



Canadian Broadcast Standards Council
Conseil canadien des normes de la radiotélévision

1998 / 1999 Annual Report

“Encouraging Excellence in Broadcasting”

P.O. Box 3265, Station D
Ottawa, Ontario K1P 6H8
telephone: (613) 233-4607
fax: (613) 233-4826
website: www.cbsc.ca
email: info@cbsc.ca

Table of Contents

1. Message from the National Chair	1
2. Overview of Decisions	5
3. Summary of Complaints	30

Message From The National Chair

While decisions are always the first item on my agenda in my Annual Message, there is more to say about them this year than in the past. In the first place, the Council released 47 decisions during the course of the year. Once again, as the following section dealing with the Overview of Decisions Released in 1998/1999 will indicate, these have covered a wide range of subjects and added further understanding to the meaning of the Codes. The breadth of coverage of issues again shows the significant contribution of the members of the CBSC's Regional Councils to this reflective process.

Summary Decisions: Streamlining the Process

As I noted in last year's Annual Message, one of the goals of the Council this past fiscal year was to streamline the decision-making process. While there is always room to improve, we really did accomplish this goal *in spades*. In the first place, the 47 decisions released constituted a new record for the Council while, at the same time, the CBSC Secretariat disposed of 39 additional matters as a part of our "Summary Decision" process, which was first introduced in last year's Annual Report. Because the CBSC has now developed an extensive jurisprudence, it is now possible for us to respond more quickly to complainants in circumstances where the matters which they have raised touch on issues resolved on previous occasions by our busy Regional Councils.

The "Summary Decision" reviews the issues raised by the complaint and refers to past decisions, often quoting from them at some length, and explains why, in the view of the Secretariat, the matter can be resolved without the necessity of the more time-consuming process of referral to a Regional Council. It is of benefit both to the complainant who will not, in most cases, be familiar with the CBSC's decision base, and to the broadcaster, whose administrative burden (supplying tapes, etc.) is thereby reduced.

New Availabilities of Past CBSC Decisions

The importance of the CBSC's past decisions has also manifested itself in a couple of important ways in the past year. First, the original experience of McCarthy Tétrault in including a digest of CBSC decisions in their *Regulatory Handbook* of 1996-97 prompted them to request an updated version of the digest for the 1998/1999 biennial *Regulatory Handbook*, which is used by lawyers, executives and regulators across the Canadian broadcast system. Second, though, and as a further affirmation of the importance of the CBSC jurisprudence, upon invitation, the CBSC concluded an agreement with QL Systems Limited pursuant to which that entire jurisprudence will be placed on *QuickLaw* and be as accessible to that service's subscribers as the decisions of any of the courts of the land.

Large-scale Levels of Activity

It now appears that the CBSC has become sufficiently well-known as a sounding-board for Canadians with any concerns about what they see or hear on the airwaves that the record level of complaints of 1997/1998 may prove not to have been an aberration. We had thought that last year's level of 1,281 files opened was due to the heavy inflow of complaints related to two specific shows, one radio and one television, but this year's total of 1,191 files opened suggests that we may simply be at a permanently higher level. I am pleased that, even with this quadrupling of external demand, we have systems in place spearheaded by Ann Mainville-Neeson, our Executive Director, which enable us to deal with this increased level of activity without any increase in permanent staffing.

It is also reassuring, despite the large number of files being opened, that the very great majority of files continue to be resolved at the level of broadcaster and complainant discourse without ever having to be sent to the adjudication process.

CBSC on the Web

Few resources have been as efficient for the Council as the CBSC web site. It constitutes the world's window on the Canadian private broadcasters' self-regulatory system. As has always been the case, our Codes, press releases, decisions, related statutes and regulations, reports (annual and otherwise), papers, speeches, names and biographies of the CBSC's distinguished Regional Council members, links to relevant web sites of interest (domestic and international), lists of members and links to their sites are provided. The big difference? There is more of everything available and archived material allows researchers to examine for themselves and at their own convenience the considerable history of this very successful experiment. Among other things, there are now five Annual Reports (including this one), all press releases posted since October 28, 1996 (the announcement of the CBSC's web site launch), and a body of 162 decisions available.

The large drawdown of information from the CBSC web site also indicates the extent to which the world is gaining *immediate* access to all of the foregoing information without overly taxing the CBSC's small but efficient and very knowledgeable staff. Moreover, our base of recipients of electronic press releases grows constantly to such an extent that the CBSC is better able to get information out without any delay or any increase in the time otherwise required to transmit it.

As always, the CBSC web site is very accessible and easy to navigate. The Codes all have electronically appended digests of decisions under each clause, updated periodically throughout the year, and an effective search engine which provides the whereabouts of any subject matter sought in whichever category of information on the web site it can be found. And the site is well used! Last year's Annual Report noted that the number of "hits" was averaging more than 49,000 per month. That figure is now averaging more than 59,000 per month and the amount of information downloaded now averages over 380 megabytes of information monthly.

Specialty Service Membership in the CBSC and the National Council

To our roster of CBSC specialty members reported in last year's Annual Report, we have been delighted to add CPAC, YTV and Treehouse. At the same time, and in large measure as the result of our strong Specialty Service component, the CBSC has finalized the details relating to the structure of its National Council and will, at the start of the 1999/2000 fiscal year, be appointing its members.

The mandate of the National Council will be to sit on adjudications which are of a pan-Canadian nature; that is, broadcasts in which a program is scheduled for broadcast on a central (or even multiple) feed for the *entire* country to ensure that there will not be conflicting disparities in regional decisions. Moreover, it is important that the specialty services themselves have a *specialty* eye on their own style of programming. Hence, two panels, each sensitive to the needs of its own industry sector.

The National Council will thus be separated into a Specialty Service Panel and a Conventional Broadcast Panel. Five industry members from each area of the industry will be appointed to each panel; and five representatives of the public will be available to sit on both panels. At the time of sitting, though, each panel will consist of seven members, three representing the industry and three representing the public, in each case chaired by the CBSC's National Chair.

International and Domestic Contacts

On the international front, the CBSC remained very active. We met with Professor Raphael Cohen-Almagor of the University of Haifa, Israel, with Senator Maxine Henry-Wilson, Minister Without Portfolio, Jamaica, with Mr. Jeffrey Cole, Director of the Center for Communication Policy at UCLA, and with representatives of the South African IBA. I also met with the Chairperson and Deputy Executive Director of Britain's reconstituted Broadcasting Standards Commission in London and spoke at the *Filtering Out Sex and Violence Conference* at the Annenberg School at the University of Southern California while our Executive Director delivered a paper entitled "Self-Regulation of Enforced Broadcast Standards: the Canadian Approach" to the WACC Regional Conference on Communication and Gender Policy held in Kingston, Jamaica.

On the domestic front, the CBSC's team was present at the Annual Convention of the Canadian Association of Broadcasters in Vancouver and I attended the Annual Convention of the Atlantic Section of the RTNDA in Kentville and Wolfville, Nova Scotia. I also lectured to Prof. Peter Johansen's class at the Carleton University School of Journalism and at Prof. Jerry Good's senior class at Ryerson Polytechnic, and delivered speeches at the Canadian Club in Ste Agathe, Québec and the Rotary Club of Ottawa. Our Executive Director lectured at Prof. Sylvie Charron's Droit des communications (Communications Law) class at the University of Ottawa. I was privileged to join Vision Television for the celebration of their 10th Anniversary in Toronto and Ann and I visited the Conseil de Presse du Québec in Montreal and had the opportunity to meet with the full CRTC Commission and staff at one of their relatively informal midday familiarization sessions. We were also visited by representatives of CRARR (Centre de Recherche Action sur les Relations Raciales) of Montreal and were pleased to host, for part of a day, the CWC Jeanne Sauvé Award winners.

There were, as always, many interviews with the written and electronic media, both domestically and internationally, sometimes prompted by the release of a decision but, more and more often, just as a function of what the CBSC is and does. It also renders us more frequent subjects of newspaper editorials and, now, even editorial cartoons. Undaunted, we continue to assert the good citizen entitlement of Canada's private broadcasters, like so many other professions, to establish those sets of principles by which they agree to run their affairs and to ensure, by the establishment of an effective self-regulatory mechanism, the respect for those codes of conduct.

Classification System for Violence on Television

In Public Notice CRTC 1996-36, the CRTC determined that an essential component of its Violence Policy would be a rating or classification system for television programming which ultimately could be used in conjunction with V-chip technology by viewers and parents to screen out programming considered undesirable for their families. As an interim measure, broadcasters agreed to display rating levels as on-screen icons in order to provide useful information to potential viewers and parents. In its Public Notice 1997-80, the CRTC reiterated that "the CBSC should act as a clearinghouse for ratings information and as an arbitrator in disputes regarding the classification of television programs." The Council was also asked to report on its activities in the classification area and, via its Annual Report, "to keep the Commission and the public apprised of the industry's progress in implementing the classification system."

Broadcasters have been displaying the ratings as on-screen icons since September 1997. As I noted here last year, our assumption continues to be that the classification system is working very effectively. Once again, we have had too few complaints regarding classification to even provide a statistical summary of such complaints for the current fiscal year. In 1998/1999, the CBSC received, whether directly or via the CRTC, a total of only four complaints relating to the classification system. One complainant considered that a rating should have been included in a public affairs program which presented a report on a violent gunshot assault. The three other complainants considered that the rating attributed to various entertainment programming should have been higher.

In the three CBSC decisions released in this fiscal year in which ratings were an issue, the CBSC agreed with the broadcaster's classification. The Council did point out, in one case, how useful it was, for the information of the audience, to have a system which makes provision for viewer advisories as well as ratings. In another, it dealt with the speedy correction of an inadvertently low rating and, in the last, made the important point that, despite the *nominate* rating system (attaching to age-level categories), the labels used "are only *labels*", nothing more than a "set of *subjective* guidelines which parents across the country must consider in terms of *their own* judgment about what works in *their* families." It is, of course, essential for parents to understand that Canada's private broadcasters have required in their Codes *more information* than any comparable system for the benefit of audiences and that families need to use this information in the best and most suitable way for their own homes.

Acknowledgments

When the CBSC meets with representatives of the international broadcast community, they are often initially sceptical about the *independence* of the self-regulatory system which evaluates the programming of the conventional and specialty broadcasters who provide the financing for the CBSC's operations. It never takes more than a few minutes of explanation and description of past decisions and the resulting broadcaster actions for the arm's length issue to melt away. It seems to me, year in and year out, that Canada's private broadcasters have, to their immense credit, *proved*, by their respect for the broadcast Codes which they have established and their unwavering moral and financial support for the CBSC which administers those Codes, that the self-regulatory system is a real and vital option to formal federal regulation. While the broadcasters cannot, understandably, agree with the substance of every CBSC decision, they virtually always respect the time, care and thought which go into the review of the tapes and correspondence and the drafting of each decision. They *know* that decisions, whether they relate to *W5*, Howard Stern, Bugs Bunny, or *J.E.* are never hastily or casually arrived at. By supporting that process, they have rendered it strong and credible and have made it an example at home and around the world.

Beyond that level of principle, though, there is the work of the Council to consider. The day-to-day processing of every communication, paper or electronic, results from the efforts of Ann Mainville-Neeson and Lucie Vincent. Nothing could happen without their dedication and efficiency. Nor could the CBSC arrive at its decisions without the careful review of the tapes and files by, and the personal commitment of, both industry and public Regional Council members. The value of their interaction can further be measured by the fact that they arrived at unanimous decisions in 46 of the 47 matters which were released by the Council in 1998/1999. I know that the credibility of the CBSC, which depends on its jurisprudence, would not have been achieved without their dedication and I am grateful for their role in the definition of the broadcast standards which Canada's private broadcasters apply to their stations and services every day.

RONALD I. COHEN
National Chair

2. Overview of Decisions Released in 98/99

The CBSC released 47 Council decisions this year. As in previous years, concerns relating to human rights and journalistic ethics were the most common broadcast standards issues dealt with in CBSC decisions.

The CBSC decision which attracted the most media attention this year was a most unlikely candidate. It wasn't about a controversial show, nor was the decision itself particularly controversial, but when the CBSC was called on to deal with a complaint about Bugs Bunny, its entire mandate was challenged by staunch, hardline free speakers.

ETHICS AND HUMAN RIGHTS

As in previous years, human rights issues have been at the forefront of concerns about radio and television programming. This year, Canadians expressed concern over various forms of discriminatory humour, serious commentary which was viewed as breeding intolerance, and the negative portrayal of a nation in a feature film.

In addition, the Council was also called on for the first time this year to deal with a very different concern over broadcasting ethics, namely fairness in radio contests.

All in the Name of Religion

Religious convictions led three radio listeners to put pen to paper and complain about what they had heard. This resulted in three decisions of the Ontario and Prairie Regional Councils, all finding that no breach of the Codes had occurred. Lessons learned: blasphemy is not tantamount to discrimination on the basis of religion and religious groups who engage in politics are not immune from criticism based on their status as a religious organization.

Of Mock Crucifixions and Word Games

A listener of CFNY-FM in Toronto became very upset when he heard that the morning show crew were going to stage a mock crucifixion on a busy street corner in the days leading up to Easter. The stunt promoted by morning show hosts Humble and Fred was in fact the upcoming duct-taping of one of their show's personalities as called Danger Boy (renamed Danger *Christ* for the stunt) to "a cross". It was claimed that this would be "the most authentic re-creation of the events of Holy Week". The complainant alleged that this mock crucifixion was "extremely offensive" and constituted "defamation of the Christian faith".

The stunt did take place, incidentally with the purpose of raising money for a Christian charity, but not entirely in the form in which it was originally promoted. What actually happened was that Danger Boy/Christ was duct-taped to "A. Cross", a cardboard cut-out of afternoon drive-time host Allan Cross.

The Ontario Regional Council found no breach of the Code. While admitting that "the entire concept was irreverent and possibly even in bad taste", the Council did not consider that CFNY-FM had "stepped over the farcical threshold and into the bitter and nasty territory of abusively discriminatory comment". It stated that

the irreverence alone of the planned event could not reasonably be interpreted as anything more nefarious than someone's idea of how to turn humour into a public attention-getter.

"Rolling A Big One" in Honour of Easter

In another Easter controversy, a listener of CJKR-FM in Winnipeg complained of the suggestion that getting high is a way to "honour" a religious holiday. His complaint stemmed from the Easter Sunday broadcast of *Psychedelic Sunday*, a radio show dedicated to hits from the '60s and '70s. During that show, the host took a call from a "big *Psychedelic Sunday* fan" and the following brief exchange ensued:

Host: How does the show make you feel, man?

Caller: Pretty good. Just picked up some papers at Mohawk and ...

Host: What? Zigzags?

Caller: Oh, yeah.

Host: Not Acme? Zigzags, man?

Caller: Zigzag blue baby [both laughing]. I'm about to roll a big one for ya.

Host: Okay, in honour of Easter?

Caller: Okay.

Host: All right. Thanks, man.

Caller: See you later.

The Prairie Regional Council which considered the complaint was of the view that "at worst, there is a question of bad taste in drawing any association between drugs and Easter" but concluded that "this is a matter only for the on/off personal regulatory approach".

When Politics and Religion Mix

On a more serious note, a listener of CJBK-AM in London complained of a post-news commentary which criticized the Southern Baptists' decision to boycott the Disney Company for its support of gay and lesbian rights. The commentary in question was by well-known commentator Brian Henderson. In it, he stated that

The two most dangerous things in society today aren't the street criminals or crazy drivers or gangster rappers. The most dangerously influential elements that affect so many lives are politicians who rule in secret and the religious right that is far too public.

In the complainant's view, the commentary constituted mere "poisoned rantings" discriminating against a religious group. The Ontario Regional Council disagreed. It found that "the commentary addresses a socio-political issue (*i.e.* the place of religion in business and politics)" and that it was not about the religious group *per se*. It was unequivocal on the issue of Brian Henderson's entitlement to comment on the Southern Baptists' decision to boycott everything Disney.

In reaching this conclusion, the Regional Council finds no fault with the Southern Baptists' position on the issue; their political stance is their business and their entitlement to publicize it their right. It is just to say that, in so doing, they place themselves in the public arena, justifiably open, in the purest democratic sense, to the criticism, even if exaggerated, of those who do not share their political/economic perspective.

From Religion to Immigration, and other "Race-y" Stuff

The CBSC also dealt with a number of complaints about discriminatory comments made on the basis of national or ethnic origin this year. The majority of these complaints related to seriously intended commentary on Canada's dealings with other races and ethnic groups, whether through its immigration policies or other activities on the international front. Other complaints in this group focussed on discriminatory humour and morning show banter and the portrayal of an ethnic group in a movie.

"Everybody and Their Dog Can Come to Canada"

A broadcast of CFTO-TV's news commentary segment entitled "Tom Clark's Canada" sparked a complaint from a viewer in Toronto when BBS Commentator Mike Duffy made the comment that "Everybody and their dog can come to Canada". Clark and Duffy were discussing Canada's immigration and refugee policies in the aftermath of a report aired on Czech TV which promoted Canada as a safe haven for Roma gypsies. The discussion left the complainant "appalled" and "disgusted".

The Ontario Regional Council did not agree with the complainant's characterization of the discussion, noting that the comments focussed on "Canada's refugee policy and the passive response of the Minister of Immigration to the Czech report which made Canada 'the flavour of the month'" and that "such an expression of political views falls squarely within the ambit of freedom of expression". In the circumstances, the Council indicated that it "would be hard pressed to find Mike Duffy's commentary discriminatory, much less *abusively* discriminatory."

With respect to Mr. Duffy's use of the vernacular expression "everyone and their dog", the Council noted that

This common slang phrase is customarily used to describe something as being non-restrictive, or all-inclusive, and would rarely, if ever, be understood as equating anyone to canine status. While on "first listening" one could recognize the *potential* for misinterpretation, a review of the transcript makes it clear that, in his commentary, Mr. Duffy was not using the phrase to describe the Roma gypsies or any other specific group of potential immigrants to Canada derogatorily, but rather the *broad-minded or wide-open immigration policy itself*, which, as he noted earlier, has "been part of our history."

Throw Him off a Plane - Parachute Optional

Another discussion about Canada's open-door immigration policy led to a complaint regarding a broadcast of *The John and JJ Show* on CFUN-AM in Vancouver. During the broadcast in question, the hosts discussed Canada's refugee policy in light of a crime committed by a man who, despite an earlier deportation order, had remained in the country because China had not yet issued the necessary travel documents. The hosts suggested that one way to send the murderer home would be to "take him in, put him on a parachute and drop him" commenting on Canada's open-door policy, the hosts further added that

Countries like China are shipping us their crud, their garbage, their hazardous waste. It just happens that it's hazardous human waste, in this case. People, criminals and such, they ship them over here; they come over here, they claim refugee status. We investigate them, we find out that they are not true refugees and we order them deported and they refuse to take them back and that's exactly what happened in this case with China. And I think your point of view of flying a plane over top and dropping them out, the only part I disagree with is possibly your part about putting a parachute on them. I think that that would be a waste of good money.

A listener complained that comments made by the hosts "cast suspicion on all immigrants" and were "irrespons[ible]" as they "encourag[ed] hatred and violence".

The B.C. Regional Council found no breach, concluding that "while John and J.J. did not mince words in expressing their disgust with respect to the gruesome murder in Vancouver which resulted in part from the bureaucratic delays in executing the deportation of a Chinese national, they were also careful not to 'paint with the same brush' all refugee claimants or immigrants", citing other segments of the program. The Council further noted that

while freedom of expression has its limits in Canada, the freedom to criticize Government policies and practices is a core example of freedom of expression, in some senses the very *root* of that right in a democratic system. Unless, therefore, the exploiter of that right to challenge Government policies has overstepped another equally basic standard, such as, for example, the right of members of an identifiable group to be free from abuse, that right to challenge will be sustained. In this case, the Council finds that the exercise of their freedom of expression by the hosts, John and JJ, must outweigh any danger, as suggested by the complainant, that the references "cast suspicion on all immigrants."

Who Cares What Canada's Military Did in Somalia?

An overly sarcastic approach adopted by an open-line show host to deal with controversy surrounding the findings (or lack thereof) of the Somalia Commission Inquiry led to a complaint from a listener of CFRA-AM in Ottawa. Talk show host Lowell Green had adopted a facetious "who cares?" attitude during his show in an effort to demonstrate the preposterousness of the government's decision to cut short the inquiry into events surrounding the killing of two Somali teenagers by Canadian military personnel on a peacekeeping mission in Somalia. In doing so, he went so far as to disparage the lives of the two Somali victims, calling them "wogs" and "flip flops", even in the face of some who clearly "didn't get it". A caller to the show questioned Mr. Green as to "how can you say something about two people who just got killed? How can you say that?". Unrelenting, Green continued with his sarcasm:

Mr. Green: They're only Somalis. Ashouk, I mean, they're only Somalis.

Ashouk: They're human beings. They're human beings.

Mr. Green: They're only Somalis. I mean, I mean, wait a minute. This is in the best tradition. I mean, no, no, let's call a spade a spade here, okay. You think that that's the first time that people, I mean, do you think that British troops didn't kill a few Indians when they went in there? Do you think, I mean, look at what we did to the native Indians in this country and in the United States. It's in the best tradition, no, it's in the best tradition of the military. Nothing wrong with this. All that I'm saying, Ashouk, is that the people of Canada have deemed that this is of no consequence -- it was only a couple of Somalis -- and that the military should be left alone -- let the high command look after itself.

The Ontario Regional Council considered the broadcast to fall afoul of the human rights provision of the *Code of Ethics*. While the Council acknowledged that "the rhetorical tools of sarcasm, parody, facetiousness, irony, hyperbole and the like may be an effective means of expressing an editorial perspective", it went on to state that "the use of these devices does not ... render the user impervious to any claim that the host has, in a particular instance, overstepped the bounds of Canada's broadcast standards."

While the Council did not find that his attempt to ridicule the decision of the Federal Government to disband the Somalia Inquiry was "poorly conceived", it did find that it was "poorly executed". The Council stated:

Careful thought before the fact would have led the host to understand that his comments would likely offend not only the brunt of his barbs, namely, the Federal Government, but also persons of Somali origin, as well as those right-minded Canadians who are sensitive to racial slurs about *any* identifiable group. ...

"Striking Out" Against the Frenchies

A sports commentary gone political offended a listener of CFGO-AM in Ottawa. The commentary in question dealt with the ongoing saga of the new baseball stadium for the Montreal Expos. In it, the commentator made several "political" observations, including the fact that he'd "vote Communist before [he] voted for Lucien". He further concluded that "Frenchies are too much" and cast doubt over their entitlement to have a major league baseball club. The listener, a native Montrealer, found the commentary "objectionable" and "insulting".

The Ontario Regional Council did not find a Code breach. In its view, "the overall majority of [the] comments made in that sports commentary were of a political nature and, therefore, 'fall squarely within the bounds which freedom of expression is meant to protect.'" As to those comments which went beyond merely expressing a political opinion, the Council acknowledged that the comments were discriminatory but concluded that they were not *abusively* so. It stated:

In this case, the Council is of the view that the sports commentator did paint all "Frenchies" (whether the term was meant to designate Francophones in general, the Québécois people, or only the Francophone segment of that population) with the same brush of being "too much". The Council does not consider, however, that such a comment is so offensive and demeaning as to be considered *abusively* discriminatory. While the statement and, especially, the tone in which it was delivered left the Council frankly uncomfortable, the Council does not find the offensive comments so egregious that they amount to a breach of the human rights provision of the *Code of Ethics*.

Do "All Poles hate Jews"?

Shock Jock Howard Stern raised controversy once again when he claimed that "Polacks hate Jews. It's their natural enemy just like dogs hate cats." A listener to CILQ-FM in Toronto complained that these were "disparaging remarks about Poles which can lead to racial animosity toward the Polish community in Canada." The Ontario Regional Council agreed. It found that Stern's generalized and repeated comment that "Poles hate Jews" breached the human rights provision of the CAB *Code of Ethics*.

In the view of the Council, this accusation of an entire people that *they* hate any other national group, contrary to generally accepted principles, is likely to bring opprobrium on the "haters" rather than the "hated". It is in this sense abusively discriminatory vis-à-vis persons of Polish nationality and in breach of Article 2 of the CAB *Code of Ethics*.

Canada's Own Howard in the Morning

A listener to *Galganov in the Morning*, on CIQC-AM, whose host is a well-known political campaigner for the rights of English-language Quebecers, complained that the show is a "[translation] sounding-board for disseminating his hatred" and that the host's foul language contributed to making this show "[translation] Montreal's very own 'trash talk show'." Following receipt of this complaint, Mr. Galganov chose to discuss the complaint on-air, giving out the complainant's full name, resulting in numerous insults being directed at the complainant by the host and by callers to the show. This led to a second complaint by the complainant which was the subject of the second decision in this matter.

The Quebec Regional Council found no breach with respect to the general content of the program, which the Council considered was essentially political. It noted that,

of all of the categories of speech, none can be worthier of protection than that speech which can be described as *political*. After all, the freedom to express political views is at the very root of the need for a guarantee of freedom of expression in the first place. It is *that* speech which has historically been the bridge to democracy. This is not to say that *all* speech which can be described as political will be free from any oversight but rather that such speech will be most carefully protected in the face of that oversight.

As to the second complaint, that involving invasion of the complainant's privacy, the Council did find that the broadcaster had breached Clause 6 of the *CAB Code of Ethics*, as well as the spirit of Clause 4 of the *Code of (Journalistic) Ethics* of the Radio-Television News Directors' Association (RTNDA).

The Council recognizes fully that critical comments can be made about individuals, particularly those in public life but also, in appropriate circumstances which it need not plumb here, with respect to private individuals. The question for the Council will always be the weighing of the statement and the circumstances. At its most basic level, the fairness requirement set out in the third paragraph of Clause 6 of the *CAB Code of Ethics* dictates that a balance must be struck between the type and extent of the criticism of an individual and the appropriateness or merit of any such criticism when measured against the individual's criticized actions or behaviour. Propriety, a second requirement found in the same paragraph, dictates that the public airwaves will not be used for irrelevant or gratuitous personal attacks on individuals. The Council considers that Howard Galganov's show broadcast on December 9, failed on both these counts.

Did you hear the one about ... ?

A viewer of The Comedy Network was not amused by a pair of Canadian comedians known as Molton and Hamilton who stepped up to the mike of *Comedy Club 54* to tell a few "Newfie" and other ethnic-based jokes. The viewer considered the comedians' set to be "blatantly bigoted and racist", stating that this breeds "inhumanity and, eventually, murder".

Prior to going into more elaborate jokes, the comedians had made the following "observations" regarding the brunt of their barbs to a non-Canadian segment of its audience: "They're not too swift", "They're not the most intelligent people in the world" and "It's like a Polack but not quite as smart". And after the "Newfie" jokes, the humour focussed on people of Oriental descent as the comedians poked fun at their speech patterns.

The Ontario Regional Council did not find the humour to be *abusively* discriminatory. It stated:

As it has noted in past decisions, the Council acknowledges that such ethnically based humour may be discriminatory but ... it is not of the view that it rises to the level of a breach of the Code. In the Council's view, while the ethnic humour contained in the "Comedy Club 54" episode in question poked fun at specific groups on the basis of their national, provincial or ethnic origin, and in this sense was *discriminatory*, none of what was said was so hateful, demeaning or degrading as to be considered to be *abusively* discriminatory, the test under the Human Rights provision of the *CAB Code of Ethics*.

...

While the humour in question was pointed and may even have been tasteless, the Council does not find that any of the "jokes" overstepped the boundaries in this case. In its words earlier cited here, "It poked fun but did not bludgeon. It tickled but was not nasty."

The *Midnight Express* on the High Road to ... Prejudice?

Two complaints were sent to the CBSC concerning the broadcast of the feature film *Midnight Express* by History Television. The complainants alleged that the movie, which tells the story of an American who is sent to a brutal Turkish prison for drug trafficking, is racist toward Turkey and its population.

The Ontario Regional Council which considered the complaints did not find any Code violation. While the Council agreed that the Turkish law-enforcement does not come off well in this movie, it did not consider this film to be an attack on all people of Turkish decent.

The fact of the matter is that the only Turks in the film about whom Hayes has any justification to evaluate are those with whom he has had the worst experiences, namely, the representatives of the legal and penal system. They are painted brutally by director Allan Parker but they are the *only* segment of the Turkish population the viewer has contact with... The bitter discriminatory perspective is limited to injustices perpetrated by the jailers, the lawyers and the judges and this perspective of the system is a legitimate political point of view, one protected by freedom of expression and artistic licence and is therefore not a breach of any Code.

The Council stated that "[t]here is no assessment made by the screenwriter, the director or the film's characters about the Turks or Turkey in general".

Other Forms of Discrimination

For the first time this year, the Council was called on to deal with complaints about comments which allegedly discriminated on the basis of physical or mental incapacity. The Council had never before had to consider how those enumerated grounds are protected against abusively discriminatory comment. It did so this year in two decisions.

Speaking Out Against Family

The first decision concerned a segment of *Speakers Corner*, a modern day "town square" broadcast on CITY-TV (Toronto). A woman complained that "the segment referred to me and described my disability and circumstances surrounding my disability intending in my opinion to harm, shock and discriminate. The person making the allegations was a member of my family who was and is unaware of my circumstances."

The Ontario Regional Council found no code violation. With respect to the allegation that the segment had discriminated against persons with physical disabilities, the Council stated that it did not consider that the comments were discriminatory *vis-à-vis* persons with a physical handicap as the "critical comments of the ... speaker were focussed on his belief that persons *without* legitimate qualifying ailments should not be able to access ... public funds."

Moreover, the CBSC disagreed with the complainant's contention that she had been identified by the "speaker" in question. While the Council noted that "had the segment permitted an *identified individual* to be harshly criticized by an apparent member of her family, this might have offended certain privacy principles", it found that "the segment ... was purged of all identifying elements by the broadcaster prior to airing."

An Argument Goes Out on the Edge

The second decision related to an on-air argument on *The Howard Stern Show* broadcast on CILQ-FM in Toronto. Shock Jock Howard Stern lashed out at a member of his production staff for his preparation, or lack thereof, for the day's show, calling him a "retard" and "retarded". A listener complained that "The manner in which the word is used either as a noun or an adjective is offensive and demeaning to members of the developmentally handicapped community."

The Ontario Regional Council found no breach in this instance, although it indicated that it found itself "very much on the edge regarding the statements of the host". The Council noted that "the terms are generalizations which carry a negative connotation" and "[a]s such, they risk falling afoul of the *CAB Code of Ethics*". In this case though, it found that in this case the comment

was directed at an individual and does not attribute negative stereotypical characteristics to a defined minority group in such a manner as to amount to a breach of the human rights provision of the Code. Moreover, the references stand alone without any additional characterisation of the referenced group elsewhere in *that* show. The remarks did not mock or make fun of members of the handicapped group

generically but rather attributed diminished mental capacity to an *unchallenged* individual. It thus misses *on this occasion* that abusively discriminatory nature which brands offending comments which are found to be in breach of the Code.

The Council indicated, however, that it "does not in any way support such tasteless commentary".

Stretching the Limits of Human Rights

The "human rights" provision of the *CAB Code of Ethics* prohibits abusive discrimination based on certain grounds, all of which are enumerated in the provision. The CBSC has at times been called on to extend the protection of the human rights provision to other forms of discrimination. It has done so once, in the case of sexual orientation. This year, the Council continued to deal with discrimination based on sexual orientation and also considered the further extension of the protection of the human rights provision to welfare recipients.

Discrimination on the basis of occupation ... or lack thereof

The new French Canadian panel format talk show *Black-out* debuted on Télévision Quatre Saisons (TQS) with a bang ... of complaints. The first episode of the new series focussed on abuse of the welfare system and was entitled [translation] "Faring Well with Welfare". It featured a panel of four self-proclaimed welfare collectors by choice. During the "discussion", the panelists were, each in turn, questioned, criticized and sometimes taunted by the hosts and members of the audience for choosing social welfare rather than taking active and concrete steps towards gainful employment.

The Council received numerous complaints about the show, almost all of which reflected a common theme that the show was "[translation] an encouragement for the general population to develop a lack of understanding and contempt towards the most destitute segment of society."

The Quebec Regional Council which adjudicated the complaint did not consider it appropriate to extend Clause 2 of the Code of Ethics to include discrimination based on the need for social welfare. It considered that such an extension would require the intervention of the codifiers. It did conclude, however, that the discussion was unfair and found the broadcaster in breach of the Code on that basis. The Council stated that, in its view, "the broadcaster's attempt to discuss the idea of 'welfare by choice' reflected poorly on social welfare recipients in general."

There is no doubt that the idea of "welfare by choice" put forward by the "panelists" was loudly rejected by the audience and that the panelists were at times taunted for their "philosophy". That being said, there can be very little doubt that these panelists were chosen for the show *because* they presented a view which was most likely to incite a strong reaction from the audience. There is equally very little doubt but that the choice of such caricatures as "panelists" was likely to reflect poorly on social welfare recipients in general. Moreover, the program's producers cannot escape the fact that the song which they chose to include in the show made no distinction whatsoever between people on welfare and the members of that discreet group which may be abusing the welfare system. The song painted all welfare recipients as dishonest self-indulging people with disgusting habits neglectful of their children. In general, the mocking tone of the show did not present sufficient differentiation of the two "faces" of the welfare process and was consequently in breach of paragraph 3 of Clause 6 of the *CAB Code of Ethics*.

"The Good, the Bad and the Drag"

The second episode of TQS's *Black out* also came under fire for the way in which it discussed "gay culture" under the heading [translation] "The Good, the Bad and the Drag". During the discussion, comments were made both for and against the public display of a person's sexual orientation. While some stated that gays and lesbians must make themselves visible in order to combat homophobia and persistent discrimination, others argued that "gay culture" doesn't really exist and that matters of sex should stay in the bedroom.

The Council did not find that the broadcast contained any abusively discriminatory comment based on sexual orientation nor did it find that the "discussion" was tainted with the same "unfairness" as had afflicted the first broadcast. The Council noted that "the complainants would rather not see such 'pseudo-debates' on issues they hold dear" but it considered that "the choice of topic comes entirely within the purview of TQS's programming independence."

How do you become a lesbian?

A listener complained that lesbians were "disparaged ... based on their sexual orientation" by a "joke" broadcast on the Humble & Fred morning show on CFNY-FM in Toronto. The "joke" in question was created by using an audio excerpt from the adult television cartoon series *South Park*. In the excerpt, the young characters of *South Park* attempt to become lesbians by 'licking carpet', something one of them heard that lesbians do. The morning show hosts added a parody choral conclusion to the tune of Beethoven's Ninth which went "That's disgusting, Hallelujah."

The Ontario Regional Council did not consider the "joke" in question to be abusively discriminatory.

In this case, while the Council is fully aware of the attempt to make fun of a sexual proclivity of lesbian couples, it is equally aware that the particular sexual practice is one engaged in by heterosexual partners as well. The resounding reference to Beethoven's *Ninth Symphony's* Hallelujah chorus to underscore the allegedly "disgusting" nature of the practice delivers the program's less than serious perspective on that sexual activity but the truth is clearly that *South Park's* creators (and CFNY-FM by extension) thereby comment more on that practice than its practitioners. An irreverent spoofing it is, not unlike the general thrust of *South Park* itself. In poor taste, likely; however, in the Council's view, it would be a narrow interpretation of both *South Park* and CFNY-FM's broadcasts to conclude that the comments made regarding this non-exclusive sexual activity were intended to represent an abusively discriminatory undermining of lesbianism *per se*.

A Question of Fairness

The *CAB Code of Ethics* is best known for its human rights provision (discussed at length above) and its News and Public affairs provision (discussed below). There are, however, many other provisions in that Code and the CBSC had its first opportunity to deal with one of these lesser known provisions this year when it received a complaint about the unfairness of a radio contest.

What is Bryan Adams' Middle Name?

A listener of CFOX-FM in Vancouver thought she was getting a good start to her morning when she called in to the Larry & Willy morning show with the correct answer to a trivia question which was destined, she thought, to win her excellent tickets to a forthcoming Bryan Adams concert. The question was simply stated as "What is Bryan Adams' middle name?" Although not evident in the beginning, it soon became clear after a few "unlucky" callers (one of whom had the correct answer) that the hosts were not in fact looking for the pop star's *real* middle name; rather they were looking for a "spoof" name, made up by them.

The first caller with the "correct" answer felt she should rightfully have been awarded the prize. The broadcaster, however, contended that the segment in question was not a "contest", but, rather, a parody of one, with the awarding of a prize being merely an arbitrary ticket give-away.

The B.C. Regional Council disagreed with the broadcaster's position that the Larry and Willy segment in question was not a contest, stating that

It sounded like a contest. It felt like a contest. It was presented as a contest (at least initially). Callers believed it was a contest. If the broadcaster did not intend it as a contest, it appears that it failed in its effort not to make it a contest.

The Council further added that, when a broadcaster chooses to hold a contest, Clause 11 of the *CAB Code of Ethics* "suggest[s] that a notion of 'fair play' should also be at stake". It considered that Larry and Willy's "spoof contest" breached the Code on that count. The Council stated that it had "little doubt that the application of common societal standards would lead any fair-minded person to conclude that the contest was ... not legitimate to the consumer/listener."

[T]he Council notes that the hosts' choice in setting up the contest as a joke is *not* the issue. There is certainly no requirement that radio contests be serious. What *is* the issue is that the contest was conceived and conducted in such a way as to be *misleading*. Callers had a legitimate expectation that they would win the prize if they were the first to answer the relatively easy question correctly...

SEX-ROLE PORTRAYAL

Under the *Sex-Role Portrayal Code*, the CBSC this year considered complaints regarding negative comments on the nature of women and men, as well as numerous concerns over "sex-ploitation", including the alleged sexualization of children in a docudrama.

On Women, Witches and "Getting the Willies": Negative Comments on the Nature of Women

One complaint about a segment of the children's animated series *The Bugs Bunny and Tweety Show* sparked great controversy. That complaint related to a "carrot-in-mouth" comment that women are all witches inside. Other concerns about the negative portrayal of women related to strip club advertising which was said to objectify women's bodies and comments made by an open-line host regarding the battered woman syndrome.

The Wascally Wabbit's Last Words

A cartoon brought the administration of broadcast standards into sharp focus when a viewer tuned in to Global in Toronto complained that Bugs Bunny was "anti-woman" and that one of his "last words" (on that episode) implied "that all females are evil and destructive." The complainant pointed to a short cartoon which presented a revisionist version of the "Hansel & Gretel" fairy tale wherein the witch of the story is magically transformed into a beautiful bunny with whom, in the end, hero Bugs Bunny "lives happily ever after". In the last scene of the cartoon, as the happy couple walks away, Bugs Bunny turns to the camera and says: "Ah sure, I know! But aren't they all witches inside?"

While the Ontario Regional Council was sympathetic to the concerns of the complainant, noting that "there is an undeniable innuendo in the closing line ... which some may find offensive", it was not of the view that a breach of the Codes was "entailed".

In the first place, the line is a throwaway and is not reflected, as to its substance, at any other moment of the episode. It is, in a sense, an "out-of-the-blue" comment. Second, it is, if anything, contradicted by every other aspect of the program. It cannot, in fact, even be seen as a serious comment in the sense that the line is uttered in the context of a happy couple walking off arm-in-arm into the sunset. Moreover, there is nothing in the demeanour of Bugs Bunny or any other character or element of the episode of the *Bugs Bunny and Tweety* show which suggests a *program attitude* which could be broadly interpreted as constituting "negative or degrading comments on the role and nature of women", contrary to the *Sex-Role Portrayal Code*, or abusively discriminatory comment, contrary to the human rights provision of the *Code of Ethics*. So, while the Ontario Regional Council does not approve of the line of dialogue, particularly in the context of children's programming, it does not consider that its use, in the context of *this* episode, constitutes a breach of either of the CAB Codes referred to above.

From the Inside to the Outside: Objectifying Women's Bodies

A listener to CJYC-FM in St. John, N.B., complained that a commercial for a local exotic dance bar "promotes the degradation of women by objectifying their bodies". She was also "particularly disturbed by the timing" of the advertisement.

The Atlantic Regional Council considered the complaint under the advertising provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics*. It found no breach of the Code. In the Council's view, the complainant's concern lay more with the very *existence* of strip bars than with the content of the advertisement. Limiting itself to the actual words used in the commercial, the Council stated that it "does not find that it offends the advertising content provisions of the Code. The script for the advertisement is very straightforward and does not go beyond 'telling of [the business's] wares'."

On the issue of scheduling, the Council first noted that radio broadcasting is not subject to the precise (watershed) scheduling proscriptions imposed on television broadcasters. This notwithstanding, the Council did distinguish an earlier CBSC decision regarding *The Howard Stern Show*, in which the Ontario and Quebec Regional Councils concluded that the "unsuitable language and graphic discussion of sexual situations" contained in the Stern show was "not at all suitable at an hour when children could be expected to be listening to radio." The Council did not consider, however, that a similar ruling was appropriate in this case.

First, the Stern show airs in the early morning drive time slot, a time when children are *most* likely to be listening to radio. Since children are also likely, although not as likely, to be listening in the supertime period, the decision in this matter does not turn on this point. It is the second point which is ultimately determinative, namely, that the content of the Stern show was considerably more "shocking" than the Chez Cherie commercial described above. In the end, there was nothing in the commercial itself which was problematic. The references were oblique; at their *worst*, "moan and groan" can in no way be equated to the *explicit* sexual discussion on the *Howard Stern Show*. If there is an issue of objectification of women involved with the club in question, it has nothing to do with CJYC-FM's broadcast of the commercial but rather with the commerce of the enterprise in question. In the Stern decisions, the objectification of women occurred in the host's own descriptions.

Open-Line Show Host Threatened by Women?

A controversial sentencing decision which gave no jail time to a woman for killing her husband while he was sleeping led an open-line show host on CFRA-AM (Ottawa) to "get the willies". He stated that no man could ever feel safe in the presence of women as women now could easily get away with murder with the mere allegation of abuse.

Two listeners complained that the host's comments "promoted the hatred of women". The Ontario Regional Council disagreed, finding no breach of the Code.

[T]here is no doubt that Green is attacking the criminal court in question, if not the justice system as a whole, for making the controversial decision and, in at least equal measure, the feminist political activists, to whom he refers as "femi-Nazis", for having lobbied for it. There can be no doubt that he is critical of that political position of certain feminists, not on the grounds that they are women, but on the grounds of the political view which they hold. The former would not be fair game. The latter is. The Council thus finds no discriminatory material, much less abusively discriminatory material, based on any of the enumerated grounds in Clause 2 of the *CAB Code of Ethics*, the human rights provision.

Deadbeats and Rapists: Negative Comments on the Nature of Men

The Council also dealt with two complaints about negative comments on the nature of men. In one, a newscast erroneously referred to deadbeat *dads* when in fact the report dealt with delinquent child

support payers of both sexes. In the other, a report on "rape drugs" led one man to complain that all men were portrayed as potential rapists.

An Inaccurate Alliteration

While promoting an upcoming news report on the use of the Internet to track down delinquent child support payers, CFTO-TV in Toronto used the phrase "deadbeat dads". A viewer complained that the term was inaccurately used as the report actually dealt with a mixed-gender group and, moreover, that the term is "hateful and degrading" regardless of accuracy.

The Ontario Regional Council found no Code breach. While the Council agreed that the phrase made a distinction on the basis of sex, it did not consider the term to be unacceptable for use in broadcasting, as contended by the complainant.

[T]he Council believes that this phrase is self-circumscribing and does not cast aspersions on fathers in general or child-support paying fathers in particular. The term clearly emphasizes the *deadbeat* characteristic of those who flout judicial orders. It applies, it is true, only to *dads* of that bent, but its emphasis is undeniably on those dads who disrespect their responsibilities. ... [W]hile the Council recognizes that the term is clearly *discriminating*, ..., it does not consider that the term is necessarily *discriminatory*.

The Council stated, however, that "the term should be used with discernment and only when the term appropriately describes the group in question". In this case, the Council easily concluded that the term was not appropriately used, noting the broadcaster's own recognition of this fact in its response to the complainant. It did not conclude, however, that the finding of a breach of the Codes was warranted in the circumstances given that in its view, "the broadcaster could [not] have moved more rapidly than it did to put the matter right in this case." Indeed, CFTO-TV had corrected its "error of omission with respect to women" in the introduction to the news item by using the phrase "deadbeat parents" in the actual news report. The Council stated that "Where an honest error occurs which is not of major proportion and is corrected quickly, the CBSC will not, in the absence of other material considerations, find a Code breach."

Not All Men Are Rapists

A viewer of CTV's well-known public affairs program, *W5*, felt compelled to complain of a report on "sexual assault drugs". In his view, the report was biased against all men because it presented "an unfair stereotype and negative portrayal of men by implying all men (potentially) would use drugs to rape." The Ontario Regional Council disagreed. The Council noted that the complainant had misrepresented what was actually said in the report. While the complainant alleged that the reporter had asked a victim of sexual assault "how she could not 'hate all men'", the Council noted that the question which was actually put to the interviewee by the reporter was "both balanced and reasonable", namely "How do you tread the fine line between being wary and not hating all men?" The Council found that "the question as put was thoughtful and relevant in the context of this report and hardly in contravention of any of the provisions of the *Sex-Role Portrayal Code*."

Moreover, the fact that some of the incidents depicted in the *W5* report involved inappropriate, even criminal, actions on the part of some men did not in any way promote or otherwise convey hatred of all men, contrary to what the complainant appears to be alleging. Rather, the Council considers that the report aimed at attempting to understand the feelings of women traumatized by this insidious pharmaceutical device misused for the purposes of sexual assault. It is also clear, in the view of the Council, that CTV went out of its way to ensure that the report did not reflect negatively on *all* men by focussing on the campaign launched by a *male* McGill University student to alert his fellow students to this dangerous drug.

Sex-Ploitation

Programming containing nudity and sexual explicitness was also the target of viewer concerns this year. Generally concerns focussed on the suitability of the programming for children. One complaint, however, went beyond matters of scheduling and propriety and alleged that a movie constituted "kiddie porn" and shouldn't be legal in any way, let alone broadcast on the airwaves.

Shedding Some Light (or not) on Human Sexuality

A viewer in Toronto complained of the "several sexual scenes and conversations between men and women" contained in the movie *Eclipse* broadcast by CITY-TV. The movie, set in the hours leading up to a solar eclipse, looks at aberrant human sexuality, specifically homosexuality, prostitution, adultery and juvenile sexuality.

While the Ontario Regional Council acknowledged that the movie "was controversial, both in its subject-matter and in its presentation", it did not find that CITY-TV had violated any broadcaster code by broadcasting the movie as it did. It noted that "CITY-TV took every reasonable step to diminish the likelihood that anyone who might be offended by the film would be likely to be exposed to it." It noted specifically the airing of the film after the generally-accepted "watershed hour" for adult programming, the inclusion of viewer advisories at the beginning of the movie and after every commercial break and the rating of the movie as "18+" with the icon displaying this rating being shown at the beginning of the film and then at the top of each hour throughout the movie. In the Council's view, "the broadcaster could not have done more to ensure that vigilant viewers would be appropriately advised of the film's content."

***Dream On* about Sex**

The Council released two decisions concerning the adult comedy *Dream On* which airs at 9:30 pm most weeknights on The Comedy Network. Two complainants wrote about their concerns with nudity and sexual explicitness contained in two separate episodes of the show.

The first episode complained of was entitled "Oral Sex, Lies and Videotape" and it followed the main protagonist Martin Tupper through an ordeal created by his inadvertent videotaping of popular kids' show host, Uncle Bouncy, receiving oral sex from a prostitute in a public alleyway. In the second episode which gave rise to a complaint, this one titled "Martin Tupper in Magnum Farce", a woman seeks revenge on her husband for having had an affair by having sex with Martin, which sets off a chain reaction of "revenge by sex".

The Ontario Regional Council found no Code breach with respect to either episode, stating in the first decision and reiterating the point in the second, that

By broadcasting the show in a 9:30 p.m. time slot, it is clear that the program is not marketed to children. This is a reason for the creation of the watershed hour in the first place, namely, the differentiation of programming which precedes the 9:00 p.m. watershed hour from that which follows the watershed. After 4½ years of Canadian experience with the watershed (which has become used by broadcasters as the border between programming destined for the family and programming intended for adults, even beyond the originally intended concern for programming containing violent material suitable for adult audiences), members of the public have had much opportunity to become familiar with the heads-up provided by the arrival of 9:00 p.m. That being said, the Council understands that some children may, despite reasonable efforts by concerned parents, tune in to the show, whether advertently or inadvertently. This does not mean, however, that no programming considered inappropriate for children can be broadcast because of that risk. It is one of the costs associated with the rapid advance of the communications industry, whether on television, via the Internet or otherwise. The major steps taken by broadcasters to put systems in place to assist with parental vigilance, such as the broadcast Codes, the watershed, the classification system, on-screen icons, viewer advisories and the coming V-chip technology, set Canada far ahead of most Western countries in this area.

When Porn Stars Dress Up

A viewer of CITY-TV's *Fashion Television* in Toronto got offended when the show included a report on a fashion photo shoot featuring three "adult film stars". *Fashion Television* is broadcast in the early evening and the report in question included some nudity, albeit seen from afar or partially and strategically obscured.

Having previously dealt with the issue of nudity in the context of *Fashion Television*, the Ontario Regional Council had no difficulty in concluding that this broadcast did not breach any code provision. Interestingly, however, in response to the complainant's query as to "how on earth did such content escape the notice of the CRTC", the Council made the following comments concerning the CBSC's mandate.

The CBSC's mandate is one of *responsiveness* to public complaints and not censorship by way of anticipation of potential Code breaches. In the event of the expression of concern by one or more members of the public, the CBSC will become involved in the resolution of a complaint; however, it will always await such a complaint before becoming involved in a programming issue. In that sense, therefore, members of the public should be aware that *all* programming *will* escape the notice of the CBSC (or the CRTC, which operates on the same basis) unless and until it becomes the subject of a written complaint. Canadian society is, on balance, far better served that way.

Kids and sex: the fine line between docudramas and kiddie porn

Showcase Television's broadcast of the controversial theatrically-released feature film *Kids*, which "documents" the life of inner-city teenagers who are heavily involved in drugs and actively and frequently engaging in sexual activity, led to the allegation by a viewer that Showcase was dealing in "kiddie porn".

The Ontario Regional Council did not find any Code breach. Specifically, it did not find that the movie sexualized children contrary to Clause 4 of the *Sex-Role Portrayal Code*, stating that it "does not believe that the restriction on the sexualization of children was meant to prohibit *all* programming dealing *in any way* with child sexuality."

In its decision, the Council reiterated the view that "the basic general principle of freedom of expression will militate in favour of a broadcast, whether controversial or otherwise, except in those circumstances in which some overriding standard imposed by the private broadcasters in their Codes supersedes." The Council further noted that

a reason for the existence of reasonably broad latitude with respect to broadcasters' programming freedom is that the fullness of its exercise is balanced in the Codes by requirements relating to scheduling, rating and the provision of viewer advisories, which enable viewers to make informed choices as to what may or may not be palatable for them and their families.

The Council noted that "Showcase did everything necessary through scheduling and advisories to ensure that the movie would not be likely to reach anyone other than its target audience." It further noted that "the broadcaster was extremely responsible in its presentation of the film *in a context* with panel discussion before and after the screening of the film." It concluded that "Showcase exercised its freedom of expression in a thoughtful and responsible way and not in an exploitative or prurient manner."

VIOLENCE

This year, a single decision covered all major aspects of broadcast standards relating to television violence. This decision dealt with the broadcast of the science-fiction movie entitled *Strange Days*. In it, the CBSC made its first finding of a breach of Clause 1 of the *Violence Code* on the basis that the broadcast contained scenes of gratuitous violence. In that same decision, the Council also made some important findings relating to television ratings and violence against women.

While *Strange Days* may be this year's most important decision relating to violence, it is not the only one. The Council also dealt with the issue of gratuitous violence in the context of the adult animated series *South Park* and the issue of violence against animals when a dead pigeon was used as a prop in an unconventional comedy show. The Council also faced classification issues in two other decisions; interestingly, both those decisions stemmed from concerns about sexual explicitness, rather than violence, on television.

Strange Days and Violent Ways

Television viewers in Hamilton were "extremely shocked" by the content of the science-fiction movie *Strange Days* broadcast on CHCH-TV. Viewers complained that the movie "had the content of nothing short of a pornographic movie". The movie, set in a futuristic Los Angeles, "marked by a crumbling social order and scarred by crime, violence, poverty and racial conflict" tells the story of a man who attempts to find a killer who "records" his victims' deaths on a virtual reality system which enables the user to "experience" what has happened. The movie included a lengthy scene of the gruesome strangulation and rape of a woman.

The Ontario Regional Council found that this scene "exceeded *in the television context* what may have been necessary to advance the plot."

Whether the scene should have been as long (or longer) in the theatrical version is not at issue. For the television version, measured against industry Codes, it is the view of the Council that it could have been edited without sacrificing any artistic integrity, and ought to have been edited in order to be long enough to make its point but not so long as to amount to violence for violence's sake.

The Council further found that

[t]he matter is exacerbated by the requirement of Article 7 to the effect that "Broadcasters shall be particularly sensitive not to perpetuate the link between women in a sexual context and women as victims of violence."

The Council indicated that "that link could not be more evident than in a case such as this, where the recording of the event for sale as a thrill-seeking narcotic is its *raison d'être*." It indicated that

The length and graphic component of the scene constitute an unacceptable example of gratuitous violence against women, contrary to Article 7 of the *Violence Code*.

The Council noted that the movie had originally erroneously been classified as 14+ but that the broadcaster had quickly re-classified the movie as 18+ during the course of the broadcast. In the circumstances, the Council did not find a breach on the classification issue, noting that "the situation is analogous to the Council's earlier decisions with respect to the speedy correction of inadvertent errors" which the Council found did not warrant a finding of breach.

Other Cases of Television Violence

As stated above, the Council released two other decisions regarding television violence this year. Both related to adult humour shows. In the first of these two, the Prairie Regional Council dealt with a recurring violent theme in the adult cartoon series *South Park*. In the second, the Ontario Regional Council considered the use of a dead pigeon as a prop.

'Oh My God, We've Killed Kenny'

The CBSC received a somewhat unusual complaint and request regarding the adult animated series *South Park*. The complainant was the mother of a boy named Kenny, the same name as the character in

South Park who is killed in a different, and very violent, albeit unrealistic, way each week. The complainant was concerned of the impact of the "killing Kenny" spoof on her son. She suggested at the very least that the name of the victim should be changed to a non-existing name such as 'Dweebie' or 'Doofus'.

In regards to this matter, the Council noted that the circumstances [of the show] are not intended to represent reality. It stated:

To place a burden on the creators of dramatic programming *not* to use a familiar name would, in the view of the Council, be unreasonable. It is, moreover, the opinion of the Council that such a coincidence of names is susceptible of being dealt with by parents in a sympathetic and understanding way...

Moreover, the Council, by majority, found that *South Park* is "decidedly not children's fare".

It is not represented to be. It carries an explicit disclaimer. It is not aired at an hour when children could be expected to access it. The Council acknowledges the regrettable reality that some, even many, children may be exposed to the program via the technology of the VCR, the Internet or other means but it is well aware that the original broadcaster cannot be seen as responsible for an event so far out of its control.

One Council member dissented on this point, however, noting that "the show's marketing has the effect of negating the broadcaster's efforts to make *South Park* adult fare".

Council members agreed, however, that the running "spoof" did not constitute gratuitous violence, prohibited by the Code regardless of scheduling, viewer advisories and rating. The Council stated that

[T]he unrealistic violence which recurs from episode to episode is in keeping with a theme of the *South Park* series which seeks to ridicule societal attitudes, conventions and taboos. While the Council does not consider that a plot line or theme which has violence as its premise would escape any and all supervision under Clause 1 of the Violence Code ..., it considers that the unrealistic violence of "killing Kenny" manifests the violent premise of this part of *South Park's* theme in such a way as to not fall afoul of Clause 1 of the Violence Code.

The Case of the Dead Pigeon

The *Tom Green Show*, broadcast on The Comedy Network, presents a variety of unconventional skits. A viewer complained of one skit which involved the use of a dead pigeon as a "prop" to humiliate an unsuspecting pedestrian. Tom Green, the host of the show, somehow convinced a young lady to hold the bird by the tail and then proceeded to shout to passersby in order to draw attention to the situation. After she finally dropped the bird, he followed her into a bank trying to get her, or anyone else, to take hold of the bird. The viewer was distressed by Green's intrusion on the bystanders lives and by the potential endangerment of their lives through the use of the unsanitary pigeon as a prop.

For the most part, the Ontario Regional Council which considered the complaint found that the concerns over "public safety" were "not questions which come within the purview of the CBSC's mandate."

As to the use of the "poor dead animal," the Council found that

there is no way that one can reasonably conclude that the program segment involving the dead pigeon sanctions, promotes or glamorizes violence against animals. The pigeon was, after all, obviously dead before being used as part of the stunt. Moreover, the Council notes that the air of disgust on Laurie's face as she held the dead bird went a long way towards negating any glamorization of the bird's fate. There is not, in fact, any reason to assume that it was a violent act which even resulted in the death of the bird. In

the end, the issue relates to the *use made* of the dead bird and that is, if anything a question of *taste*, rather than any issue of violence to animals.

The Council reiterated that "the CBSC will not rule on issues of 'bad taste'."

While *The Tom Green Show* may be unpalatable for some, it may also be meeting the special likes and desires of others. That is a question to be determined, on the one hand, by the broadcaster in its decision to put the show on the air and by the viewer, on the other hand, in deciding to watch or not watch the program.

Classification Issues

In addition to *Strange Days*, referred to above, the Council had to deal with two other complaints relating to television ratings. Interestingly, the two other complaints which included classification issues had nothing to do with violence at all. Rather, the concern surrounded sexual explicitness and nudity. For one complainant, the rating was too low for the content of the broadcast. For the other complainant, the 18+ icon (the highest rating possible) flashed too quickly to be of any use.

Dead Man's Gun: A quick draw ... on the remote control

Parents in Pembroke (Ontario) became very distraught while watching an episode of the series *Dead Man's Gun* with their children on CHRO-TV. They saw a woman starting to undress and quickly turned off the tv. The viewers complained that CHRO was "irresponsible in airing this program" at 9 p.m. and with a PG rating because it contained "nudity and sexual scenes".

The Ontario Regional Council found the complaint unsubstantiated for the most part. It noted that

the complainants perhaps leave a misleading sense in their letter both of the scene in question and even the overall flavour, if not the nature, of the episode, perhaps due to the fact that they "then quickly turned off the T.V." before the scene in question had even ended. This premature termination of the program tends to lead the reader of the complaint to the erroneous assumption that it (and perhaps other scenes later in the program) was far more sexually explicit than what was described; however, it should be noted that the sexual content of the episode in question effectively *ends* at the point of the scene described in the complainants' letter. No additional pieces of clothing are seen to be removed later in this scene or later in the show and no explicit lovemaking is depicted in the program *at all*.

In the circumstances, the Council found that the scheduling of the program was appropriate (in fact the Council hinted that "the relative innocuousness of the scene in question" may well have permitted even a pre-watershed broadcast) and that no viewer advisories were required. It further concluded that the PG rating attributed by the broadcaster to the program was "the most appropriate for the program in question," noting that

The sex/nudity guidelines for a "PG" rating are that the program "could possibly contain brief scenes of nudity" and "might have limited and discreet sexual references or content when appropriate to the storyline or theme".

In its decision, the Council also provided some cautionary notes regarding the Canadian classification system for television programming. It stated:

[The Council] recognizes that the ratings are but guidelines to the content of the programs to which they are applied. A 14+ rating, for example, does not *necessarily* mean that the program *will be appropriate* for all 14-year olds. Nor does a PG rating mean that every program to which that classification is applied will be suitable for all families even in the presence of the parent or parents. The classification system is a relatively new set of *subjective* guidelines which parents across the country must consider in terms of

their own judgment about what works in *their* families. In the end, the labels used by the classification system are only labels. Moreover, they mesh the issues of violence, sex/nudity and language into a *single* overall rating, thereby requiring a kind of lowest common denominator evaluation by parents in their assessment of the rating as applied to any program. Ultimately, it is the content elements of each rating category which every family must evaluate in order to determine appropriateness for their own viewing.

Dream On Again

Complaints regarding the half-hour situation comedy *Dream On* broadcast on The Comedy Network were summarized above under the heading "sex-ploitation". The first of two decisions relating to this adult comedy warrants an additional mention here as the Ontario Regional Council dealt with the contention that "the initial rating is an ineffective warning".

The episode which prompted this complaint was rated 18+ due to its mature content which includes nudity, sexual explicitness and many sexual references. The Council found that "The Comedy Network rated the program appropriately and notes that it also included a viewer advisory to alert its viewers of the potentially offensive content of the show." To the allegation that these measures were "ineffective", the Council noted that:

the icon display is only a first step in the introduction of a classification system for Canadian television programming. Programming ratings will eventually be used in conjunction with "v-chip" technology which will permit viewers to block out undesirable programming. Until such time as v-chip technology is fully developed and widely available to the public, the Council considers that the display of the rating icon at the beginning of a program and then at the top of each subsequent hour of that program provides an appropriate balance between viewers' competing rights to receive ratings information and to view programming unobstructed

NEWS AND PUBLIC AFFAIRS

PROGRAMMING

News and public affairs programming continues to be one of the most important areas of concern for Canadian television viewers and radio listeners. While many of these concerns related to human rights issues and thus were reported above in the Ethics and Human Rights section, the CBSC also dealt with many other concerns more closely related to "journalistic" ethics. These concerns were considered by the Council in light of the RTNDA *Code of (Journalistic) Ethics* and Clause 6 of the CAB *Code of Ethics*.

A Picture Is Worth a Thousand Words...

The CBSC received numerous complaints this year regarding the *visual* component of news and public affairs programming. These complaints raised a variety of concerns, including exploitation of graphic images, invasion of privacy and the ethics of hidden cameras.

Keeping Abreast of the News

CTV's National News' report on the controversy surrounding the legality of women exposing their breasts in public in Ontario sparked two complaints from viewers who considered that CTV's reporting was pornographic and exploitative. The report in question included scenes of topless women as well as women in bathing suits. The Ontario Regional Council found no breach of any of the Codes administered by the CBSC, noting that "a careful review of the complaints reveals that the issue for the complainants relates more to the matter being covered than the coverage of the matter." It further stated:

[T]he Ontario Regional Council has no hesitation in finding that the coverage of the topless issue by CTV was entirely justified. This issue, like many others in the news, was controversial, but it was also

Canadian, relevant to other Canadians (whichever side of the substantive issue they might favour) and entitled to coverage, including the expected *visual* component. Moreover, the Council can find *nothing* in the CTV coverage itself which can be described, to use the words of the complaints, as degrading, dehumanizing, exploitative or devaluing. ...

The Council further stated that it considered that CTV had been "mindful of the level of tolerance of its viewers when it broadcast its June 10 report on the topless issue."

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

Too Graphic for the News

In another case, a viewer in Vancouver complained of the visual component of a news report on the story of a young woman who had been pushed by a stranger into the path of an oncoming Toronto subway train. BCTV's report on the subway death included "a close view of the dying but still partly conscious woman's bloodstained face".

The B.C. Regional Council which considered the complaint found that, by including a video shot of the lacerated and bloody face of the victim, BCTV unnecessarily depicted the violence associated with that tragedy, contrary to the provisions of the *Violence Code*.

While ... the B.C. Regional Council accepts that the news story was inherently violent and that *some* pictorial representation of the violence that occurred may have been acceptable, it finds that the shot of the victim's face as she lay dying on the paramedics' gurney was utterly unnecessary to the story. It added no clarification of any of the issues, no expository value to the sad tale, and no information which the viewer required to understand the series of events. The additional depiction could only have been calculated to make a viewer cringe or, at least, feel discomfited.

Moreover, the Council found that the visual component of the report "failed to respect the dignity of the victim" as required by the RTNDA *Code of (Journalistic) Ethics*.

In the Council's view, there is a distinction to be made with respect to showing other less readily identifiable parts of a person's body, such as arms, legs, torso, etc. and showing the victim's face. It is not so much an issue of the identification of the individual (especially in this case where the victim had been named) as it is an issue of identification of pain, agony, distress, even distortion of the individual, in short, an affront to the dignity, if not the privacy, of the victim and her family and friends.

"Our house is a very, very fine house"

The inclusion of a scene of a private home in a report on a pellet gun shooting incident broadcast by CIHF-TV in Dartmouth, Nova Scotia led to a complaint from the owner of the house for invasion of privacy. The house was shown as being the house from which the shots had originated.

The Atlantic Regional Council did not consider that the report on this "random neighbourhood shooting" violated the complainant's right to privacy, noting that "no individual or individuals is, or are, named" in the report.

While it may be true that the house may be distinctive in its neighbourhood, and indeed that some friends, neighbours or relatives may have been able to identify the owner of the house on this basis, there is

insufficient information in the report to make it clear to others who the possible perpetrators of the alleged offence might be.

Nor did the Council find that the story had been sensationalized as alleged by the complainant. It stated in this regard:

On its most basic level, the news report did not, in the view of the Atlantic Regional Council, distort or sensationalise any aspect of the story. The event was, after all, a "random gun firing in a rural neighbourhood." ... All in all, in the view of the Atlantic Regional Council, the story was the opposite of sensationalised; it was, if anything, *understated*. There was not a scrap of video footage or audio dialogue that was remotely overstated or even exciting beyond the obvious *and accurate* report that a shooting of some kind had taken place in a neighbourhood utterly unaccustomed to such an event.

Caught in the Act... The CBSC Looks at Hidden Cameras

When TVA's public affairs program, *J.E.*, went undercover to investigate alleged exaggerated claims made by independent distributors of a food supplement known as HMS 90, "honest" distributors felt hard done by. The Council received petition style "form letters" from 189 such distributors who complained that the report was unfair and misleading.

The report included video footage taken by means of a hidden camera which showed a vendor extolling the quasi-miraculous attributes of his product. In the CBSC's first decision regarding the use of hidden cameras as an information-gathering technique, the Quebec Regional Council first established a "two-pronged test" for its evaluation of the appropriateness of the actions of the broadcaster in using deceptive journalistic practices. It stated:

[T]he Council considers that the resolution of such an issue depends on the interpretation of two issues. The first is the public interest in the matter with respect to which such devices are employed; and the second relates to the appropriateness of this device to the making of that report.

In applying this test to the matter at hand, the Council found that the circumstances of this case warranted the use of hidden cameras as an information-gathering technique. As to the first issue, the Council found that the public had an interest in knowing of the questionable selling tactics related to the product, "especially where the public's health may be at play". And, as to the second issue, the Council stated that it "believes that the information in question would not have been comprehensively and credibly unearthed without the use of hidden recording devices."

Looking at other aspects of the *J.E.* report, though, the Council noted that *J.E.* had omitted to identify a leaflet shown in the report, and "that the omission of minimal identification of the document in question constitutes careless, if not shoddy journalism at best, and, by one possible interpretation of motive, misleading journalism at worst". In the end, the Council concluded that *J.E.*'s report did not breach any Code provision but was only on the edge of acceptability.

From Candid Camera to the Wrestling Ring

In another decision dealing with the related program *J.E. en direct*, the Quebec Regional Council again considered the appropriateness of the use of hidden cameras. This case involved a report on alternative medicine sparked by the unconventional practices of a homeopath caught on tape by a journalist posing as a patient. In this case, as in the decision above, the Council took no issue with the use of hidden cameras, noting here that "if a picture is, as the maxim goes, worth a thousand words, the moving picture of Mr. G. with his hands floating in the air in medical benediction pronouncing on the life of the *healthy* reporter was worth a multiple of that."

The Council did find TVA in breach of the broadcaster codes, however, it was not owing to the substance of the report, but rather to the in-studio discussion which followed it. During this discussion between the

program hosts and the heads of various alternative and traditional medicine associations, the hosts of the show demonstrated an unusually "aggressive and mocking behaviour" towards one of their guests, the head of the alternative medicine to which Mr. G belonged. The guest was "treated" to such remarks as "[translation] Come down off your high horse and let's talk frankly, you and I", "[translation] No, no, you said nothing before - answer the question" and "[translation] This isn't Nagano, take off your skates and answer my questions". The Council found that the comments were neither proper nor fair coming from a veteran and well-respected broadcast journalist. While the Council acknowledged that the guest had himself been quite aggressive in his opening remarks, it noted that "The guest, by behaving badly, reflects only on himself. The hosts simply have no right to behave badly." The Council stated:

Even if provoked, [journalists] *need* to be able to stand back from the fray. They can test, they can challenge, they can contradict, but they ought not to mud-wrestle. By attacking and mocking their guest thus, Mr. Girouard and Ms. Cazin "showed their colours", so to speak, in a way which violated Article 2 of the RTNDA Code ... and Clause 6 of the CAB *Code of Ethics*.

More On The NewsMakers As Complainants

Last year, the Council reported on numerous complaints filed by the newsmakers themselves. This year, the Council again released a number of decisions regarding complaints filed by persons who claimed that a news story had disparaged them in some way.

From Car Troubles to Bigger Troubles

The trouble began for one car dealership in Barrie, Ontario, when it sold a van "as is" to a woman who then became dissatisfied with her purchase. Her story was told in a consumer report titled "Car Troubles" which aired during CKVR-TV's evening newscast. The report included interviews from both the unsatisfied consumer and the owner of the car dealership in question and ended with a caution for buyers to beware.

The owner of the car dealership targeted by the report complained that it was sensational and unfair. The Ontario Regional Council disagreed.

[T]he report was fair and balanced and not particularly dramatic, much less sensationalised. The report clearly indicated that the dealer had done "everything by the book" and that the consumer had bought the vehicle "as is", without certification or warranty. It also presented the dealer's explanation and denial of the allegations made by the consumer...

In the Council's view, the crux of the complaint stemmed from the broadcaster's choice in doing a report involving the complainant's business. The Council had no hesitation in confirming the broadcaster's entitlement to determine what is newsworthy. The Council stated that,

under the *Broadcasting Act*, broadcasters enjoy "journalistic, creative and programming independence". The Council is of the view that this independence is also a cornerstone of the interpretation which should be given to the industry Codes which members of the CBSC have agreed to abide by. Accordingly, the Council does not question the broadcaster's determination of the newsworthiness of this consumer report.

To Help or Be Helped

In another case involving a consumer report, a Toronto home inspection agency mentioned in a segment of 'Silverman helps' during CITY-TV's *Pulse News* alleged that it was unfairly targeted by the broadcaster due to its unrelated dealings with one of CITY-TV's news anchors. The report in question dealt with the case of a man who, after receiving a clean bill of health for his home, discovered that the house's woodwork was infested with termites. Host Peter Silverman concluded with some general advice on hiring a home inspector. The Ontario Regional Council found no problem with the report:

The entire thrust of the segment related to home inspection services *in general*. The description of their nature, the purpose they serve, the criteria to look for in engaging such a service all contributed to a "buyer beware" kind of item and this is one of the ongoing purposes of the *Silverman Helps* segment. The HomeSpec aspect of the story is clearly *incidental* to the piece. Furthermore, it unquestionably falls within the ambit of journalistic entitlement.

While the Council was unable to make any conclusive findings on the issues surrounding the news anchor's alleged conduct, it "had no difficulty in concluding that ... CITY-TV was not in any way a part of the alleged behaviour, much less a beneficiary of it, and was not in breach of Article 5 of the RTNDA Code" which deals with conflict of interest issues.

Bad Math = Ethics Breach

In another case, the president of a failed business complained that a report on his company's unsuccessful efforts to produce a visitors' guide for the Quebec Eastern Townships was unfair and misleading. The report in question, broadcast as part of TVA's public affairs program, *J.E.*, attempted to expose how the pay-in-advance marketing scheme for advertising in the never-published visitor's guide had profited the failed business. The Quebec Regional Council found that the report utterly failed in this regard. The Council stated:

The reporter attempted to calculate "a conservative estimate" of the amount of money Pendragon could have collected from local small businesses in its failed attempt to publish a visitor's guide. He stated (and the numbers were put up on the screen) that, if 180 clients each paid the minimum of \$200, Pendragon should have collected \$360,000. While the Council understands that the addition of the extra zero (making the relatively small sum of \$36,000 the rather huge sum of \$360,000) may have been inadvertent, it was a *reckless* error on a centrally material issue in the report. Moreover, the error was *compounded* by the reporter who relied on the exaggerated number as the basis for his questioning of Pendragon's president.

The Council further noted that "this gross mathematical error is not the only source of confusion in the report." Overall, it considered that "the inexplicable sloppiness surrounding the information relating to potential revenues collected by [the company] created an unfair report."

It appears to the Quebec Regional Council in this case that ... the reporter attempted to make his story more provocative than could ever have been supported by the facts. The Council considers that the error was so gross that the *correct* amounts at issue, if *accurately* calculated (at one-tenth of the figure actually used), may not even have given rise to the story *at all*.

Accordingly, while the Council found that the report was *structured* so as to be fair and balanced, it concluded that a "gross miscalculation on the reporter's part created inherent unfairness in the report."

Great Presbytery-an Expectations:

The Abridged Version

In yet another decision regarding TVA's public affairs program *J.E.*, a central player in a report on a real estate deal gone sour complained that the report on the botched sale of a presbytery was biased and unfair. The complainants, who were members of the Parish in question alleged among other things that the report was misleading because it did not include all the facts of the complex situation. By presenting this abridged version, the complainants contended that *J.E.* failed to accurately report the story. The Quebec Regional Council disagreed.

In the Council's view, the voluminous correspondence from the complainant principally reveals concerns with *J.E.*'s choice of story to tell, i.e. *J.E.*'s focus on the issue of the *belief* of the potential purchasers that they had bought the presbytery contrasted with their discovery that they did *not* have an executable

contract. The choice of *J.E.*'s focus on what, in some senses, was a complex ancient legal issue involving the rationale of a *strict* (and, some might say, anachronistic) principle versus a more comprehensible and modern equitable approach to the problem necessitated their "simplification" of the story in order to explain why the couple in question *thought* that they had indeed succeeded in their goal, namely, the purchase of the presbytery from the *fabrique*. That the broadcaster did not include *all* of the facts and facets of the case does not lead inexorably to the conclusion that the report was inaccurate. In the Council's view, such comprehensiveness in news and public affairs reports is not required, nor even reasonable in all cases, particularly when one takes into account the limited time available in which to bring *any* matter to the small screen. While such a limitation never entitles a broadcaster to be *misleading*, it does entitle it to simplify or telescope a report in a fair and reasonable way to fit the constraints of the medium.

The Council found other allegations of distortion and unfairness to be unsubstantiated.

Interviews in the News

This year, the Council also dealt with a variety of issues regarding interviews in news and public affairs programming. In one case, complainants alleged that their daughter should not have been interviewed for a news story without "parental consent." In another case, parents of a murder victim challenged the broadcaster's choice of interviewee by-lined as "Victim's Friend." Finally, the choice of panelists for a public debate on the issue of the Ontario Teacher's Strike raised concerns of bias and unfairness in another case.

Always be Kind to Your Neighbours

Parents of a 16-year-old daughter who was interviewed by CHBC-TV as part of a report on a double homicide complained that the interview should not have been broadcast because, on the one hand, parental consent had not been obtained and, on the other, because the daughter had allegedly urged the reporter "not to put [the interview] on t.v." The complainants also took issue with the report of the double homicide story as a whole.

The B.C. Regional Council found no Code violation. Recognizing "the interest of the broadcaster in visiting the area of the murders and in trying to provide for its viewers as much information as possible from persons with knowledge of the crime or the individual victims or perpetrators", the Council did not find that the broadcaster acted wrongly in obtaining and broadcasting the interview in question.

On the factual level, the Council considers that the daughter was always in a position to give or withhold her consent. She *knew* that she was being recorded. She was always inside the door of her house while the interviewer was outside. She could have ended the interview at any time by closing the door. There is no indication whatsoever in the video footage used in the news report that she was coerced. The Council readily concedes that she was probably inexperienced but this does not, in the Council's view, render her any different than most non-public figures *of any age* who are interviewed by the press. While some of the questioning was leading, that issue was not age-related. Nor, in the view of the Council, was the interviewee in any way compromised thereby.

The B.C. Regional Council also found "no fault with the broadcaster's construction of its report." The Council stated that "while the construction of the report may have been disturbing to the complainants given the daughter's comments, that alone does not lead to a conclusion that a breach has occurred."

Beware of Those Who Call Themselves Friends

In another decision concerning an interview with a young person regarding a murder, this one about a news item broadcast by CICT-TV (Calgary), it was the parents of the murder victim who complained. The complainants were concerned by the fact that the young person interviewed was by-lined as "Victim's

Friend" and the fact that this young person stated that drugs played a part in the murder. Neither one of these facts was true, according to the complainants.

The Prairie Regional Council found the broadcaster in breach of various provisions of the *Code of Ethics* stating that

by allowing an unsubstantiated allegation to be made in the report regarding the possible involvement of drugs in the homicide, the broadcaster failed to present the news fairly and accurately as required by clauses in both the *CAB* and *RTNDA Codes of Ethics*. Moreover, the Council considers that the inclusion of this fact was intended to sensationalise the story in contravention of Article 3 of the *RTNDA Code of Ethics*.

If you Invite One, Must you Invite the Other?

One Ontario teacher was not happy with the debate presented by the public affairs program *Provincewide* broadcast on CKCO-TV (Kitchener). The complainant raised concerns regarding the appropriateness of the broadcaster's choice of one of the two interviewees for the broadcast in question. On this point, the Council noted "that the decision concerning whom to interview, like other decisions related to *which story to tell*, falls squarely within the broadcaster's purview provided that, in the case of a controversial issue, balance is ultimately achieved."

The complainant also alleged that the discussion presented in the broadcast was one-sided and biased, so much so in his view that it "amounted to nothing more than propaganda." In its response to the complainant, the broadcaster accepted that the program in question may have been somewhat problematic but it pointed to a subsequent broadcast of *Provincewide* which again dealt with the issue of education reform in Ontario and presented opposing views.

The Ontario Regional Council found that "on the strength of the [subsequent] broadcast of *Provincewide*, ... CKCO-TV has fully met its obligation under Clause 7 of the *CAB Code of Ethics* to 'treat fairly, all subjects of a controversial nature'."

Preserving the Sanctity of the News

Ensuring that newscasters *report* on the news and don't *create* the news lead to two decisions by the Ontario Regional Council on the content of news reports.

When Does Reporting Become Promoting?

A viewer of CIII-TV in Toronto complained that a report on the resurgence of fur in fashion "promoted the interests of the fur industry." The report included interviews with representatives of the fur trade (as well as models sporting pelts) all speaking in favour of the newly rising trend. The Ontario Regional Council, which considered the complaint, had no trouble in deciding that the newscast had not breached any of the Codes. In the Council's view,

the news item in question was about the resurgence of fur in fashion, not about the ethical considerations involved in obtaining animal pelts. While the complainant states that "the only interviews conducted were with a trapper, a fur retailer, a member of the Furriers Guild and a fashion magazine representative" and that this did not provide "opponents [of the fur industry] an opportunity to express their concerns", the Council does not consider that either the broadcaster's choice of topic or its handling of the topic *required* that members of the anti-fur movement be included as interviewees.

The Council noted that the complainant appeared to have in-depth knowledge about the anti-fur movement and that "what the complainant contends *should* have been included in the report does not

match up with the story which Global chose to tell." The Council affirmed the broadcaster's right in determining what is newsworthy.

The Council considers that no news segment, nor any program for that matter, is required to be "all things to all people". The determination of what is news and the focus of the story are matters which fall squarely within the purview of broadcaster independence.

Facts, Not Opinions Belong in the News

A listener of CKRU-AM in Peterborough, Ontario considered it necessary to remind the broadcaster that opinions have no place in the news. He alleged that a noon news had failed to stand up to this requirement. The Ontario Regional Council found no Code violation. While the Council indicated that "There is no doubt about the *general* validity of the point made by the complainant", it did not find that the complaint was substantiated in this case.

With respect to that newscast, the only potentially problematic statement made is that of John Badham at the end of the very short news item: "Well said, Dr. John Beamish." In the view of the Regional Council, that comment might be understood as an indication of the news reader's view of either the St. Joseph Health Centre, the Palliative Care Family Centre, the contribution of the community of Peterborough, the role of the Festival of Trees, the concluding statement of Dr. Beamish that "the unit is really an expression of the community's caring for those who are dying within the community" or the doctor's own articulation of the entire issue. Even if, therefore, the words "Well said" *could* be viewed as a technical breach of the *CAB Code of Ethics*, the focus of the benefit is sufficiently uncertain and the news issue so uncontroversial and innocuous that the Regional Council has no difficulty in concluding that no breach of Clause 6 of the Code is disclosed.

3. Summary of Complaints

1. Overview

Last fiscal year, the CBSC reported its then record numbers, including a staggering number of complaints, the equivalent of about four years worth in a single year. This year, yet another record has been set: the total number of persons who registered a complaint with the CBSC in 1998/1999 was a whopping 14,844. Of course, this very large number comes as a result of numerous multiple-signature petitions received by the Council, for each of which only one complaint file was opened. The total number of files opened by the CBSC was 1,191.

- Of these 1,191 files, the CBSC actually handled 1,097 or 92.1 %, since 33 files were referred to Advertising Standards Canada (ASC), 13 to the Cable Television Standards Council (CTSC), 11 to the Canadian Radio-television and Telecommunications Commission (CRTC), 1 to Industry Canada and 35 to non-member broadcasters.
- The CBSC, nonetheless, responded to all the complaints including those sent elsewhere for ultimate resolution. In the case of petitions, however, the CBSC responded to only one appointed spokesperson for each group of signatories.
- The majority of complaints came to the CBSC via the CRTC, accounting for 795 (or 66.8%) of the total files opened in 1998/1999; however, the CBSC experienced an increase in direct contact from the public, having received 383 complaints directly (32.1%). The remaining complaints were forwarded by broadcasters or other sources.

2. Region

Of the 1,097 complaint files handled by the CBSC, the overwhelming majority dealt with Quebec broadcasters, specifically with the comedy program *Dieu reçoit*.

Region of Complaint				
Region	Radio	Television	Not specified	Total
Atlantic	6	18	1	25
Quebec	41	606	1	648
Ontario	52	134	2	188
Prairie	35	33	2	70
B.C.	59	32	0	91
National	0	38	0	38
Not specified	10	25	2	37
TOTAL	203	886	8	1,097

3. Radio and Television Complaints

Of the 1,097 complaint files handled by the CBSC,

- 203 dealt with radio programming (18.5%);
- 886 dealt with television programming (80.8%);
- 8 dealt with general concerns about broadcasting or could not otherwise be categorized (0.7%).

4. Language of Program

Of the 1,097 files handled by the CBSC,

- 456 dealt with English-language programming (41.6%);
- 624 dealt with French-language programming (56.9%);
- 4 dealt with foreign-language programming (0.3%).
- 13 did not provide enough information to be language classified (1.2%).

Language of Program								
Language	Radio		Television		N/D		Total	
	#	%	#	%	#	%	#	%
English	170	83.7	281	31.7	5	62.5	456	41.6
French	30	14.8	594	67.0	0	0	624	56.9
Foreign	1	0.5	3	0.3	0	0	4	0.3
Not Specified	2	1	8	1	3	37.5	13	1.2
TOTAL	203	100	886	100	8	100	1,097	100

5. Source of Program

Of the 1,097 files handled by the CBSC,

- 868 dealt with Canadian programming (79.1%);
- 142 dealt with foreign programming (13.0%);
- 87 could not be so classified (7.9%).

Source of Program								
Source	Radio		Television		N/D		Total	
	#	%	#	%	#	%	#	%
Canadian	173	85.2	695	78.4	1	6.3	868	79.1
Foreign	27	13.3	115	13.0	0	0	142	13.0
Not specified	3	1.5	76*	8.6	15	93.7	87	7.9
TOTAL	203	100	886	100	16	100	1,097	100

* Note: The high number of unspecified source of programming complaints is due in part to the large number relating to the on-screen presence of station logos and not to programming *per se*.

6. Type of Program - Radio

Of the 203 radio complaints,

- the overwhelming majority (153 files) dealt with open line/informal discourse programming (75.4 % of radio complaints);
- 12 dealt with humorous programming (5.5 % of radio complaints);
- 11 dealt with news (5.0 % of radio complaints);
- 7 dealt with contests or station promotions (3.1 % of radio complaints).

Type of Program - Radio			
Type of Program	# of Radio Complaints	% of Radio Complaints	% of all Complaints
Advertising	2	1.0	0.2
Comedy	12	5.9	1.1
Contests and Promos	7	3.4	0.6
Music	6	3.0	0.5
News	10	4.9	0.9
Open line/informal discourse	153	75.4	13.9
Public affairs	3	1.5	0.3
Sports	3	1.5	0.3
Undetermined	7	3.4	0.6
TOTAL	203	100	18.4*

* Note: This total added to its corollary for TV complaints does not add up to a 100% due to rounding.

7. Type of Program - Television

Of the 886 television complaints,

- 537 dealt with comedy programming (60.6 % of television complaints);
- 80 dealt with drama (9.0 % of television complaints);
- 72 dealt with news programming (8.1 % of television complaints).

Type of Program - Television			
Type of Program	# of TV Complaints	% of TV Complaints	% of all Complaints
Advertising	12	1.4	1.1
Children's programming	3	0.3	0.3
Comedy	537	60.6	49.0
Drama	80	9.0	7.3
Education (human interest)	17	1.9	1.5
Informal Discourse/Conversation	52	5.9	4.7
Music	1	0.1	0.1
News	72	8.1	6.6
Promotional Material	13	1.5	1.2
Public affairs	15	1.7	1.4
Religious programming	11	1.3	1.0
Sports	2	0.2	0.2
Undetermined	71	8.0	6.5
TOTAL	886	100	80.9*

* Note: This total added to its corollary for Radio complaints does not add up to a 100% due to rounding.

8. Codes and Clauses

Often, a complaint will relate to more than one code or clause. Thus, the number of complaints considered under the codes and clauses can be expected to exceed the number of letters received by the CBSC.

CAB Code of Ethics

In 1998/1999, 498 complaints handled by the CBSC raised at least one issue to be considered under the *CAB Code of Ethics*. The majority of complaints raised at least two. Most of the complaints which involved a human rights issue often included a component of proper presentation of opinion, comment or editorial (also used for dramatic programming).

CAB Code of Ethics	Radio	TV	Total
Clause	#	#	#
Human rights	69	260	329
News	6	46	52
Advertising	0	10	10
Controversial public issues	2	2	4
Children's programming	0	1	1
Contests & Promotions	5	0	5
Presentation of Opinion &	105	250	355

Comment			
Sex-role stereotyping	1	1	2
Religious programming	0	1	1
TOTAL	188	571	759

CAB Sex-Role Portrayal Code

80 complaints handled by the CBSC 1998/1999 raised at least one issue under the *CAB Sex-Role Portrayal Code*. The overwhelming majority of complaints considered under this code related to issues of sexual explicitness on television which was stated to be degrading, mostly to women but also to men. Of the total number of complaints considered under this code, two related to issues other than "sex-exploitation" and both complaints concerned the portrayal of men.

	Radio	TV	Total
Sex-Role Portrayal Code Clause	#	#	#
Exploitation	4	74	78
Diversity	0	2	2
Changing interaction	0	1	1
Demographic Spectrum	1	1	2
TOTAL	5	78	83

RTNDA Code of (Journalistic) Ethics

In 1998/1999, 46 complaints handled by the CBSC were considered under the *RTNDA Code of (Journalistic) Ethics*. Concerns related mostly to inaccuracy in reporting and sensationalism.

	Radio	TV	Total
RTNDA Code of Ethics Clause	#	#	#
Distortion	0	3	3
Sensationalism	1	18	19
Irrelevant information	0	4	4
Respect for privacy/dignity	0	10	10
Accuracy	2	24	26
Errors	0	3	3
Balance/comprehensiveness	1	6	7
Conflict of Interest	0	0	0
Politeness of journalists	0	0	0
Improper comment or editorial	2	8	10
TOTAL	6	76	82

CAB Voluntary Code Regarding Violence in Television Programming

133 complaints handled by the CBSC in 1998/1999 raised at least one issue to be considered under the *CAB Violence Code*. Most of the complaints considered under this code related to the scheduling of programs (before or after the "watershed" hour of 9 p.m.). Concerns over program content were also important this year.

TV Violence Code	TV #
Clause	
Gratuitous violence	38
Children's programming	0
Scheduling of programming	100
Scheduling of promotional material & ads	2
Classification	4
Viewer Advisories	11
News	10
Violence in Sports	0
Violence against Animals	6
Violence against Women	6
Violence against Specific Groups	8
TOTAL	185

General Complaints

In addition, the CBSC handled 519 general complaints not related to a particular code. Some of these complaints raised more than one issue. The majority of these complaints dealt with concerns over offensive humour. The second largest group of complaint dealt with the presence of station identification logos on TV screens.

	Radio & TV
General Complaints	#
Advertising	9
Advisories/Watershed	12
News and public information	20
Offensive language	10
Offensive humour	375
Program selection	10
Sexual content	18
Station logos	56
TV violence	21
TOTAL	531

Status of Complaints at Year-End

Of the 1,097 files handled by the CBSC, 578 were code relevant complaints. 400 (69%) of these will not require Regional Council adjudication as they were resolved at the level of broadcaster and complainant communication. 61 complaints (10%) have been resolved through the release of decisions of the various Regional Councils and the CBSC Secretariat, 6 complaints (1%) are being resolved in another forum and 46 complaints (8%) have yet to complete the dialogue process with the broadcaster. The 50 remaining complaints are at various stages in the complaints review process.