park owner, trucks are seen driving *through a forest*. Later in the report, the journalist

is seen standing beside a fence surrounding a wooded area and states that the hunt park is to be located in “this enclosure”. The segment concludes with a scene of one animal in a pen.

At no time has the broadcaster made the audience aware that the scenes were shot at two separate properties. The reporter’s statement that the woman is opposed to plans for animals to be hunted “in a fenced-in area” directly overlying the visuals of animals in a penned open field leaves the viewer with the distinct impression that those are in fact the animals to be hunted and that the enclosure shown is indeed the hunt park terrain. Should this not have been the case (and, as matters turned out in fact, it *was* not), it would have been important and, indeed, accurate to indicate in some manner, such as a “file footage” caption at the bottom of screen or a brief statement that they were discussing “animals *like* these”, that the images of the deer in the open field had been obtained at some location *other than* the hunt park which was the subject of the report.

The broadcaster claims that “there were visuals of deer and elk but it was neither said nor suggested that these were the specific animals to be hunted [...]”. The Panel finds no justification for the broadcaster’s choices in that statement. While it may not have been *said* that those were the animals to be hunted, it *was suggested* that they were. Had the broadcaster been careful with respect to this story, it *ought* to have indicated that they were not the animals in question and that the circumstances of their disposition in open fields bore little or no relevance to its story on the hunt park. Television journalism tells stories primarily through visual images. The accurate juxtaposition of visuals and words in the television context are key to disseminating news in such a way as “to enable people to know what is happening, and to understand events so that they may form their own conclusions,” as required by the *CAB Code of Ethics*. In disseminating an image, a broadcaster must assume, unless it advises the audience otherwise, that that visual component is a part of the story it is telling. It is not justifiable for it to expect that, *unless* it advises the viewer that it *is a part* of the story, the viewer is not reasonably entitled to draw *that* conclusion. The Panel does not consider that the broadcaster was intending to mislead its audience. Nonetheless, while attempting to help its viewers, it has, in the view of the Panel, done them a disservice in its misrepresentation of the nature of the hunt park. The broadcaster is thus in breach of Clause 6 of the *CAB Code of Ethics*, and of Article 1 of the *RTNDA Code of (Journalistic) Ethics*.

### **Broadcaster Responsiveness**

In all decisions, the CBSC Adjudicating Panels assess the broadcaster’s responsiveness to complainants. Although a broadcaster need not agree with a complainant’s view of the issues, under CBSC membership requirements broadcasters are required to provide a reasonable response to all complaints. The Ontario Regional Panel concludes that CKVR-TV clearly addressed the complainant’s concerns in a thoughtful manner and thus has met its responsibilities of membership. Nothing more is required in this respect on this

occasion.

## **ANNOUNCEMENT OF DECISION**

CKVR-TV is required to: 1) announce this decision, in the following terms, once during prime time within three days following the release of this decision and once more within seven days following the release of this decision in the time period in which the “Pinned Hunt” news item was broadcast; 2) within fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the announcements to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by CKVR-TV.

The Canadian Broadcast Standards Council has found that CKVR-TV has breached provisions of the Canadian Association of Broadcasters’ *Code of Ethics* and the Radio-Television News Directors Association’s *Code of (Journalistic) Ethics* dealing with accuracy of news. In its choice of video clips accompanying the broadcast of a news report entitled “Pinned Hunt” on October 3, 2000, the broadcaster implied that their visuals of deer in an enclosed unwooded field belonged to a proposed hunt park when in reality the circumstances of the hunt were very different. First, they were not among the deer that would be hunted and second, the hunting was to take place in the hunt park forests rather than the open but penned in fields depicted in the broadcast. This constitutes a breach of the two Code provisions which both require that news be presented in an accurate manner.

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

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## APPENDIX

### CBSC File 00/01-0761 CKVR-TV re a News Report (Penned Hunt)

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#### The Complaint

The CRTC forwarded the following complaint dated March 26, 2001 to the CBSC:

I wish to file a complaint regarding a news broadcast by CKVR on October 3<sup>rd</sup>, 2000 at 6:00 P.M. & 11:00 P.M. The news broadcast was a 2 minute segment by reporter Bruce Harris entitled "Penned Hunt".

#### BACKGROUND

My name is [R.N.]. I own a DEER FARM in the Township of Oro Medonte in the County of Simcoe. The farm is situated on Line 10 North, 1 km south of County Road 19. I have a Red Deer breeding operation along with a horse breeding operation. We also operate a feed operation on the same property. We have operated this facility since 1989. I am also President of the Simcoe County Federation of Agriculture and have been active in the Ontario Federation of Agriculture (OFA) for many years.

Todd Grignon, my next door neighbour to the south, operates a deer and elk farm also. As well he operates a large deer and elk operation on County Rd. 17 north of Coldwater (Big Chute Rd.). In 1999 he purchased approximately 150 acres of property farther north on County Rd. 17 with the intent to turn it into a hunt park. Under recent legislation, non-indigenous [*sic*] species such as red deer can legally be hunted or harvested in such a facility. In 2000 he proceeded to fence part of the property and to advertise and conduct hunts. In viewing this facility, it is heavily forested [*sic*], has a road into it, has locked gates and has antlered deer residing in it.

As neighbours, we have agreed to agree and agreed to disagree at times, but have maintained respect for each others [*sic*] views. However, I am on public record as being opposed to fenced hunt parks.

#### THE TELEVISED PROGRAM

The program is entitled "Penned Hunt" by reporter Bruce Harris. Upon viewing the video tape, there also had to be a camera man present. The opening comments are by an objectionist in the area. Her name is Ann Fox. She is interviewed stating her objections. The next shot is of antlered deer walking a fence in an open area with no forest cover at all. The next shot is one of the hunt park owner (Todd Grignon) giving his side of the story and also shows the gates and road into the hunt park. The next shot is one of another objectionist in front of the signs of Universal Game Farm (not at the hunt park location). There are further shots of the actual hunt park. The following shots are those of antlered deer again in an open area. Some are from a distance, some are close up shots taken from within a fenced area. I have a CKVR video copy of this program.

#### THE COMPLAINT

The animals behind the fences are not those of the hunt park. They are animals belonging to [V.V.] Farms, which I own. These are not animals to be hunted and are not within the hunt park fences. The hunt park owned by Todd Grignon is over 30 KM from my farm where the pictures were taken. Further to this, the video tape was made without my knowledge or

permission. The news crew entered my property without permission, they entered a fenced area that is posted without permission. This is generally called trespassing which is a criminal offence. Taking the pictures without permission is tantamount to theft which is also a criminal offence. Allowing the video program to depict the hunt park as an open area when it is not, is also fraudulent which I believe is a criminal offence. Representing my breeding operation as a hunt park is slanderous & damaging to my reputation in the agricultural industry. Representing the hunt park itself as an open area when it is not, is slanderous and damaging to my neighbour in his endeavours.

Second to this, the crew exposed themselves to a safety risk in entering my property. Fortunately for those individuals, the paddock entered was not occupied by breeding stock at this time. If it had been, they probably would not have been around long enough to produce the program.

### **CONCLUSION**

I reported these events to the CKVR Manager of News, Mr. [R.M.] about the 1<sup>st</sup> week of November, 2000. To this date he has not managed to discuss the matter with me. I am not sure when this station comes up for renewal of license [*sic*], but I would suggest that the CRTC take express note of their behaviour in light of this story before renewing their licence. This is poor behaviour at its worst. I trust that the CRTC will take appropriate action in investigating this matter.

Initially, the CBSC responded to the complainant informing him that the complaint had been made too late to order tapes of the broadcast. After receipt of the following letter of May 7 and discussions with the CRTC, the CBSC agreed to use the tape which the complainant had purchased from the broadcaster:

Thank you for your recent correspondence regarding this matter. I am disappointed however in your response to the problem. As a person who has retired after a long career in the communications/broadcasting industry, I find that your solution to the problem troubling to say the least. During my career in the industry, I found that the industry particularly excelled in two exceptional pastimes [*sic*], firstly being able to devour each other, secondly being able to cover their behinds. In this case the latter seems to be true.

By your own admission, you have concerns about four codes of conduct. This station has violated two of them. First and foremost, a code of ethics and secondly, a code of journalistic ethics. In addition, they have broken the law by trespassing upon my property and fraudulently representing facts.

Your excuse for not investigating the matter is because of a time element and the fact that the CKVR tape is not available. I ask you sir, what the hell is wrong with the tape I have in my possession. The tape was produced by CKVR and was paid for and I have receipt for same. The information is on this tape to enable you to do your job.

As far as dealing with CKVR directly, I would consider it a total waste of time. The problem was reported to Mr. [R.M.] of CKVR in the first place. He chose to ignore the problem. I gave him adequate time to respond, but he did not, hence the delay in reporting the problem to the CRTC.

As a result of your disconcert, I will once again write to the CRTC. This time I will also involve the Minister of Communications and MP Paul DeVillers. I am not about to have my right violated by a local TV station and just roll over because the CRTC and your body will not seriously investigate the matter.

### **Broadcaster Response**

The broadcaster responded to the complainant on May 24 stating that they would investigate the matter and write a lengthier reply. They did so on June 12 with the following:

Since our letter to you dated May 24, 2001, we have investigated your complaint regarding the visuals used in a news item broadcast on October 3, 2000. We believe the following information clarifies the actions of our news crew.

Our news crew on that day consisted of one reporter and one photographer. They were reporting on the rezoning application by Mr. Grignon, who intended to operate a 'hunt park' on his property. After they interviewed Mr. Grignon our crew was informed that there were no animals to photograph there at this time and were directed to a farm where they could get visuals of deer and elk. We are a visual medium and so it was important for us to show our viewers the type of animals we were referring to in our story.

In the report that was televised there were visuals of deer and elk but it was neither said nor suggested that these were the specific animals to be hunted should Mr. Grignon receive approval for his rezoning application. We have also been assured by our reporter and photographer that they did not enter any fenced areas. They shot the visuals from the roadside with a telephoto lens. At no point in the report did we identify or show any signage that would lead a viewer to recognize the property. They did not see any 'no trespassing' signs but, in any event, they did not enter what they perceived to be private property.

Thank you for expressing your concerns. I hope this clarifies the nature and extent of our coverage and alleviates your concerns.

### **Additional Correspondence**

On August 26 the complainant sent the CBSC the following letter along with his copy of the broadcast and a map of his property:

Please find enclosed a copy of the CKVR tape which we discussed. I have also enclosed a sketch of the topic area.

It can be assumed that tree line (property line) foliage did not appear on the tape as well Fence # 1, that they were on the property at the time of the taping. It is my contention that they were inside the empty paddock at the time of the taping.

As this is my only copy of the tape, would you kindly return it to me as soon as possible.