
CANADIAN BROADCAST STANDARDS COUNCIL

NATIONAL SPECIALTY SERVICES PANEL

CTV Newsnet re an episode of *Mike Duffy Live Prime Time* (Stéphane Dion Interview)

(CBSC Decision 08/09-0213 & -0281)

Decided April 6, 2009

R. Cohen (Chair), J. Medline (Vice-Chair, Industry), H. Pawley (Vice-Chair, Public),
D. Dobbie (*ad hoc*), P. O'Neill, G. Phelan (*ad hoc*), L. Todd

THE FACTS

Mike Duffy Live Prime Time was a political public affairs program of limited duration. While *Mike Duffy Live* was a regular series, the special *Prime Time* episodes were at times material to this decision only aired during the 2008 Canadian federal election.

On October 9, 2008, CTV Atlantic journalist Steve Murphy interviewed Liberal leader Stéphane Dion for the second time during the 2008 federal general election campaign. During the interview, it appeared that Mr. Dion had not understood Murphy's first question and the Liberal leader asked to re-start the interview a total of three times. On the fourth occasion, the uninterrupted interview continued for about twelve minutes. CTV Atlantic (CJCH-TV) aired the interview process in its entirety, that is to say, the false starts followed by the complete interview, on its 6:00 pm newscast. The complaints received about that broadcast have been adjudicated in the Atlantic Regional Panel's decision in *CJCH-TV (CTV Atlantic) re CTV News at 6 (Stéphane Dion interview)* (CBSC Decision 08/09-0196+, January 12, 2009).

Later that evening, *Mike Duffy Live Prime Time*, broadcast on specialty service CTV Newsnet, had as its primary subject of discussion the Murphy-Dion interview and restarts, which had by then begun to generate considerable public controversy and

interest on the part of various news organizations (although it is unclear to the Panel whether any other broadcasters had aired the stops and restarts). The complete interview was not included in the Duffy episode, which began with the host's introduction of that day's principal topic:

Hello again and welcome to the Thursday edition of *Mike Duffy Prime*. Well, the Harper Conservatives got some good news today and it wasn't just the World Economic Forum, which rated our banking system as the best, the most secure in the world. This good news came in the form of a devastating reminder of Stéphane Dion's struggle with the English language. We'll have the tape in just a few moments. If you've got a PVR, set it on "record". This is going to be one you'll be talking about for days. And the fight in battleground ridings heats up. We'll have the latest numbers. All of this, our MP strategists, the radio guys – wait 'til they get going – and the green shift? Well it's underway, but it's from the Green candidates to the Liberals. All of this on *Mike Duffy Live*.

First, the tale of the tape. It has been a gruelling campaign and everyone is tired, even the old Duff. We got an indication of the toll that all of this has taken on Stéphane Dion this afternoon when he sat down for an interview with Steve Murphy of CTV Halifax. What we're going to show you is exactly what happened in that Halifax hotel suite. The tape has not been edited.

CTV Newsnet then broadcast the interview stops and retakes, ending shortly after the final restart, which resulted in the Liberal leader's response to the final, only slightly altered, version of the initial question. The clip showed Steve Murphy and Stéphane Dion sitting facing each other. Unlike the initial CTV Atlantic broadcast of this interview, which consisted of a head-shot of Dion with Murphy's voice heard off-camera, this clip included head-shots of both Dion and Murphy. The dialogue proceeded as follows:

Murphy: Monsieur Dion, thank you. Good of you to come again.

Dion: Thank you, Steve.

Murphy: Monsieur Dion, the economy is now the issue in the campaign and on that issue you've said that, today, that Mr. Harper's offered nothing to put Canadians' minds at ease and offers no vision for the country. We have to act now, you say. Doing nothing is not an option. If you were prime minister now, what would you have done about the economy and this crisis that Mr. Harper has not done?

Dion: If I would have been prime minister two and a half years ago?

Murphy: If you were the prime minister right now.

Dion: Right now?

Murphy: And had been for the last two weeks.

Dion: [speaking over the last response of Steve Murphy, rendering it difficult to make out] Okay, no. If I'm elected next Tuesday, this Tuesday, is what you are suggesting?

Murphy: No, I, I'm saying if you, hypothetically, were prime minister today.

Dion: Today.

Murphy: What would you have done that Mr. Harper has not done?

Dion: I would start the 30/50 plan that we want to start the moment that we'll have a, a Liberal Government. And the 30/50 plan, uh, the 30, in fact, the plan for the first 30 days, I should say, the plan for the first 30 days once you have a Liberal Government. Can we start again?

Murphy: Do you want to?

male voice off-camera: Sure.

Dion: [looks at someone off-camera] Yeah?

Murphy: I'm okay to start again.

Dion: Yeah. Because I think I been [sic] slow to understand your question.

Murphy: Sure.

Dion: I don't think it will be good.

Murphy: Well, I'll repose the question.

Dion: Yeah.

Murphy: [looks to others off-camera] Is everybody okay with that?

Dion: The question is "If you are prime minister today?"?

Murphy: Yeah. Okay?

male voice: I'm recording.

Dion: Okay.

Murphy: Monsieur Dion, good of you to come again.

Dion: Thank you, Steve.

Murphy: Monsieur Dion, you've said today that Mr. Harper has offered, uh, nothing to put Canadians' minds at ease during this financial crisis and you go on to say that he has no vision for the country. You say we have to act now. Doing nothing is not an option. So I'd like to begin by asking you if you were prime minister now, what would you have already done in this crisis that Mr. Harper hasn't done?

Dion: I can't, I don't understand the question. Because, are you asking me to be prime minister at, at which moment? Today or since a week or since two weeks or since –

Murphy: No. If you, if you were prime minister during this time already.

Dion: [visibly frustrated] We need to start again. I'm sorry. If I was the prime minister starting when? Today? If I was the prime minister today?

female voice off-camera: If you were the prime minister when, since Harper's been prime minister.

Dion: But, yes, two years and a half ago.

female: At any given time.

Dion: Two years. Two years and a half ago.

female: What would you have done differently between, between the time that Harper's been there to change things.

Dion: Yeah, but if I have been prime minister two years and a half ago, would [*sic*] have had an agenda. Let's start again.

Murphy: Okay.

[female off-camera laughs]

Dion: We'll go there.

male voice off-camera: I'm still recording.

Murphy: Monsieur Dion, thank you for coming.

Dion: Thank you, Steve. Let's start again, I'm [laughs].

[female off-camera laughs]

Murphy: It's a good job that tape is cheap.

Dion: But, but give me, give me a first date where I'm prime minister that I can figure out what, what is your question is about [*sic*].

Murphy: If you were prime minister of Canada today, what would you have done by now that Stephen Harper has not done about this economic crisis?

The initial part of the complete interview, including the first three responses of Stéphane Dion, followed.

Murphy: Monsieur Dion, thank you for coming.

Dion: Thank you, Steve.

Murphy: The economy is now the major issue that we're confronting in this campaign and on that issue you've said that Mister Harper has offered nothing to put Canadians' minds at ease and offers no vision for this country. You say we have to act now, that doing nothing is not an option. I'd like to ask you, Mister Dion, if you were Prime Minister of Canada today, what would you have done by now that Stephen Harper has not done about this economic crisis?

Dion: A-, Assume that I have been elected today prime minister, the first thing I would do is to consult with the Privy Council Office, minister of Finance, to know exactly which situation we are according, uh, the data. I would speed up the, uh, my ability to appoint

rapidly a government with the minister of Finance to, to be able to be prime minister right away, as soon as possible. And once we are the Government, uh, we have thirty days of an action plan that we announce. So we will need to work with the regulatory agencies to have their best recommendations to protect our savings, to protect our mortgages, our pensions and our jobs. I will, uh, I will speed up the investment in infrastructure and in the manufacturing sectors to create economic activity and jobs now. Good jobs, well-paid jobs.

Murphy: Mm hm.

Dion: I, I will, uh, call, uh, Mini-, uh, First Ministers meeting to be sure that our great federation, everybody will work in coordination: provinces, territories and the federal government. I will consult the best economists of the private sector.

Murphy: Mm hm.

Dion: To ask them where are we ready, uh, uh, really? Us, Canada, and the world. What is, what is their forecast for the situation in which we are? There are a lot of things that I would do. I would not be passive as Mister Harper.

In the rest of the full interview, which continued from that point but was not broadcast on the Duffy show, the Liberal leader, in response to Murphy's several questions, dealt with what he would say "to ease the minds of Canadians", the Liberal economic plan, the proposed carbon tax, deficits, the green shift, taxes, comparable European national policies, and Canada's military mission in Afghanistan. The transcript of that interview can be found as Appendix A to the Atlantic Regional Panel's decision in *CJCH-TV (CTV Atlantic) re CTV News at 6 (Stéphane Dion interview)* (CBSC Decision 08/09-0196+, January 12, 2009).

At this point in the *Mike Duffy Live* program, Duffy facilitated a panel discussion with representatives from three of the major federal parties. The caption at bottom of screen during this portion of the program was "Campaign Exhaustion?"

Duffy: Let's bring in our panel of MPs tonight. From Vancouver, Cabinet Minister, Conservative MP James Moore. In Windsor, New Democrat MP Joe Comartin. And from Halifax, Liberal MP Geoff Regan. Geoff, just when the wind was back in the Liberals' sails, it kind of reminds me of Bob Stanfield and the football.

Regan: Well Mike, uh, Mr. Dion has mentioned before that he has a hearing problem and that's clearly what happened here. I don't think that we should, uh, spend a lot of time talking about someone's physical impairment.

Duffy: Is that it, uh, James?

Regan: Well, I work with Mr. Dion –

Duffy: Is it a physical impairment?

Regan: Mike, I work with Mr. Dion in Cabinet, you know –

Duffy: Or is it, is it a problem to comprehend?

[lengthy pause]

Duffy: Is it a physical impairment or a problem to comprehend?

Regan: Mike, you were asking that to James Moore, weren't you? I can't hear him. Sorry.

Duffy: Well, I put the question to you. Obviously, uh, –

Regan: But you said "James Moore".

Duffy: Well, you, you fob it off as we're making fun of –

Regan: Oh.

Duffy: – somebody's physical impairment. And I think that you're, um, trying to brush this off, uh, and somehow point a finger at the media. This is your leader. This was his answer.

Regan: Well Mike, I –

Duffy: We were more than generous in giving him, I think, three or four chances. And he comes up with this? And then you tell me we're making fun of his physical impairment?

Regan: That's not what I said, Mike.

Duffy: Give me a break.

Regan: That's not what I said at all. But, uh, I work with Mr. Dion in Cabinet and Cabinet committees. And, uh, I've f-, I've never had a problem with his understanding of the English language. He understood, uh, all our conversations. He was excellent in English and in French. Uh, I've seen him work in, in our caucus, uh, in various committees of our caucus as well, uh, without difficulty. So, uh, I have great confidence in Mr. Dion. I saw him today in Halifax give an outstanding speech. And I think that that's what you should be showing tonight on the air. That's what you should be highlighting. He gave a barn-burner today. I've never seen him so good. And I'd love to see that on the air.

Duffy: James Moore, now it's your turn.

Moore: Well, I mean, look, this election campaign is a choice about who's going to be prime minister of this country, Stephen Harper or Stéphane Dion. And I think that, you know, Canadians are going to take the full measure of this campaign, the full measure of everything that they've seen from the start to beginning [*sic*]. I think Canadians recognize that Stephen Harper's the right person to be the prime minister of this country. I wasn't in the room. We saw the full clip there unedited. I guess people can make their judgments about it. Geoff can mention what he mentioned. I don't know how tired he was or wasn't, but the choice is between Stephen Harper and Stéphane Dion in terms of who Canadians want to be the prime minister of this country. Who has a plan, who has a track record and who has the capacity to lead Canadians through a difficult international economic times [*sic*]. And I think Stephen Harper clearly is the right man to lead this country.

Duffy: Joe Comartin.

Comartin: Well, I'm at a disadvantage, Mike, 'cause I didn't see the, uh, the actual clip. I only heard it. But I want to say that if anybody's been misspeaking, and I'm sure the Conservatives in the backrooms are very concerned about Mr. Harper's misspeaking when he said, you know, he's talking to people, they're not telling him they're worried about their pensions, losing their homes because they can't pay their mortgages, losing their jobs. He's only worried about the people who have investment in the stock markets. That's what's going off, uh, around my riding and I believe across the country in terms of, uh, of leadership, uh, or lack of leadership. And that's what I'm hearing from, uh, from Mr. Harper and I think most Canadians are too.

The topic of discussion then shifted to other aspects of the election, primarily the various parties' prospects in different ridings. The MP panel portion of the program concluded and Duffy spoke to CTV correspondents Tom Clark and Craig Oliver via telephone. During this segment, the caption at the bottom of the screen was "Dion's False Starts" and live footage of Dion giving a speech was shown as the commentators discussed the issue.

Duffy: CTV's Tom Clark is covering the Liberals in Laval. Tom, how are the Liberals explaining this Dion language problem? Are they doing the Geoff Regan move here and saying it's all about his handicap and anybody who mentions it's picking on him?

Clark: No, uh, surprisingly, Mike. Um, the Dion Tour is not saying it's because of a physical handicap. They are saying he did not understand the question. But they are steaming mad, I can tell you. They are saying that this is an "appalling", in their words, they say this is an "appalling breach of journalistic ethics". They had asked for the TV station, CTV station in Halifax not to run those false starts. Uh, they believed that they had, initially, an agreement that those false starts would not be run and now they are saying that nefarious or higher-ranked, uh, uh, people within the organization, within the network, uh, went back on that word, uh, and ran what everybody has seen tonight.

Duffy: Well –

Clark: So they're furious. They say they're going to take it to another level although they wouldn't tell me what that other level was, other than to say that they're not going to be seeking legal redress. But clearly, uh, they're going to have, uh, some conversations, I would expect, with your bosses and my bosses, Mike, about all of this. Uh, you know, to underline what I think is interesting here is that the, the Liberal officials who were at that interview told me that, uh, clearly, uh, Mr. Dion did not understand the question and that's why he kept on asking for clarification, as we all saw.

Duffy: Well, it's clearly part of CTV News policy that no reporter on the street can make deals. Uh, the camera's rolling and, and we don't make deals with anyone. It doesn't matter who they are. And, uh, I mean, it's one thing to say, you know, uh, we'll let, we'll let you start again, but clearly it wasn't because somebody coughed or had to blow their nose or sneeze. It's because of something much more important. And when you're dealing with someone who wants to be prime minister of Canada, this is not a laughing matter. Tom, I'll get you to stand by for a second 'cause I know Craig's in Winnipeg where the prime minister and his entourage have just finished a rally. And by the way, those pictures we're showing you now are, uh, Stéphane Dion in Laval, Quebec, uh, where he's speaking live. Uh, when he gets into English we'll, uh, we'll flip over. But Craig, what's your take on all of this?

Oliver: It's obviously, Mike, a issue [*sic*] of comprehension of English. Once again, uh, you know, that is a serious difficulty for him. Uh, being able to speak both languages well

these days in our national politics, I think, goes with the job. Um, unfortunately it looks bad on Mr. Dion, but it is not an issue of intelligence or judgment. That's clear. As for whether one should use it or not, I'm pretty certain that if a prime minister in any, not this prime minister, any prime minister went into Quebec and had a similar, equivalent, uh, event occur to him there in the French language, uh, that station would probably use it in the context of an election campaign. And let's let Canadians make their own judgments. You know, I hope that, uh, people who are partisans will now not say that this is the equivalent, when I was in Washington, of the famous 1979 interview with Ted Kennedy, who was asked "what would you do and why do you want to be president?", couldn't answer it. And his, his run for the presidency ended right there in that interview with Roger Mudd. Uh, it's not really an equivalent. Uh, and I, and I think we have to say he was having difficulty again understanding the English language properly, but it does play into the, uh, charge, uh, that, that, that the Lib-, that the Conservative government has made since the beginning that he is uncertain in other ways. And it looks like that at some times, but he also seemed to be handling it with a degree of humour. So I think that lessened, uh, any damage it might have done.

Duffy: Finally, Tom Clark, yesterday you were in Toronto at MuchMusic and I gather that, uh, Mr. Dion was showing fatigue there, again, having to ask the interviewer to repeat the question. Uh, I think everybody's very tired and it certainly was unfortunate for Mr. Dion tonight.

Clark: Well, it, it was, Mike. And, you're right. Every politician, heck, every journalist at this point in the campaign is, is exhausted. And, uh, missteps and miscues, uh, are, are common and perhaps, you know, in many respects should be forgiven. I think that what we're facing now, though, in terms of how the Liberals are reacting to this and, you know, when you and I were talking about their position that this is a breach of journalistic ethics, I was certainly *myself* not taking a position on how the Liberals felt about that. Uh, because I think that this is, uh, you know, it, it, it does go to a point that says that anybody who wants to be the leader of the country certainly, uh, you know, whether editing an interview, uh, to take out stuff that would be less than flattering, uh, is a, uh, very dangerous ground to start walking on. However, that will be a discussion no doubt between the Liberal Party and CTV. Uh, but comprehension has been an issue, not only in terms of Mr. Dion understanding, perhaps, some questions, perhaps because he's tired, but also, too, his command of the language at times, it has to be admitted, is a little bit difficult to follow in some of his speeches. And so language is playing a role in this campaign in the last few days, no question about it.

Oliver: And Mike, Mike, can I just add to this?

Duffy: Yes, Craig?

Oliver: I, I hope the Liberals will not be saying that this is an issue of stress or being weary. Um, and I haven't heard them say that. Because, uh, that is –

Duffy: Geoff Regan –

Oliver: – nothing compared to the kind of stress he's going to have to cope with if he ever became prime minister of Canada. So that should not be, uh, a line they take.

Duffy: Geoff Regan put it down –

Clark: I agree with that and, Craig, I, uh, let me make it clear. The Liberals were not saying that this was a question of weariness. That was perhaps my own little observation on all of us at this point in the campaign.

Oliver: You bet.

Clark: But I think that it's absolutely right that if you're running for the top job, uh, as Barack Obama says, you gotta be able to do more than two things at once.

Duffy: Yeah, well, Geoff Regan put it down to being a handicap and we're making fun of a handicapped person, which we are not doing. We're covering the election campaign. Thank you both for joining us tonight. Undoubtedly this will be water-cooler talk tomorrow as Canadians, uh, get ready to make their choices in the upcoming election.

The CBSC received numerous complaints about the Dion interview, both about the original CTV Atlantic broadcast of the clip and about its rebroadcast on this episode of *Mike Duffy Live Prime Time*. A total of ten complaints specifically identified *Mike Duffy Live Prime Time* as their subject of concern. Of the ten, six provided enough information for the CBSC to engage its process and, of these, only two individuals requested that the CBSC rule on the matter following receipt of the broadcaster's response (the full text of their correspondence can be found in the Appendix).

Those complainants were concerned about the inclusion of the Murphy interview in the *Mike Duffy Live Prime Time* program. They expressed the view that Murphy's question had been awkwardly worded, so it was understandable that Dion had comprehension difficulties, which were compounded by the fact that he was operating in his second language. They wrote that the broadcast of the false starts was unfair, particularly since CTV Atlantic had initially told Dion that they would not air them (that fact was clearly acknowledged by Steve Murphy in his introduction to the clip on the CTV Atlantic *News at 6* newscast). One of these two complainants characterized the broadcast of the Dion footage as an attempt to "make news rather than simply report it," while another articulated his concerns about Duffy's presentation by questioning whether "Mr. Duffy's words and facial expressions reflect professional journalism?"

CTV's President of News responded to all complainants in November with the following:

This letter is in response to various viewer complaints to the Canadian Broadcast Standards Council (CBSC) regarding an October 9th 2008 interview between Liberal Leader Stéphane Dion and CTV Atlantic anchor Steve Murphy. The interview was broadcast by CTV Atlantic on the Six o'clock News and subsequently on the *Mike Duffy Live* program on CTV Newsnet later that evening.

We believe a review of the chronology of this matter will be of assistance.

Chronology:

Wednesday October 8th 2008:

CTV Atlantic arranged a one-on-one interview with Liberal Leader Stéphane Dion. It was to be Mr. Dion's second one-on-one interview with CTV Atlantic anchor Steve Murphy during the election campaign. The earlier interview was broadcast Monday, September 15th, live from CTV's Halifax newsroom at 6:45 pm ADT. It ran for 8 minutes.

The arrangements for the 2nd interview were the same, a live one-on-one unedited interview. Mr. Dion's campaign schedule, however, would not permit him to be live in the CTV Halifax newsroom for the Six O'clock News, so arrangements were made to record the interview, one hour before airtime, at a downtown Halifax Hotel. It was understood that the format for the second interview would be the same as the first, a one-on-one interview that would not be edited nor interrupted. The only difference in the second interview – it would be live-to-tape instead of live-to-air. Mr. Dion's staff agreed to these arrangements.

Thursday October 9th 2008:

A room was set up as a temporary television studio at Halifax's Delta Barrington Hotel.

4:10 pm ADT: Global News interviewed Mr. Dion. A "pool camera" from other television networks was in the room recording the interview.

4:20 pm ADT: CTV Atlantic's Steve Murphy interviewed Mr. Dion. The "pool camera" continued to record the CTV interview.

During the interview, there were three re-starts and an interjection by a Liberal aide, who tried to assist Mr. Dion to understand a question.

6:36 – 6:52 pm ADT: CTV Atlantic broadcast the full interview, including the restarts and the Liberal aide's interjection.

8:00 pm EDT: *Mike Duffy Live*, a program that reports and discusses the election campaign on a daily basis, aired the Dion re-starts. Liberal candidate Geoff Regan explained Mr. Dion's stumbles by claiming Mr. Dion could not hear the questions. This statement by Mr. Regan was inaccurate.

That evening and the next day, the interview and the restarts were reported by several news organizations including The Canadian Press, CBC, Newsworld, Global News, *The Globe and Mail* and *The Toronto Star*.

The Pool Camera:

During the Global and CTV interviews, there was a pool camera in the room (a camera person from Radio-Canada). During election campaigns, by network agreement, all one-on-one interviews with party leaders are recorded and fed to network newsrooms. All leaders were aware of this arrangement and agreed to it. As such, the Global and CTV interviews could be broadcast by any of the television networks.

The Interview: Three Re-starts and a Liberal Aide Interjection:

Mr. Murphy began the interview by reviewing Mr. Dion's luncheon speech in Halifax earlier that day. Mr. Dion had attacked Prime Minister Harper on the economy:

Murphy: ***"Today, you said Mr. Harper has offered nothing to put Canadian minds at ease, and (he) offers no vision for the country."***

Mr. Dion nods his head in affirmation.

Murphy: ***"If you were Prime Minister now, what would you have done about the economy and this crisis, that Mr. Harper has not done?"***

Mr. Dion asked for a clarification on the question then began answering. He stumbled when he described a “30 – 50 day plan” for the economy. He corrected himself and described it as an 80-day plan. Mr. Dion then appeared flustered, abruptly stopped, and asked if the interview can be re-started. Mr. Murphy acceded to this request.

On the second attempt at the question, Mr. Dion said: “We need to start again.” This was not a request, it was a declaration from Mr. Dion that the interview would be re-started.

Then a Liberal aide (who appeared to clearly understand the question), interjected herself from off-camera, and explained the question to Mr. Dion while the cameras were recording.

The interview then resumed. Mr. Dion stopped and said: “Let’s start again.” This too was not a request of Mr. Murphy, it was another declaration from Mr. Dion that the interview would be re-started for a third time.

What Undertakings, If Any, Were Made By CTV News to Mr. Dion?:

Politicians are media savvy. They know that everything they say is on the record, especially during an election campaign.

Mr. Murphy made no undertaking to Mr. Dion or anyone in the Liberal campaign that something would be off the record or not for broadcast. In this case, there were several journalists, three television cameras and technical crews in the room. In such a setting, and during an election campaign, everything that was said would be on the record and available for broadcast by all television networks.

After Mr. Murphy’s first question, Mr. Dion **ASKED** if the interview could be re-started. Mr. Murphy agreed to this initial request as a courtesy – perhaps thinking that Mr. Dion did not hear the question or perhaps he was tired or distracted after a long election campaign. But that courtesy does not extend to an interviewee declaring restart after restart. It was Mr. Dion (not Mr. Murphy) who declared there would be a second re-start, and then a third. Mr. Murphy had few options but to continue along with the interview.

Subsequent Actions Taken by CTV - Was This Newsworthy?

The Canadian Radio-television and Telecommunications Commission (CRTC) recognizes that it is up to the individual broadcaster to be responsible for the programming that it chooses to air, provided that it is balanced. This editorial independence is an important keystone of the Canadian broadcast system and an important recognition of the Charter right of freedom of expression. The CBSC, too, in various rulings and decisions supports the principle that it is up to the broadcaster to determine what is newsworthy, the content of the news, the length of news stories and the order in which they will run in a newscast. CTV News takes these responsibilities very seriously. After the Dion interview was finished, CTV News was put in a position where it had to determine whether it was appropriate to air the complete interview including the restarts. An intensive editorial review began. The tape was reviewed and the matter was first considered by the CTV Atlantic News Director and his staff and then subsequently considered by myself as President of CTV News and senior editorial personnel in Toronto.

In a Canadian political campaign, it is highly unusual for a party leader to spend three minutes trying to figure out a question and his answer to it. It is even more unusual for an aide, off-camera, to speak up and interject herself into the middle of an interview, to explain a question to a party leader.

In its consideration, CTV News editors discussed several issues, including the following:

- Could Mr. Dion hear the questions?
- Were there any clear undertakings or promises that the videotape would not air in its entirety?
- Were we being fair to Mr. Dion, posing questions in English, his second language?
- Why were Mr. Dion's aides so insistent that the re-starts be deleted?
- If we deleted the re-starts, would we be offering a favour or benefit to the Liberal party leader?

To these questions, CTV News concluded the following:

- Mr. Dion could hear the questions.
- No clear or direct undertakings were made to delete the re-starts.
- We believed we were being fair with an English question since Mr. Dion received clarification from his own aide.
- We believed we would be providing a benefit to Mr. Dion if we removed the restarts.

The three minute exchange of re-starts also raised other issues:

- Was Mr. Dion's understanding of his second language, English, so poor that he could not understand a question with different tenses?
- How often do aides explain important questions to Mr. Dion?
- Does Mr. Dion understand issues like the faltering Canadian economy?
- Is Mr. Dion able to think on his feet and answer questions directly and with precision?
- Was Mr. Dion so scripted and programmed with his key messages that he refuses to say anything else?
- Was Mr. Dion exhausted nearing the end of an election campaign, and if so, how does he handle pressure and public scrutiny at such times?

In our opinion, these were legitimate questions for voters to consider in an election campaign. After careful review, CTV News deemed the interview newsworthy and made the decision to air the interview in its entirety, because the issues involved were of such important public interest. This decision was one that favoured openness over censorship in order to let the viewers decide for themselves. We also believe that this decision was in compliance with The Canadian Association of Broadcasters *Code of Ethics* - Clause 6 [*sic*, actually Clause 5]:

“The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening and to understand events so they may form their own conclusions.”

CTV News Obligations during an Election Campaign:

Our objective and our obligation is to expose viewers to the political parties, the platforms and leaders so voters can be better informed on Election Day. Political coverage dominated CTV News programming during the campaign period on our local CTV newscasts, the *CTV National News*, *Canada AM* and Sunday's *Question Period*. During the campaign, we produced two hours of *Mike Duffy Live* on CTV Newsnet which is a close-up review and analysis of each day on the campaign. This daily program is the meeting point for political partisans to discuss the issues and the leaders' performance.

CTV News is well aware of its responsibilities under the Broadcasting Act and the Television Broadcasting Regulations, 1987 and more specifically, Broadcasting Circular CRTC 2008-4 which outlined the guidelines governing broadcasters in connection with the 2008 federal general election.

According to the Circular, there is an obligation on the part of broadcasters:

“... to provide equitable – fair and just treatment of issues, candidates and parties. It should be noted that “equitable does not necessarily mean ‘equal’ but generally, all candidates and parties are entitled to some coverage that will give them the opportunity to expose their ideas to the public.”

We also note that the Commission reiterates in this Circular that news coverage should generally be left to the editorial judgment of the broadcaster.

During election campaigns, each political party seeks to position its leader in the best possible light. The party war rooms are specifically designed to influence media coverage. CTV News is an independent agency that favours no political party. We do not run editorials endorsing leaders, platforms or candidates. In our news coverage of political campaigns, we also do not offer favours or benefits to any one party or candidate.

During this past campaign, Conservative Party officials and Tory partisans were loudly criticizing our coverage of the Gerry Ritz listeriosis affair, the “pooping puffin” controversy, and Prime Minister Harper’s comments during the financial crisis. Similar complaints over other issues came from partisans for the NDP, Liberals and the Greens.

In the matter at hand, Stéphane Dion’s aides asked CTV News to drop the opening portion of the interview. They were asking us for a favour, a benefit we could not give, nor had accorded to any other party or leader. We believe that if we had complied with such a request, CTV News would be in violation of Article Five of the RTNDA Code of Ethics which states:

“Broadcast journalists will resist pressures to change or alter the news. Intrusion into content, real or apparent, should be resisted.”

Not to have run the full interview would have been to cover up something of direct public interest and considerable importance.

RESPONSE TO SPECIFIC CONCERNS:

Are Re-Starts Common Practice?:

Just for clarification purposes, in daily television news, re-starts and re-takes of interviewees are uncommon. In fact, in feature political one-on-one interviews that last between 8-12 minutes and are formatted “live-to-tape”, re-starts and re-takes are extremely rare. The intention is for the broadcaster to air the complete unedited interview in the same way that a broadcaster would air a live interview. As previously stated, CTV Atlantic originally intended to conduct a second live one-on-one unedited interview with Mr. Dion during the campaign. Arrangements were changed to accommodate Mr. Dion’s campaign schedule and, as a result, the interview was changed to a live-to-tape interview instead.

Mr. Dion’s Hearing Problem:

Some individuals have written CTV News suggesting we have discriminated against someone with a disability because Mr. Dion has a hearing problem. Indeed, following the interview, Nova Scotia Liberal MP Geoff Regan stated on the *Mike Duffy Live* program that Mr. Dion could not hear the question. This statement was simply false. Mr. Murphy and Mr. Dion were sitting in a quiet room two metres apart. Mr. Dion confirmed himself that he had no difficulty hearing the questions.

RTNDA: Article Eight (Decency and Conduct)

Some individuals have suggested that CTV News violated Article Eight of the RTNDA’s Code which states:

“Broadcast journalists will treat people who are subjects and sources with decency. They will use special sensitivity when dealing with children. They will strive to conduct themselves in a courteous and considerate manner, keeping broadcast equipment as unobtrusive as possible. They will strive to prevent their presence from distorting the character or importance of events.”

While Mr. Murphy and his crew were confronted with an unusual situation which included partisan political pressure, they conducted themselves with the highest level of professionalism. They were courteous and considerate in their interpersonal discussions with Mr. Dion and Liberal party aides.

It was following this interview, that CTV News was required to make a determination as to how it would use the interview with Mr. Dion that was live-to-tape. Although it was never intended that this interview would be edited in any way and it was to be treated in the same way as a live interview, given the Liberal party interference and the very unusual and significant number of “restarts” demanded by Mr. Dion, it became incumbent on CTV News to give this matter serious consideration, from a professional journalistic perspective, before a final decision was made as to whether or not to air the interview in its entirety.

Did You Intend to Hurt Stéphane Dion’s campaign or Tip off the Harper Campaign?

Some individuals have suggested CTV News was intent on harming Stéphane Dion five days before the general election. This is completely preposterous. Other allegations that somehow CTV tried to alert the Harper campaign to the Halifax interview were equally offensive.

These allegations are completely false and not representative of how CTV News conducted itself during the election campaign. We can assure you that CTV News would

not take any action to aid or assist any political party or candidate during an election campaign. CTV News is an independent news agency that favours no political party. If something happens on any given day, during the campaign, we have an obligation to report what we believe is newsworthy.

Conclusion:

While CTV received numerous complaints about the broadcast of this interview by Liberal supporters, we also received numerous complaints from Conservative, NDP and Green Party supporters who complain that other news reports were biased against their parties. Politics is a very sensitive and complex issue and it is very difficult for broadcasters to satisfy all viewers all the time, especially during an election campaign. However, we can assure you that our newscasts are never intended to be biased against or favourable to any of the parties or their supporters.

CTV is a member in good standing with the CBSC and follows its guidelines. We believe the news reports in question were in full compliance with all industry codes administered by the CBSC and all applicable legislation.

Thank you for taking the time to write with your concerns. Hoping that this provides a better understanding of our position in this matter.

As mentioned above, two complainants submitted their Ruling Requests following receipt of CTV's letter.

THE DECISION

The CBSC's National Specialty Services Panel examined this broadcast under the following provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* and the Radio Television News Directors Association of Canada (RTNDA – The Association of Electronic Journalists) *Code of (Journalistic) Ethics*:

CAB Code of Ethics, Clause 5 – News

- 1) It shall be the responsibility of broadcasters to ensure that news shall be represented with accuracy and without bias. Broadcasters shall satisfy themselves that the arrangements made for obtaining news ensure this result. They shall also ensure that news broadcasts are not editorial.
- 2) News shall not be selected for the purpose of furthering or hindering either side of any controversial public issue, nor shall it be formulated on the basis of the beliefs, opinions or desires of 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.

CAB Code of Ethics, Clause 6 – Full, Fair and Proper Presentation

It is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of each broadcaster. This principle

shall apply to all radio and television programming, whether it relates to news, public affairs, magazine, talk, call-in, interview or other broadcasting formats in which news, opinion, comment or editorial may be expressed by broadcaster employees, their invited guests or callers.

RTNDA Code of (Journalistic) Ethics, Article 8 – Decency and Conduct

Broadcast journalists will treat people who are subjects and sources with decency. [...] They will strive to conduct themselves in a courteous and considerate manner, keeping broadcast equipment as unobtrusive as possible. They will strive to prevent their presence from distorting the character or importance of events.

The Panel Adjudicators read all of the correspondence and viewed a recording of the program. The majority of the Panel concludes that CTV Newsnet violated Clause 6 of the *CAB Code of Ethics*. The view of the minority, which concludes that there was no breach of any of the foregoing provisions, can be found in the dissenting opinion below.

The Relevance of the Atlantic Regional Panel Decision

The National Specialty Services Panel acknowledges that the Atlantic Panel decision on the CTV Atlantic interview dealt strictly with a *news* program, and that *Mike Duffy Live Prime Time* is a public affairs program, and not *pure* news. The Panel does not conclude on that account that the applicable principles are radically different. While it goes without saying that there is great latitude in terms of the expression of opinion on the Duffy show that would not be expected, or permitted, in a pure news context, it is not the injection of opinion in the episode that particularly concerns the Panel in the matter at hand. Much turns for the Specialty Services Panel on matters discussed and decided in the Atlantic Panel's decision. Consequently, this Panel will refer to, and rely on, elements of the earlier CJCH-TV decision.

A Preliminary Matter: Mr. Murphy's Question to Mr. Dion

Since the issue of the wording of the question to Mr. Dion is as central to the appreciation of CTV Newsnet's broadcast decision as it was in the CTV Atlantic decision, the Specialty Services Panel can do no better than to adopt the language of the Atlantic Regional Panel in the CJCH-TV decision.

Since much turns on what was asked and what was understood, or misunderstood, the Panel considers it useful to look carefully at the formulation of the question itself. It was initially put as follows: "If you were prime minister now, what would you have done about the economy and this crisis that Mr. Harper has not done?" When the interview recommenced, the question was framed almost identically, the adverb "already" having been inserted to qualify the verb: "If you were prime minister now, what would you have already done in this crisis that Mr. Harper hasn't done?" And then, in the context of the

“good” interview, that ran in full, there was no structural change, the word “today” having been substituted for “now” and “by now” for “already”; the question was worded in this final incarnation as follows: “If you were Prime Minister of Canada today, what would you have done by now that Stephen Harper has not done about this economic crisis?” [...]

In any event, any moderately attentive analysis of any of the three forms of the initial question would reveal that the question is confusing, and not only to a person whose first language is other than English. In the strictest grammatical sense, Steve Murphy’s question mixes not only tenses (present and past), *but also* moods (subjunctive and indicative), both being syntactically relevant in French and English. It follows that several interpretations of what the interviewer intended to ask are possible. What the Panel (speculatively) believes the interviewer wished to ask was essentially what Mr. Dion would have done *in the past* about the economy and this crisis *had he been in Mr. Harper’s shoes* during the same period. If such is the correct understanding, the question would have been more properly framed, “If you *had been* prime minister during the period that Mr. Harper has been prime minister, what *would you have done* about the economy and this crisis that Mr. Harper has not done?” Or, it may be that the question Murphy wished to put was meant to have a present/future articulation, as in “If you *were* prime minister *now*, what steps *would you be taking* about the economy and this crisis that Mr. Harper has not yet taken?”

Given the confused question, the Panel considers that the interviewer may even have intended to ask whether Mr. Dion would have taken specific steps to obviate such an economic crisis in the first place. Alternatively, did Murphy mean to inquire how Mr. Dion would have tackled the economic crisis had it landed on his plate *after* two years in office? Or did he wish to request how, if Mr. Dion were elected as prime minister on the day of the interview, he would handle such an economic crisis encountered that day or thereafter, in the future? Indeed, Mr. Dion appeared to understand that there could be a difference in the answer depending on how long he might have been in office before being called upon to face such a problem. As he ultimately pointedly asked, “give me a *first* date where I’m prime minister that I can figure out what, what is your question [...] about [emphasis added].”

The Panel’s only point is that the question was unfocussed, unclear and ultimately confusing, even to Anglophones (as all Adjudicators on this Panel are). It was neither crisp nor even clear, and it left doubts as to its meaning in the interviewee, the audience, and even this Panel, after viewing and reviewing the logger tape. In other words, blame for misapprehension cannot simply be laid at the feet of the interviewee. This is not to suggest that there is any code breach associated with a poorly framed question. Not remotely. It is just to make clear that the Panel’s assessment of the broadcaster’s decision to air the halting and restarted interview must take this underlying genesis of the problem into consideration.

The National Specialty Services Panel would add to the Atlantic Panel’s observation that the unclear question left doubts as to its meaning in the interviewee, the audience, the Atlantic Panel and this National Panel. It would expand on the Atlantic Panel’s conclusion that “blame for misapprehension cannot simply be laid at the feet of the interviewee” by observing that there were clear attempts by Mike Duffy and Craig Oliver to do exactly that. These include: “a devastating reminder of Stéphane Dion’s struggle with the English language”; “it kind of reminds me of Bob Stanfield and the football”; “is it a problem to comprehend?”; “how are the Liberals explaining this Dion language problem?”; “when you’re dealing with someone who wants to be prime minister of

Canada, this is not a laughing matter”; and the use of the caption “Dion’s False Starts” at the foot of the screen during another speech of that same day.

The Panel takes no issue with the observation by Duffy’s colleague Tom Clark that Dion’s “command of the language at times, it has to be admitted, is a little bit difficult to follow in some of his speeches.” That observation by Clark was related to *previous* incidents during the campaign. Even the review by this Panel of the transcript of the full interview broadcast on CTV Atlantic, in Appendix A of *CJCH-TV (CTV Atlantic) re CTV News at 6 (Stéphane Dion interview)* (CBSC Decision 08/09-0196+, January 12, 2009), reveals the Liberal leader’s difficulties expressing himself clearly in English. He may also have misunderstood questions on previous occasions and this, too, would have been fair of Tom Clark or any commentator to observe. The Specialty Services Panel’s concern, as will be indicated in greater detail below, is *not* with such an observation. It relates rather to the weight placed on Stéphane Dion’s alleged miscomprehension of what was fundamentally an ineptly worded question.

The Newsworthiness Issue

There are two aspects to the newsworthiness issue, one that was raised in the CTV Atlantic decision and one that flows from the Duffy rebroadcast of the false starts.

The first issue relates to the broadcast of the outtakes *at all*. The majority of the National Specialty Services Panel agrees with the Atlantic Panel. The undisputed newsworthy element of the original broadcast was the complete interview, which ran for about twelve minutes after the restarts, beginning at about 6:41 pm. In that part of the 6:00 pm newscast, Mr. Dion discussed his platform and offered suggestions for dealing with the economic crisis in response to the initial poorly formulated question. The balance of the interview (a little more than an additional ten minutes in duration) dealt with what he thought should be said “to ease the minds of Canadians”, the Liberal economic plan, the proposed carbon tax, deficits, the green shift, taxes, comparable European national policies, and Canada’s military mission in Afghanistan. That is where the substantive meat was, not in the restarts. Despite the presence of that complete interview following the initial four minutes of introduction and restarts, the Atlantic Panel concluded that it was a code breach “for the broadcaster, CTV Atlantic, to reverse its commitment and broadcast the outtakes.” In the matter at hand, where almost none of the substantive electorally-relevant content was provided to the audience, the Panel finds that the rebroadcast was unfair in terms of Clause 6 of the *CAB Code of Ethics*.

The second issue relates to the fact that the CTV Atlantic broadcast of the restarts was *itself* newsworthy, that it had become newsworthy. As the President of CTV News said in his November letter, “That evening and the next day, the interview and the restarts

were *reported* by several news organizations including The Canadian Press, CBC, Newsworld, Global News, *The Globe and Mail* and *The Toronto Star* [emphasis added].” There is, of course, no indication in the statement by the CTV News President that the restarts were actually *broadcast* by either of the broadcasters referred to in the letter, not that such an occurrence would have justified *this* rebroadcast. In any event, the Panel, which includes a senior, experienced broadcast journalist and former president of the RTNDA, readily recognizes that the broadcaster could *easily* have reported the story without the need to *show* the outtakes. It is, after all, not the reporting that is at issue, but rather the rebroadcast of the restarts.

The majority of the Panel considers the following conclusion of the Atlantic Panel to be of relevance:

What then was the broadcaster really seeking, if *not* the full questions and the full answers? It appears to have been the stumbles, the whoopses, and the mis-starts. Given the poor quality and confusing syntax of the question, the Panel does not accept the “justification” that Mr. Dion’s command of English could be shown to be “so poor that he could not understand a question with different tenses.” Whether the Liberal leader did “understand issues like the faltering Canadian economy” and whether he proved to be “able to think on his feet and answer questions directly and with precision” were best judged by the policy explanations he provided during nearly twelve uninterrupted minutes of the complete interview. That same lengthy interview could be the judgment base-line of whether his answers were restricted to, as put by the President of CTV News, pre-scripted, pre-programmed, and presumably rehearsed key messages. If they were *that*, the audience was free to draw that conclusion from what he said in the twelve minutes worth of responses.

The Panel concludes that, while the story had become reportable, the rebroadcast of the tapes had not become justifiable. There is a chasm of difference between the two.

Decency, Courtesy and Consideration

There is a fundamental difference between the applicability of Article 8 of the *RTNDA Code of (Journalistic) Ethics* to the CTV Atlantic and the CTV Newsnet broadcasts. In the former instance, there was a *relationship* established prior to the interview. While the Panel has no disagreement with the Atlantic Panel regarding its interpretation of Article 8, it concludes that *Mike Duffy Live Prime Time* had no such relationship with Mr. Dion or his colleagues. Consequently, without any relationship between Duffy and Stéphane Dion, there could be no issue of decency, courtesy or consideration to evaluate. There was, in a sense, no duty owed to the subject “on the ground”, namely, an interviewee with whom the broadcaster was having dealings at a pertinent time, which is, in the view of the Panel, the essence of the intention of the Article. Consequently, the Specialty Services Panel does not conclude that the broadcaster has breached this Article in its broadcast of *Mike Duffy Live Prime Time*.

Fairness

While the Panel has no difficulty with the decency/courtesy issue, the majority of the Panel has a different view of the *fairness* of the broadcast of *Mike Duffy Live Prime Time*. To begin, while the majority, including the senior, experienced broadcast journalist, subscribes to the position of the Atlantic Regional Panel on the issue of retakes, it would go even further.

[The Atlantic Regional] Panel (two-thirds of the industry Adjudicators being themselves members of RTNDA and broadcast journalists of considerable experience) considers that restarts and retakes are a common, not a rare, occurrence. The decision to extend such a courtesy was neither unreasonable nor even unusual.

Such outtakes, the Specialty Services Panel concludes, are very common, even absolutely routine. The Panel does not, therefore, even find it a modest stretch to have a person in authority agree to a restart, or even more than one restart. After all, once that ball was rolling, there was no reason to expect that anything had changed when it came to restart three or even four. On any of those restarts, the interviewer could have said “No, we must carry on from here.” Murphy did not and, in the view of the Panel, the Liberal leader and his team had every reason to expect that the restarted matter was, in effect, “overwritten” or banished from use. The Panel considers this the moreso reasonable in light of the imprecision of the question and the confusion resulting from the failure of the interviewer to ever render what he sought *clear*. Had the question been articulate and well-framed, the Panel might have expected the Liberal leader to wear some responsibility for the confusion that ensued. That was not, however, the case. Even had the question been properly put, though, the broadcaster’s commitment to permit the restarts would likely have put the filmed content off-limits. In the circumstances, the question was bad and the commitment was made. The Panel views the broadcaster’s actions in the rebroadcast of the outtakes on the Duffy show as an unfair and improper presentation of news, opinion, comment and editorial, contrary to the rule established in Clause 6 of the *CAB Code of Ethics*.

The National Panel also acknowledges that, while the host, Mike Duffy, was entitled to have and manifest an opinion, as this was, after all, a mixed news and public affairs show, not a *pure* news program, he went too far. He was not fair, balanced or even-handed. In addition to the unfairness of the rebroadcast noted immediately above, the host significantly misrepresented the view of one of the three members of his Panel, namely, Liberal MP Geoff Regan, who had attributed the misunderstanding as a hearing issue and had said, “I don’t think that we should [...] spend a lot of time talking about someone’s physical impairment.” About 20-30 seconds later (all of the following emphases being added), ignoring totally the actual words of MP Regan, Duffy said “you fob it off as, we’re *making fun* of someone’s physical impairment.” And, in his next

observation, the host reiterated the fallacious assertion, “And then you tell me we’re *making fun of his physical impairment?*” Despite the fact that guest panellist Geoff Regan twice said, “That’s not what I said,” and it is clear from the transcript that was *not* what he said, Mike Duffy persisted in his misrepresentation. In talking with his CTV colleagues Tom Clark and Craig Oliver, Duffy next said, “Are they doing the Geoff Regan move here and saying it’s all about his handicap and *anybody who mentions it’s picking on him?*” He concluded the item with these words, “Geoff Regan put it down to being a handicap and *we’re making fun of a handicapped person.*” The National Specialty Services Panel concludes that the consistent misrepresentation by host Mike Duffy of the MP’s point of view constituted an unfair and improper presentation of opinion or comment contrary to Clause 6 of the *CAB Code of Ethics*.

The Dissenting Opinion of J. Medline (in which L. Todd concurs)

For reasons outlined below, I disagree with the majority opinion and would *not* have found CTV Newsnet to be in breach of any of the aforementioned Code provisions, as they pertain to the Stéphane Dion Interview.

Assessing the absolute and relative value of the interview restarts

The majority decision by the National Specialty Services Panel concluded as follows:

The balance of the interview [i.e., after the re-starts] (a little more than an additional ten minutes in duration) dealt with what [Mr. Dion] thought should be said to “ease the minds of Canadians,” the Liberal economic plan, the proposed carbon tax, deficits, the green shift, taxes, comparable European national policies, and Canada’s military mission in Afghanistan. That is where the substantive meat was, not in the restarts. [...] In the matter at hand, *where almost none of the substantive electorally-relevant content was provided to the audience*, the Panel finds that the rebroadcast was unfair in terms of Clause 6 of the CAB Code of Ethics. [Emphasis added.]

In a separate but related decision, the Atlantic Regional Panel came to a similar conclusion:

Whether the Liberal leader did “understand issues like the faltering Canadian economy” and whether he proved to “be able to think on his feet and answer questions directly and with precision” were best judged by the policy explanations he provided during nearly twelve uninterrupted minutes of the complete interview.

It is dangerous ground indeed for CBSC panels to adjudge which aspects of election coverage are “electorally relevant” and which are not. It is not for us to decide what a potential Canadian voter would find to be “substantive”. The policy explanations

provided by Mr. Dion may have provided sufficient information for some, but not others. I cannot pretend to speak for individuals within the larger electorate.

While the restarts may not have contained any position- or policy-related elements, they certainly raised a number of leadership questions of potential relevance to at least some potential voters. And it would be hypocritical of me to support the majority position, when I myself found *more* value in the disputed elements. For example:

- How does Mr. Dion handle stressful situations?
- Can he think on his feet, and, if so, can he express his thoughts accordingly?
- How does he respond to questions where the syntax is perhaps not perfect – a common occurrence in every person’s life?
- How does he handle a high-pressure grind working on little sleep?
- How might he respond to a similar situation as Prime Minister in a domestic or international venue?

Again, those are not policy issues – but they may provide some insight into what type of leader he might be, or become, how he might handle a crisis, and so on. Modern political machines can control so many elements of their campaigns; but here we, the Canadian public, were furnished with an unscripted, unprepared response. That was valuable.

And context is important here. *The interview in question involved a prospective leader of our country.* In this situation, a broadcaster *should* err on the side of providing a greater amount of information to the public, not less. After all, Clause 5 of the *CAB Code of Ethics* states, “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.* [Emphasis added.]”

Moreover, the very Clause of the *CAB Code of Ethics* that the majority quotes in its decision (Clause 6) also requires the *full* presentation of news, opinion, comment and editorial. One could just as easily argue that any decision to omit the restarts would have placed CTV in a position of breach.

The fact is, Mr. Dion could have handled the disputed question in any number of ways – and his manner, his frustration level, his decision to ask for restarts (or just to restart on separate occasions) were all within his control. Question syntax can be questioned in the current circumstance, but it should not be determinative.

I believe that the Panel gave entirely too much weight to Steve Murphy’s question, forgetting that a potential Prime Minister’s ability to respond to a question – whatever it

may be and however phrased – could be *more* important to at least some of the voting electorate. That is, they have underestimated the “how did he deal with it?” element.

For similar reasons, I do not accept the majority’s position (paraphrased) that “a deal’s a deal” and that the promises Mr. Murphy made during the restart interviews should be honoured under any circumstance.

First, I see nowhere in the transcript where Mr. Murphy actually stated that the interview would not be broadcast. In the first instance, Mr. Dion, after stumbling a good deal, asked for a restart – and it was granted. But no one ever said the footage would never be aired, and in fact, an unidentified voice on multiple occasions noted that the interview was still being recorded. In my mind, a restart, and a promise never to air the footage, are distinct undertakings.

Second, on the subsequent occasions, Mr. Dion himself abruptly stopped the interview on his own accord. On those occasions, there were absolutely no undertakings or promises that the footage would never air. Mr. Dion and his team may have operated on that presumption, but there was no explicit deal.

But let us imagine for a moment that there was an understanding that the restarts would never air. Let us imagine that Mr. Murphy had shaken Mr. Dion’s hand and personally assured all present that only the “full interview” would be aired. I would still contend that there was no breach of industry Codes.

In his comprehensive response to the complaints, the President of CTV News noted that the restarts were first reviewed by the CTV Atlantic News Director and his staff, and then subsequently by the President of CTV News and senior editorial personnel in Toronto. The decision was then made to air the restarts:

In our opinion, these were legitimate questions for voters to consider in an election campaign. After careful review, CTV News deemed the interview newsworthy and made the decision to air the interview in its entirety, because the issues involved were of such important public interest. This decision was one that favoured openness over censorship in order to let the viewers decide for themselves [...]

Under this scenario, therefore, the Panel would then have had to weigh Mr. Murphy’s on-the-spot promise not to air the restarts against the sober second-thought of multiple and high-ranking editorial News personnel in both the Atlantic Region and Corporate Headquarters on an issue that directly pertained to a Federal election mere days away. Given this choice, I would choose to support the latter position, despite the embarrassment associated with renegeing on a deal made earlier with the Dion camp. On balance, the “deal” would prove (in relative terms) to be insignificant when compared to the election of a Prime Minister and perhaps a Party.

To this end, I believe the CTV President of News identified a relevant section of the *RTNDA Code of (Journalistic) Ethics* in his response. Article 5 of that Code reads:

Independence is a fundamental value and we will resist any attempts at censorship that would erode it. Broadcast journalists will resist pressures to change or alter the news. Intrusion into content, real or apparent, should be resisted.

Given the initial exchange, the pressure on Mr. Murphy to restart the interview was obvious – and he had little time to react. The cameras were still rolling. This was probably not the best time for even an experienced journalist to assess the implications of acquiescing to a restart and/or not broadcasting that part of the interview; nor could he have known at the time that his initial courtesy restart would be repeated on more occasions. A more informed opinion using a wider base of news editorial personnel and taking the necessary time to consider underlying implications should “over-rule” any initial judgment.

Was this a perfect outcome? No. It would have been better if no promises had been made (if indeed they were, implicitly). A slightly rephrased question could have also helped. But once the cards were dealt, I believe CTV made the best of an awkward situation. Given what was at stake (a Federal election), the “newsworthiness” of the restarts clearly, in my opinion, outweighed issues related to question syntax and/or the renegeing of an on-the-spot commitment.

As such, I cannot agree with the majority’s position that it views “the broadcaster’s actions in the rebroadcast of the outtakes on the Duffy show as an unfair and improper presentation of news, opinion, comment, and editorial, contrary to the rule established in Clause 6 of the *CAB Code of Ethics*.”

Specific Issues related to the *Mike Duffy Live Prime Time* broadcast

The newsworthiness issue

By the time the restarts aired on *Mike Duffy Live Prime Time*, they had already aired in other venues. As the Facts section of the decision states:

Later that evening, *Mike Duffy Live Prime Time*, broadcast on specialty service CTV Newsnet, had as its primary subject of discussion the Murphy-Dion interview and restarts, *which had by then begun to generate considerable public controversy on the part of various news organizations (although it is unclear to the Panel whether any other broadcasters had aired the stops and restarts)*. [Emphasis added.]

The Panel considered whether the initial airing on CTV Atlantic, and subsequent attention by other media outlets, made the restarts newsworthy in and of themselves (i.e., appropriate material for *Mike Duffy Live Prime Time*) and concluded as follows:

[T]he broadcaster could *easily* have reported the story without the need to *show* the outtakes. It is, after all, not the reporting that is at issue, but rather the rebroadcast of the restarts. [Emphasis original.]

Here, I must strongly disagree with the majority's position. I fail to see how that "middle-ground" solution solves anything. Television is a visual medium; and the restarts were available for broadcast. Once the decision was made by CTV that the restarts were newsworthy, why deny the viewer the opportunity to see the video and make his/her own judgments? Any description of events would be needlessly artificial, and subject to *greater* reporting subjectivity. If viewers felt that the question was improperly phrased and in effect set up Mr. Dion, so be it. It would be there for all to see. Similarly, others may have been interested in Mr. Dion's visible frustration, intonation, body language. I do not presume to know what each individual would take out of the restarts (if anything), but I do know that it would be a lesser experience without the audio-visual support. In any case, the originating broadcaster should be given great latitude in the actual presentation of the news – the discretion of presentation is theirs.

Fairness as it applies to Mike Duffy Live Prime Time

While much of the complainants' attention in the matter at hand deals with fairness as it relates to the originating interview, we must also examine fairness as it applies to the entire episode. While recognizing that *Mike Duffy Live Prime Time* was a mixed news and public affairs show and not a "pure" news program, the majority concluded that the host "went too far" and was "not fair, balanced or even-handed." I would suggest that the Panel's focus on the host does not appropriately reflect the degree of fairness reflected in the overall program.

In addition to CTV correspondents Tom Clark (covering the Liberals in Laval) and Craig Oliver, that episode of *Mike Duffy Live Prime Time* had representation from senior members of the Conservative Party, the NDP, and the Liberal Party. The program created news in its own right when Liberal MP Geoff Regan stated that the Dion restarts were a result of "a hearing problem and that's clearly what happened here", despite people in the Dion camp arguing otherwise (see Tom Clark's comments). Moreover, this episode was not a "one-trick pony" – discussion ranged from campaign fatigue, to physical disabilities, to language comprehension, to other election speeches, to journalistic ethics.

The majority decision notes that Mr. Duffy consistently misrepresented Mr. Regan's words (e.g., "Geoff Regan put it down to being a handicap and *we're making fun of a handicapped person*"). Technically, I believe the majority was correct in this assessment. Although Mr. Regan certainly broached the issue of a hearing impairment

(perhaps incorrectly), he never suggested that CTV was making fun of a person with a disability.

But I do not believe this rises to the level of a breach.

Mr. Regan was given the right of reply in this interview format. He twice denied Mr. Duffy's charge – that is on the record. So, while Mr. Duffy continued to attribute the comment to Mr. Regan, the viewer was provided the clear opportunity to adjudge which party was correct. It was right in the interview. As such, unlike a traditional newscast, the format of this show naturally provides for some degree of fairness and counterbalance. Given that Mr. Regan was afforded right of reply, and the secondary nature of this part of the considerations, I cannot support a finding of breach on this particular element.

Broadcaster Responsiveness (Unanimously)

It is always the case that the CBSC Panels measure the responsiveness of the broadcaster to the concerns of the complainant(s). In the matter at hand, the Panel finds that the President of CTV News provided a thorough, detailed, thoughtful and contextual reply to the complainants. Moreover, it was a usefully lengthy reply, complete with a chronology of events and an organized analysis of the material issues. Nothing more could be expected of any broadcaster. CTV Newsnet has amply fulfilled its obligation of membership in the CBSC on this occasion.

ANNOUNCEMENT OF THE DECISION

CTV Newsnet is required to: 1) announce the 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 during the time period in which *Mike Duffy Live Prime Time* was broadcast; 2) within the fourteen days following the broadcasts of the announcements, to provide written confirmation of the airing of the statement to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with a copy of that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by CTV Newsnet.

The Canadian Broadcast Standards Council has found that CTV Newsnet violated the Canadian Association of Broadcasters *Code of Ethics* in a broadcast of *Mike Duffy Live Prime Time* on October 9, 2008. CTV Newsnet broadcast several restarts of an interview with Stéphane Dion which originally aired on CTV Atlantic. The CBSC has concluded that the

rebroadcast of the outtakes when the broadcaster had consented to restart the interview and the consistent misrepresentation by host Mike Duffy of the point of view of one of his invited guests violated Clause 6 of the Code, which requires the fair and proper presentation of news, opinion, comment and editorial.

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

APPENDIX

CBSC Decision 08/09-0213 & -0281 CTV Newsnet re an episode of *Mike Duffy Live Prime Time* (Stéphane Dion Interview)

The Complaints

The CBSC received 10 complaints about this CTV Newsnet broadcast (and an additional 39 about the original broadcast of the Dion interview on CJCH-TV). Of those 10, six provided enough information to trigger the CBSC's process. Of those six, only two complainants filed Ruling Requests. Their correspondence is reproduced here.

File 08/09-0213

The following complaint dated October 16, 2008 was sent to the CRTC and forwarded to the CBSC:

I am writing to you about what I think is a serious breach of journalistic ethics. I wonder what you will do about it.

I watched (on the Mike Duffy CTV program) an interview with an ATV journalist and Stéphane Dion. Mr. Dion had problems understanding the question asked and requested that the interview restart. Mr. Duffy chose to show the original questioning and the "retakes" on his program. This put Mr. Dion in a difficult situation, which was accentuated by Mr. Duffy's facial expressions.

My question to you is about the ethics of Mr. Duffy showing this on his program, given that "Hurst (the CTV executive responsible) insisted that even though Halifax anchor Steve Murphy had said he 'indicated that it would not be' aired, the network decided to show the interview in its entirety." (*Toronto Sun* 2008-10-10)

Is it ethically permissible to tell an interviewee one thing, and then do another? Is it permissible for a network like CTV to make a decision that can affect an election outcome on such flimsy grounds?

This is quite separate from the actual question asked by the grammatically challenged interviewer, which I have asked CTV to explain.

On October 17, the complainant sent a copy of the e-mail he had sent to CTV on October 11:

This is with respect to my query re the ethics of CTV showing its interview with M. Dion with the out-takes.

This is the email I sent to CTV and to which I received a form-letter type of reply.

I have watched the interview that your CTV interviewer had with Dion about his reaction to the current financial crisis.

The question asked by your interviewer was:

"If you were Prime Minister today, what would you have done that would be different from Stephen Harper in respect to your reaction to the current U.S. and global financial crisis?"

This is incomprehensible and grammatically incorrect because of a sloppy use of tenses. What was he trying to say?

- If you had been prime minister for the last few years, what would you have done differently (in the past)?
- If you were prime minister today, what would you do?

No wonder Dion had problems answering it. My native language is English and I have problems with your interviewer's question.

Dion probably had an additional problem in that hypothetical questions like this, in French, are always very precise:

- If this happens, what will you do?
- If this were to happen, what would you do?
- If this had happened, what would you have done?

My question to you is this: just what, precisely, was the question that your interviewer wanted Dion to answer?

This is quite separate from the question of your journalistic ethics and why you saw fit to make public all "takes" of your interview with Dion. I will be sending an e-mail to the CRTC about this (copy to yourselves of course -- please give me a proper e-mail address).

I have a final issue with you. Why is it so difficult to find a way to communicate with you on your web site? Are you trying to discourage communication? I wanted to send this to your management, but according to your website they are completely impossible to reach.

BTW, I am not a liberal. I just find your actions terribly partisan. I am one of the small minority who will be voting Green so that they get \$1.98/year!

In response to CBSC's request for the date and time of the program, the complainant sent the following e-mail on October 17:

I watched the interview on Oct. 9 2008 on the program *Mike Duffy Live* on CTV Newsnet. It must have been some time between 1700-1800 EDT. If you wish, you can see what I saw on <http://www.youtube.com/watch?v=mv-5biChVrA>.

(I later checked on YouTube because I couldn't quite believe what I saw on the Duffy program!)

I sent my complaint to the CRTC because, quite frankly, I didn't know your organization existed. I would be interested in knowing your function, status and source of funding.

I sent a copy of my email to the Mike Duffy program, but have yet to receive a reply.

As mentioned in my note to the CRTC, I also contacted CTV about the sloppy questioning by their interviewer. I received an acknowledgment but no reply. I will send you a copy of my original email on this subject, since it may be relevant.

I am also sending a copy of this email to Mr. Duffy.

File 08/09-0281

This complainant wrote to the CBSC on October 25:

To Whom This May Concern,

I am writing to echo the concern expressed by many about the so-called editorial decision by CTV Halifax and Toronto to air the 'out-take' footage of Stéphane Dion's recent interview with the Halifax host. Despite the agreement to the contrary – and any decent consideration that journalists surely offer to each other with 'takes 2 and 3' all the time! – this seems to be a mean-spirited and overtly partisan intrusion into the election process. Indeed, I believe it was unfortunately influential and matched the malicious and defamatory advertising campaign of the Conservative Party. Those advertisements – and the networks that have been willing to run them – are the basis of a separate complaint!

In response to the CBSC's request for a specific date, time and station, the complainant replied on October 27:

Greetings,

Thanks for your prompt reply.

As I recall, I saw the clip on CTV Newsnet, on Thurs. Oct. 9th at approx. 10:00 p.m. EDT, as part of the CTV National News broadcast.

Thanks for forwarding my concerns to CTV (network website). I had written to them directly on Fri. Oct. 10th, and have not received any acknowledgement.

Broadcaster Response

CTV sent the following response to all complainants in November:

This letter is in response to various viewer complaints to the Canadian Broadcast Standards Council (CBSC) regarding an October 9th 2008 interview between Liberal Leader Stéphane Dion and CTV Atlantic anchor Steve Murphy. The interview was broadcast by CTV Atlantic on the Six o'clock News and subsequently on the *Mike Duffy Live* program on CTV Newsnet later that evening.

We believe a review of the chronology of this matter will be of assistance.

Chronology:

Wednesday October 8th 2008:

CTV Atlantic arranged a one-on-one interview with Liberal Leader Stéphane Dion. It was to be Mr. Dion's second one-on-one interview with CTV Atlantic anchor Steve Murphy during the election campaign. The earlier interview was broadcast Monday, September 15th live from CTV's Halifax newsroom at 6:45 pm ADT. It ran for 8 minutes.

The arrangements for the 2nd interview were the same, a live one-on-one unedited interview. Mr. Dion's campaign schedule, however, would not permit him to be live in the CTV Halifax newsroom for the Six O'clock News, so arrangements were made to record the interview, one hour before airtime, at a downtown Halifax Hotel. It was understood that the format for the second interview would be the same as the first, a one-on-one interview that would not be edited nor interrupted. The only difference in the second interview – it would be live-to-tape instead of live-to-air. Mr. Dion's staff agreed to these arrangements.

Thursday October 9th 2008:

A room was set up as a temporary television studio at Halifax's Delta Barrington Hotel.

4:10 pm ADT: Global News interviewed Mr. Dion. A "pool camera" from other television networks was in the room recording the interview.

4:20 pm ADT: CTV Atlantic's Steve Murphy interviewed Mr. Dion. The "pool camera" continued to record the CTV interview.

During the interview, there were three re-starts and an interjection by a Liberal aide, who tried to assist Mr. Dion to understand a question.

6:36 – 6:52 pm ADT: CTV Atlantic broadcast the full interview, including the restarts and the Liberal aide's interjection.

8:00 pm EDT: *Mike Duffy Live*, a program that reports and discusses the election campaign on a daily basis, aired the Dion re-starts. Liberal candidate Geoff Regan explained Mr. Dion's stumbles by claiming Mr. Dion could not hear the questions. This statement by Mr. Regan was inaccurate.

That evening and the next day, the interview and the restarts were reported by several news organization including The Canadian Press, CBC, Newsworld, Global News, *The Globe and Mail* and *The Toronto Star*.

The Pool Camera:

During the Global and CTV interviews, there was a pool camera in the room (a camera person from Radio-Canada). During election campaigns, by network agreement, all one-on-one interviews with party leaders are recorded and fed to network newsrooms. All leaders were aware of this arrangement and agreed to it. As such, the Global and CTV interviews could be broadcast by any of the television networks.

The Interview: Three Re-starts and a Liberal Aide Interjection:

Mr. Murphy began the interview by reviewing Mr. Dion's luncheon speech in Halifax earlier that day. Mr. Dion had attacked Prime Minister Harper on the economy:

Murphy: ***“Today, you said Mr. Harper has offered nothing to put Canadian minds at ease, and (he) offers no vision for the country.”***

Mr. Dion nods his head in affirmation.

Murphy: ***“If you were Prime Minister now, what would you have done about the economy and this crisis, that Mr. Harper has not done?”***

Mr. Dion asked for a clarification on the question then began answering. He stumbled when he described a “30 – 50 day plan” for the economy. He corrected himself and described it as an 80-day plan. Mr. Dion then appeared flustered, abruptly stopped, and asked if the interview can be re-started. Mr. Murphy acceded to this request.

On the second attempt at the question, Mr. Dion said: “We need to start again.” This was not a request, it was a declaration from Mr. Dion that the interview would be re-started.

Then a Liberal aide (who appeared to clearly understand the question), interjected herself from off-camera, and explained the question to Mr. Dion while the cameras were recording.

The interview then resumed. Mr. Dion stopped and said: “Lets start again.” This too was not a request of Mr. Murphy, it was another declaration from Mr. Dion that the interview would be re-started for a third time.

What Undertakings, If Any, Were Made By CTV News to Mr. Dion?:

Politicians are media savvy. They know that everything they say is on the record, especially during an election campaign.

Mr. Murphy made no undertaking to Mr. Dion or anyone in the Liberal campaign that something would be off the record or not for broadcast. In this case, there were several journalists, three television cameras and technical crews in the room. In such a setting, and during an election campaign, everything that was said would be on the record and available for broadcast by all television networks.

After Mr. Murphy’s first question, Mr. Dion **ASKED** if the interview could be re-started. Mr. Murphy agreed to this initial request as a courtesy – perhaps thinking that Mr. Dion did not hear the question or perhaps he was tired or distracted after a long election campaign. But that courtesy does not extend to an interviewee declaring restart after restart. It was Mr. Dion (not Mr. Murphy) who declared there would be a second re-start, and then a third. Mr. Murphy had few options but to continue along with the interview.

Subsequent Actions Taken by CTV - Was This Newsworthy?

The Canadian Radio-television and Telecommunications Commission (CRTC) recognizes that it is up to the individual broadcaster to be responsible for the programming that it chooses to air, provided that it is balanced. This editorial independence is an important keystone of the Canadian broadcast system and an important recognition of the Charter right of freedom of expression. The CBSC, too, in various rulings and decisions supports the principle that it is up to the broadcaster to determine what is newsworthy, the content of the news, the length of news stories and the order in which they will run in a newscast. CTV News takes these responsibilities very seriously. After the Dion interview was finished, CTV News was put in a position where it had to determine whether it was appropriate to air the complete interview including the restarts. An intensive editorial review began. The tape was reviewed and the matter was first considered by the CTV Atlantic News Director and his staff

and then subsequently considered by myself as President of CTV News and senior editorial personnel in Toronto.

In a Canadian political campaign, it is highly unusual for a party leader to spend three minutes trying to figure out a question and his answer to it. It is even more unusual for an aide, off-camera, to speak up and interject herself into the middle of an interview, to explain a question to a party leader.

In its consideration, CTV News editors discussed several issues, including the following:

- Could Mr. Dion hear the questions?
- Were there any clear undertakings or promises that the videotape would not air in its entirety?
- Were we being fair to Mr. Dion, posing questions in English, his second language?
- Why were Mr. Dion's aides so insistent that the re-starts be deleted?
- If we deleted the re-starts, would we be offering a favour or benefit to the Liberal party leader?

To these questions, CTV News concluded the following:

- Mr. Dion could hear the questions.
- No clear or direct undertakings were made to delete the re-starts.
- We believed we were being fair with an English question since Mr. Dion received clarification from his own aide.
- We believed we would be providing a benefit to Mr. Dion if we removed the restarts.

The three minute exchange of re-starts also raised other issues:

- Was Mr. Dion's understanding of his second language, English, so poor that he could not understand a question with different tenses?
- How often do aides explain important questions to Mr. Dion?
- Does Mr. Dion understand issues like the faltering Canadian economy?
- Is Mr. Dion able to think on his feet and answer questions directly and with precision?
- Was Mr. Dion so scripted and programmed with his key messages that he refuses to say anything else?
- Was Mr. Dion exhausted nearing the end of an election campaign, and if so, how does he handle pressure and public scrutiny at such times?

In our opinion, these were legitimate questions for voters to consider in an election campaign. After careful review, CTV News deemed the interview newsworthy and made the decision to air the interview in its entirety, because the issues involved were of such important public interest. This decision was one that favoured openness over censorship in order to let the

viewers decide for themselves. We also believe that this decision was in compliance with The Canadian Association of Broadcasters *Code of Ethics* - Clause 6 [*sic*, actually Clause 5]:

“The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening and to understand events so they may form their own conclusions.”

CTV News Obligations During An Election Campaign:

Our objective and our obligation is to expose viewers to the political parties, the platforms and leaders so voters can be better informed on Election Day. Political coverage dominated CTV News programming during the campaign period on our local CTV newscasts, the *CTV National News*, *Canada AM* and Sunday's *Question Period*. During the campaign, we produced two hours of *Mike Duffy Live* on CTV Newsnet which is a close-up review and analysis of each day on the campaign. This daily program is the meeting point for political partisans to discuss the issues and the leaders' performance.

CTV News is well aware of its responsibilities under the Broadcasting Act and the Television Broadcasting Regulations, 1987 and more specifically, Broadcasting Circular CRTC 2008-4 which outlined the guidelines governing broadcasters in connection with the 2008 federal general election.

According to the Circular, there is an obligation on the part of broadcasters:

“... to provide equitable – fair and just treatment of issues, candidates and parties. It should be noted that “equitable does not necessarily mean ‘equal’ but generally, all candidates and parties are entitled to some coverage that will give them the opportunity to expose their ideas to the public.”

We also note that the Commission reiterates in this Circular that news coverage should generally be left to the editorial judgment of the broadcaster.

During election campaigns, each political party seeks to position its leader in the best possible light. The party war rooms are specifically designed to influence media coverage. CTV News is an independent agency that favors no political party. We do not run editorials endorsing leaders, platforms or candidates. In our news coverage of political campaigns, we also do not offer favours or benefits to any one party or candidate.

During this past campaign, Conservative Party officials and Tory partisans were loudly criticizing our coverage of the Gerry Ritz listeriosis affair, the “pooping puffin” controversy, and Prime Minister Harper's comments during the financial crisis. Similar complaints over other issues came from partisans for the NDP, Liberals and the Greens.

In the matter at hand, Stéphane Dion's aides asked CTV News to drop the opening portion of the interview. They were asking us for a favour, a benefit we could not give, nor had accorded to any other party or leader. We believe that if we had complied with such a request, CTV News would be in violation of Article Five of the RTNDA Code of Ethics which states:

“Broadcast journalists will resist pressures to change or alter the news. Intrusion into content, real or apparent, should be resisted.”

Not to have run the full interview would have been to cover up something of direct public interest and considerable importance.

RESPONSE TO SPECIFIC CONCERNS:**Are Re-Starts Common Practice?:**

Just for clarification purposes, in daily television news, re-starts and re-takes of interviewees are uncommon. In fact, in feature political one-on-one interviews that last between 8-12 minutes and are formatted "live-to-tape", re-starts and re-takes are extremely rare. The intention is for the broadcaster to air the complete unedited interview in the same way that a broadcaster would air a live interview. As previously stated, CTV Atlantic originally intended to conduct a second live one-on-one unedited interview with Mr. Dion during the campaign. Arrangements were changed to accommodate Mr. Dion's campaign schedule and, as a result, the interview was changed to a live-to-tape interview instead.

Mr. Dion's Hearing Problem:

Some individuals have written CTV News suggesting we have discriminated against someone with a disability because Mr. Dion has a hearing problem. Indeed, following the interview, Nova Scotia Liberal MP Geoff Regan stated on the *Mike Duffy Live* program that Mr. Dion could not hear the question. This statement was simply false. Mr. Murphy and Mr. Dion were sitting in a quiet room two metres apart. Mr. Dion confirmed himself that he had no difficulty hearing the questions.

RTNDA: Article Eight (Decency and Conduct)

Some individuals have suggested that CTV News violated Article Eight of the RTNDA's Code which states:

"Broadcast journalists will treat people who are subjects and sources with decency. They will use special sensitivity when dealing with children. They will strive to conduct themselves in a courteous and considerate manner, keeping broadcast equipment as unobtrusive as possible. They will strive to prevent their presence from distorting the character or importance of events."

While Mr. Murphy and his crew were confronted with an unusual situation which included partisan political pressure, they conducted themselves with the highest level of professionalism. They were courteous and considerate in their interpersonal discussions with Mr. Dion and Liberal party aides.

It was following this interview, that CTV News was required to make a determination as to how it would use the interview with Mr. Dion that was live-to-tape. Although it was never intended that this interview would be edited in any way and it was to be treated in the same way as a live interview, given the Liberal party interference and the very unusual and significant number of "restarts" demanded by Mr. Dion, it became incumbent on CTV News to give this matter serious consideration, from a professional journalistic perspective, before a final decision was made as to whether or not to air the interview in its entirety.

Did You Intend to Hurt Stéphane Dion's campaign or Tip Off the Harper Campaign?

Some individuals have suggested CTV News was intent on harming Stéphane Dion five days before the general election. This is completely preposterous. Other allegations that somehow CTV tried to alert the Harper campaign to the Halifax interview were equally offensive.

These allegations are completely false and not representative of how CTV News conducted itself during the election campaign. We can assure you that CTV News would not take any

action to aid or assist any political party or candidate during an election campaign. CTV News is an independent news agency that favors no political party. If something happens on any given day, during the campaign, we have an obligation to report what we believe is newsworthy.

Conclusion:

While CTV received numerous complaints about the broadcast of this interview by Liberal supporters, we also received numerous complaints from Conservative, NDP and Green Party supporters who complain that other news reports were biased against their parties. Politics is a very sensitive and complex issue and it is very difficult for broadcasters to satisfy all viewers all the time, especially during an election campaign. However, we can assure you that our newscasts are never intended to be biased against or favourable to any of the parties or their supporters.

CTV is a member in good standing with the CBSC and follows its guidelines. We believe the news reports in question were in full compliance with all industry codes administered by the CBSC and all applicable legislation.

Thank you for taking the time to write with your concerns. Hoping that this provides a better understanding of our position in this matter.

Additional Correspondence

File 08/09-0213

This complainant wrote back to CTV on February 8:

Thanks for this. It replies in part. However, I have two remaining problems:

1. The language used by the ATV interviewer.

Murphy: "If you were Prime Minister now, what would you have done about the economy and this crisis, that Mr. Harper has not done?"

Poor Mr. Dion was asked to reply to this skewering of the English language -- a language that is not even his own native tongue. Look at the mangling of tenses. What does it mean -- in what time? Murphy did not, according to the text you sent me, attempt to clarify this in any way. Journalistic ethics: is it justified to ask repeatedly a question which really has no logical answer?

2. The manner in which Mr. Duffy introduced this item. This is what annoyed me the most. I know what I saw and I have been searching to get confirmation for a long time. Now I've found it

http://video.google.ca/videosearch?q=mike+duffy-stephane+dion&oe=utf-8&rls=org.mozilla:en-US:official&client=firefox-a&um=1&ie=UTF-8&ei=n1aPSYGIGYzaNKKTa0L&sa=X&oi=video_result_group&resnum=4&ct=title#

Now, look at this and then try and convince me that Mr. Duffy's words and facial expressions reflect professional journalism?

So, I'm sorry [CTV] and CBSC, what you sent me does not fully respond to my concerns.

Where do we go from here?

In response to that final question, the CBSC wrote back explaining to him that he could continue his dialogue with the broadcaster or file a CBSC Ruling Request. He replied on February 13:

Thank you for your prompt reply. At this point and in order to avoid a formal complaint, I would like to get an unambiguous reply from CTV to my two questions. Perhaps you could forward them to CTV. To repeat,

1. Can you please tell me what the following question means?

Murphy: "If you were Prime Minister now, what would you have done about the economy and this crisis, that Mr. Harper has not done?"

Poor Mr. Dion was asked to reply to this skewering of the English language -- a language that is not even his own native tongue. Look at the mangling of tenses. What does it mean -- in what time? "If you were prime minister right now, what would you have done (were you also prime minister then and if so when??), that Harper has not done (when, again??). Murphy did not, according to the text you sent me, attempt to clarify this in any way. Journalistic ethics: is it justified to ask repeatedly a question which really has no logical answer?

2. Mr. Duffy's introduction.

This was not addressed in Murphy's [*sic*, Hurst's] reply.

FYI this is what he (Duffy) said: "(Smirk) Well, the Harper Conservatives got some good news today and it wasn't just the World Economic Forum that rated our banking system as the best, the most secure in the world. This good news came in the form of a devastating reminder of Stéphane Dion's struggle with the English language. We'll have the tape in just a few moments. If you've got a PVR, set it on 'record'. This is one you're going to be talking about for days...."

Is this an acceptable statement from a (presumably) professional and objective journalist? Does this live up to your journalistic code of ethics?

Thank you for all the help you can provide in this matter.

The CBSC then explained to the complainant that a broadcaster is only obligated to respond once. He then filed his Ruling Request on February 17:

I would prefer that CTV reply to my remaining concerns. Their reply may well satisfy my remaining concerns. However, I infer from your response that this is unlikely, since they have already sent me one response. I would therefore like to request a ruling, as you suggest. If you require any further information from me, please do not hesitate to ask.

File 08/09-0281

This complainant filed his Ruling Request via the webform on November 18:

Further to my original complaint about the airing of the TV out-takes of the CTV Atlantic interview with Federal Liberal Leader M. Stéphane Dion, I am impressed with the pace and scope of the CBSC complaints process, and grateful to CTV President Robert Hurst for his exhaustive response.

It raises several interesting points, but misses the main one: 'the spirit' of a code of ethics is as important as 'the letter'.

The response lacks any humility to acknowledge the consequences of their decision to 'make news' rather than simply report it. To wit, the smarmy news conference held by Stephen Harper 'armed' with the 'out-takes'. Further, a 'double standard' is apparent, based on my experience with the more gracious French-language media who tolerate the poor second language skills of most Anglophone politicians. And to paraphrase the candour of *Toronto Star* Editor-in-Chief J. Fred Kuntz, the onus is on the reporter to ask a clear question, rather than simply exploit the guest's attempt to answer an unclear one. (*Toronto Star*, Oct. 11/08, page A27)

Aside from the defensive tone of Mr. Hurst's response, perhaps the most incriminating aspect of the whole episode is his choice to quote from Article 8 of the RTNDA [Code] including the phrase about showing "special sensitivity when dealing with children". M. Dion and the voters of Canada are not children but, for the sake of the rapid decline in the calibre of discourse and candidates in Canadian public life, common courtesy is not too much to expect! Small wonder voter turn-out continues to decline, and good candidates – of whom I consider M. Dion to be one! – are reluctant to step forward.

Lest CTV News appoint itself to raise and answer several important "issues" about the worthiness of a candidate for elected office, I will now rely on the CBSC to rule on the capricious judgement of CTV News in this case. I have advised Mr. Hurst accordingly.

Thank you for your consideration.