

Please find below a media release issued by the Canadian Broadcast Standards Council today (February 13, 2008).

Broadcast of Anonymous Flyer with Inaccurate Information in Political Campaign Breaches Ethics Codes, Says Canadian Broadcast Standards Council

Ottawa, February 13, 2008 - The Canadian Broadcast Standards Council (CBSC) today released its decision concerning Fairchild Television and Talentvision's broadcasts of a news report on July 27, 2006 about the campaign for the federal Liberal Party nomination in the Vancouver Kingsway riding two days later. The complaint focussed principally on the alleged inaccuracy, unfairness and lack of balance in the report resulting from the on-screen broadcast of the text of an anonymous flyer which made allegations against one of the candidates. The CBSC National Specialty Services Panel concluded that the report violated various clauses of the RTNDA Code of (Journalistic) Ethics and the CAB Code of Ethics.

The Specialty Services Panel noted that the broadcaster had not been able to find anyone prepared to admit authorship of the flyer or to stand behind it. While the Panel acknowledged that each candidate "would wish no negative comment (in an ideal world) but certainly no unfair negative comment," it added that

The Panel does not question Fairchild and Talentvision's right to report on the placing of such a flyer; it merely notes that there may have been indications that they ought to have been especially cautious considering they were according some on-air credibility to an anonymous document.

The Panel decision was based not on the spoken word, but only on the on-screen written word since the incorrect allegations were aired as the anonymous flyer text, even though displayed for only four seconds.

When there is, for example, an image that broadcasters should not, or do not wish to, air, they do not show it fleetingly, they pixillate it (i.e. digitally scramble the image) for every instant of its on-screen presence, just as they bleep inappropriate language. If the content should not be seen, that is how broadcasters are expected to deal with it. And it is how they should do so. They cannot be unequivocal in their treatment of inappropriate content; they must not broadcast it.

This is the moreso necessary in the broadcast world of the 21st century. Programming is easily time-shifted, paused during broadcast, played and replayed at the instant, or recorded and saved for later consumption, when it can again be re-viewed, played back and paused. [...] It is the view of the National Specialty Services Panel that the brevity of the view of inappropriate material will not save a broadcaster from a Code breach.

[...] If the test were strictly limited to "what actual viewers [or listeners] of the newscast saw and understood," and, presumably, recount, the CBSC would virtually never be able to rule on radio issues. That is not, and cannot be, the test. The test today is what was broadcast. Full stop.

If, in the matter at hand, the broadcaster wished to show the flyer, it could have done so in its reported location, on car windshields, with, say, a sufficiently long lens, obliquely or on a pixillated basis, so that no wording could have been seen. It chose not to do so. Consequently, the determination of this Panel will be made on the basis of its view of the content as broadcast and seen, however fleetingly.

On the issue of content, the Panel disagreed with the broadcasters' contention that the allegations in the part of the flyer text aired accurately reflected the decision of the B.C. Court of Appeal. They were right to conclude that they would have been entitled to rely on that decision, but only on a correct rendition of it.

What is most important about the decision of the Court of Appeal is that it has nothing whatsoever to do with insults or damages [as the broadcasters alleged]. [...]

It is the view of the Panel that the anonymous flyer totally miscast the nature of the proceeding and its result on which the broadcaster focussed and relied. [...] The Panel is even more troubled by the characterization of the amounts as damages associated with any insult to the reputation of Mr. [W] and the association of such damages with Mr. [L] personally.

While the flyer was not the creation of the broadcaster, it was the latter which decided to make some of the content its own. In this it took a risk, particularly when the flyer was, as discussed above, anonymous and Fairchild and Talentvision could find no one to stand behind it or be answerable for its content. They chose to rely on information that was materially incorrect and that they ought to have known was materially incorrect. They admit to having the decision of the Court of Appeal in hand since October 24, 2005, a full nine months before the broadcasts of July 27, 2006. They had ample time to review it and, if necessary, seek the advice of legal counsel to understand what it meant. Their reliance on its text to support the broadcast of a hostile anonymous document was unfounded and, worse, erroneous in material respects. The news reports were neither accurate nor fair and consequently in breach of Article 1 of the RTNDA Code of Ethics and Clauses 5 and 6 of the CAB Code of Ethics.

Canada's private broadcasters have themselves created industry standards in the form of Codes on ethics, gender portrayal and television violence by which they expect the members of their profession will abide. In 1990, they also created the CBSC, which is the self-regulatory body with the responsibility of administering those professional broadcast Codes, as well as the Code dealing with journalistic practices first created by the Radio Television News Directors

Association of Canada (RTNDA) in 1970. More than 625 radio stations, satellite radio services, television stations and specialty services from across Canada are members of the Council.

All CBSC decisions, Codes, links to members' and other web sites, and related information are available on the World Wide Web at <www.cbsc.ca>. For more information, please contact the National Chair of the CBSC, Ron Cohen, at 613-233-4607 or by e-mail, at <ron.cohen@cbsc.ca>.