
APPENDIX B

CBSC Decision 08/09-0196 CJCH-TV (CTV Atlantic) re CTV News at 6 (Stéphane Dion interview)

The Complaints

The CBSC received 39 complaints about this broadcast. Of those, 21 provided enough information for the CBSC to proceed with its process and four of those complainants filed Ruling Requests following receipt of the broadcaster's response. Those four complaints are reproduced here.

File 08/09-0196

The following complaint of October 11, 2008 was sent to the CRTC and forwarded to the CBSC in due course:

I am writing concerning the CTV program that interviewed Stéphane Dion and indicated to him that they would restart his interview due to his misunderstanding of how he was questioned. The interviewer then went on to release the original tape to other media outlets to demean and belittle Mr. Dion for his misunderstanding. I find the actions of the CTV program to be totally unprofessional and lacking of respect for Mr. Dion's willingness to be interviewed.

I would hope that the CRTC would act to ensure that this type of incident never happens again to anyone.

The complainant sent the following letter directly to the CBSC on October 15:

To whom it may concern:

I recently wrote to the CRTC regarding this matter and received a response saying that you were the appropriate ones to be contacting.

My original message to them is as follows:

I am writing concerning the CTV program that interviewed Stéphane Dion and indicated to him that they would restart his interview due to his misunderstanding of how he was questioned. The interviewer then went on to release the original tape to other media outlets to demean and belittle Mr. Dion for his misunderstanding. I find the actions of the CTV program to be totally unprofessional and lacking of respect for Mr. Dion's willingness to be interviewed.

What I find most disconcerting about this matter is that the interviewer states that he had told Mr. Dion that it would not be aired but then went on to release it. It's obvious to everyone, I'm sure, that the intent was to make Mr. Dion look stupid. It also has become apparent that the release of this interview caused a huge shift in voters' preferences.

While I realize that campaigning politicians look for every opportunity to make each other look inept, I feel that CTV should have acted more honourably and kept their word. Their actions were dishonest and completely unprofessional. The comment has been made that if a French TV station had done the same thing to an English-speaking candidate struggling as they spoke French, English Canada would be outraged. I agree.

I'm not optimistic that you can or will do anything about this matter, but I feel that Canadians are deserving of decency from our media and should stand up when that has been violated.

The CBSC informed this complainant that she would need to identify the date and time of the broadcast in order for the CBSC to proceed. She wrote back to the CBSC on October 15:

Thank you for your email.

By now you would have received another email from me that was sent directly as was suggested to me by the CRTC. That message also did not contain details about the CTV news broadcast so I am happy to provide what I can.

The newscast was last Thursday, October 9th. I believe the CTV affiliate is ATV or CTV Atlantic. The interviewer is Steve Murphy. As I am in British Columbia, and did not see the original airing of this interview, I am unable to tell you the time it was originally shown.

I cannot imagine how you couldn't have seen it yourself. It was shown over many networks, affiliates etc, including the CBC where I viewed it for the first time myself. It has also been viewed many, many times on YouTube.

<http://www.youtube.com/watch?v=mv-5biChVrA>

Above is just one example of a YouTube video of this interview that so far has been watched over 86,000 times. This is CTV's own on-line coverage dated last Friday regarding the interview

http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20081010/election2008_harper_Dion_081010/20081010?s_name=election2008

It's equally difficult to imagine that they wouldn't be able to identify the logger tape in question.

Thank you again for your quick response. If there is any further information that I can provide please don't hesitate to ask.

File 08/09-0221

The following complaint was submitted via the CBSC's webform on October 17:

Station: CTV

Program: *Live at 5*

Date: October 13, 2008

Time: 5:00 pm

Steve Murphy's interview with Stéphane Dion was extremely disappointing and embarrassing to me as a Maritimer. I think it demonstrated poor journalistic ethics and was a low blow attack on a person who was struggling to understand a poorly-phrased question in their [*sic*] second language. I was personally very surprised when I saw it. Usually this is a very good program. It reminded me of the attack ads that are common in the USA. I expect more from a program that calls itself news. I expect them to be balanced and to adhere to some kind of ethical standard. I certainly will never look at Steve Murphy quite the same way.

File 08/09-0303

The following complaint was sent to the CBSC on October 29:

Dear Canadian Broadcast Standards Council,

Re: Steve Murphy interview of Stéphane Dion, October 9, 2008 ATV and CTV (Duffy)

On October 25, I wrote CTV News (and copied my message to Mike Duffy at CTV) asking them about the wording of the question. I have received no response and I know others also received no response to this particular concern, although they did receive a response to concerns about airing the interview. (CTV responded that it was "newsworthy".)

On October 28, it was reported in the news: "Mr. Hurst would not comment on whether Mr. Murphy's question was well-worded."

Since CTV created this news event with a very specific wording (leaving out the word "now" and/or not repeating "right now" and "today", this entire event would likely not exist), I think CTV has an obligation to answer questions about the wording:

* Why did Mr. Murphy pose a question in such poor English and keep repeating it without correcting the English?

* Since Mr. Murphy seems to have wanted to ask what Dion would have done if he had been Prime Minister, why did he repeatedly stress "now", "right now", "today" when Mr. Dion requested clarification on the time frame he was asking about?

My concern is whether Mr. Murphy purposely sowed confusion while giving Mr. Dion the impression it would not air. A clear explanation of Mr. Murphy's behaviour could set these concerns aside (or not, as the case may be.)

Please help restore some faith in the integrity of Canadian broadcasting by addressing the issues surrounding this CTV interview.

File 08/09-0406

The following complaint dated October 27 was sent to the CRTC and forwarded to the CBSC:

Re: CTV Interview with Stéphane Dion

Attached are two items: (a) my letter to Ivan Fecan & Robert Hurst of CTV and (b) a copy of a *Toronto Star* report on the interview in question.

The decision by CTV executives to abrogate an agreement with Mr. Dion with regard to the deletion of the segments in question, is both dishonest and unacceptable. Clearly their decision was predicated on CTV's decision to not only support the Harper Government in the election, but to actively provide distortive and damaging data to that party for advertising/campaign purposes.

CTV attempts to justify its decision by arguing that CTV deemed it important to indicate to Canadians (in the words of President Robert Hurst) "that here's a guy who's running to be prime minister of Canada and he's being criticized for his inability to communicate effectively in English. We decided that it was important that CTV News not hide anything during an election campaign."

Given the evangelical approach by CTV "not to hide ANYTHING during an election campaign", I don't recall seeing a major report on CTV regarding the Sierra Club of Canada's rating of the Conservative Party's environmental plan with an "F" for Failure on what is certainly the most serious threat facing mankind. CTV's assessment of important issues is clearly defined in terms of short term political gain, but NOT long term impact of mankind.

Having read/listened to the segment of the interview with its several restarts, having listened to the CTV interviewer's question, I too was uncertain as to the timeframe (pre-election/post-election/day of interview, etc.) that the response to the hypothetical question was to be predicated [on].

Background:

Given CTV's decision to renege on the agreement with Stéphane Dion, given that the confusion arose because of the need to clarify a less-than-precise question, given that the individual being interviewed had recently advised the media of a hearing disability, given that CTV was well aware that Stéphane Dion had some difficulty with English, his second/non-primary language, clearly CTV executives chose to embarrass this individual rather than afford the courtesy of cutting the segments as requested.

As someone who has spent over 33 years working with minorities in their attempts to achieve a semblance of justice from federal and provincial governments, crown, private and public corporations, I find it extremely offensive that a national broadcasting corporation, operating under the oversight of the Canadian Radio-Television and Telecommunications Commission would be permitted to behave in such a heartless, damaging and insensitive manner without a severe public reprimand from the CRTC.

The CTV actions involve elements of racism, abuse of minorities, insensitivity to disabilities and a complete absence of ethics.

Question:

What action will the CRTC take with respect to these unacceptable actions by CTV and CTV executives?

I look forward to a positive response.

As indicated, the complainant attached a letter he had written directly to CTV dated October 20:

Re: Steve Murphy Interview with Stéphane Dion

The decision by CTV executives to abrogate a verbal agreement not to air the confusion resulting from a question from Murphy to Stéphane Dion is one of the lowest, most despicable pieces of media action I've witnessed in my 70 years on this planet.

The question itself clearly demanded clarification as to the point in time on which Dion was to predicate his response.

CTV's decision to take advantage of the confusion was clearly politically motivated. The fact that the tape became part of the Conservative Party advertising within hours confirms the collusion. The fact that CTV executives abrogated the agreed-upon decision to not show that footage speaks to a serious ethical void at CTV.

Further, the politically-motivated decision contains serious components of racism, a willingness to capitalize on both a hearing impairment and linguistic issues. It is un-Canadian and disgusting!

While the Canadian Medical Association predicts over 800,000 deaths in Canada from Bad Air within the next 23 years, it is unfortunate that CTV and the Harper Conservatives with an environmental plan rated as "F" for failure by the Sierra Club of Canada, attempt to diminish Stéphane Dion and his absolutely critical message/crusade on an issue which will shortly dwarf any economic issues.

In the past week, Jeffrey Simpson, writing in the *Globe & Mail*, indicates that 230 leading economists have endorsed the need for a Carbon Tax.

My own file on the issue indicates support from Don Drummond (Economist: TD Bank), Jeff Rubin (Economist: CIBC World Markets), Tom Courchane (Economist: Jarislowsky-Deutsch), Jack Mintz (past president, CD Howe Institute), Paul Volcker (former chair: US Federal Reserve), Joseph Stiglitz (Chief Economist of World Bank), Judith Maxwell (former head Economic Council of Canada), James Hansen (Director: NASA Goddard Institute for Space Studies), the Conference Board of Canada, John Reilly (Economist: MIT), George Soros (leading investment expert), etc., etc., etc. By contrast, Stephen Harper calls a carbon tax "crazy economics" and an attempt to "screw everybody across the country".

Just who is screwing who in rejecting a tax on carbon and attempting to discredit the messenger???

In conclusion, let me point out that the undersigned has in recent years voted federally for Reform (Manning), PC (Clark), NDP, Green and Liberal.

The CTV action in this case will be at the top of my agenda at private and public meetings when issues of ethics and media behaviour are discussed/explored. CTV's actions will not be forgotten.

He also attached an article that appeared in the *Toronto Star* about the situation

CTV DEFENDS AIRING DION TAPE

Halifax – CTV News broadcast a defence yesterday of its decision to air the stuttering start of an interview it did last week with Liberal Leader Stéphane Dion.

Three CTV News executives told last night's 6 p.m. Maritimes newscast it had a responsibility to show the taped interview Oct. 9 before election day.

"We decided that it was important that CTV News not hide anything during an election campaign," said president Robert Hurst.

"Central to the campaign was the argument and the issue that here's a guy who's running to be the prime minister of Canada, and he's being criticized for his inability to communicate effectively in English and that was very evident in the interview that day," added Peter Mallette, a senior news producer in Halifax.

The interview, restarted four times because Dion didn't understand a question about the economy from anchor Steve Murphy, was originally broadcast in the Maritimes, but later seen across the country. That night, Murphy said the network had told the Liberals it would not broadcast the fumbling start.

After the full interview was broadcast, Prime Minister Stephen Harper seized on it, saying it showed Dion had no plan for dealing with the global credit crisis. The Liberals then accused Harper of a cheap shot at a man whose English is imperfect and who has a hearing disability.

The Canadian Press

Broadcaster Response

CTV replied to all complainants in November with the following letter:

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

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

Chronology:

Wednesday October 8th 2008:

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

The arrangements for the 2nd interview were the same, a live one-on-one unedited interview. Mr. Dion's campaign schedule, however, would not permit him to be live in the CTV Halifax newsroom for the Six O'clock News, so arrangements were made to record the interview, one hour before airtime, at a downtown Halifax Hotel. It was understood that the format for the second interview would be the same as the first, a one-on-one interview that would not be

edited nor interrupted. The only difference in the second interview – it would be live-to-tape instead of live-to-air. Mr. Dion's staff agreed to these arrangements.

Thursday October 9th 2008:

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

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

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

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

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

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

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

The Pool Camera:

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

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

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

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

Mr. Dion nods his head in affirmation.

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

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

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

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

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

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

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

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

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

Subsequent Actions Taken by CTV - Was This Newsworthy?

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

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

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

- Could Mr. Dion hear the questions?

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

To these questions, CTV News concluded the following:

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

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

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

In our opinion, these were legitimate questions for voters to consider in an election campaign.

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

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

CTV News Obligations During An Election Campaign:

Our objective and our obligation is to expose viewers to the political parties, the platforms and leaders so voters can be better informed on Election Day. Political coverage dominated CTV News programming during the campaign period on our local CTV newscasts, the *CTV*

National News, Canada AM and Sunday's Question Period. During the campaign, we produced two hours of *Mike Duffy Live* on CTV Newsnet which is a close-up review and analysis of each day on the campaign. This daily program is the meeting point for political partisans to discuss the issues and the leaders' performance.

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

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

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

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

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

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

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

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

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

RESPONSE TO SPECIFIC CONCERNS:

Are Re-Starts Common Practice?:

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

Arrangements were changed to accommodate Mr. Dion's campaign schedule and, as a result, the interview was changed to a live-to-tape interview instead.

Mr. Dion's Hearing Problem:

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

RTNDA: Article Eight (Decency and Conduct)

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

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

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

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

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

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

These allegations are completely false and not representative of how CTV News conducted itself during the election campaign. We can assure you that CTV News would not take any action to aid or assist any political party or candidate during an election campaign. CTV News is an independent news agency that favors no political party. If something happens on any given day, during the campaign, we have an obligation to report what we believe is newsworthy.

Conclusion:

While CTV received numerous complaints about the broadcast of this interview by Liberal supporters, we also received numerous complaints from Conservative, NDP and Green Party

supporters who complain that other news reports were biased against their parties. Politics is a very sensitive and complex issue and it is very difficult for broadcasters to satisfy all viewers all the time, especially during an election campaign. However, we can assure you that our newscasts are never intended to be biased against or favourable to any of the parties or their supporters.

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

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

Additional Correspondence

File 08/09-0196

The complainant filed her Ruling Request on November 24 with the following note:

In spite of Mr. Hurst's defense of his decision to broadcast Steve Murphy's interview of Stéphane Dion in its entirety, I still feel that there was no compelling reason to do so.

This broadcast violates Broadcasting Circular CRTC 2008-4 which outlines broadcasters' responsibility "to provide equitable - fair and just treatment of issues, candidates and parties". The way Mr. Dion was treated was not fair or just.

It is clear that Mr. Dion was confused by the hypothetical question asked in English with mixed tenses and vague references. The question was poorly worded. With all of his broadcasting experience, Mr. Murphy made no attempt to rephrase the question in a more easily understood manner. In fact, when he re-asked the question for the restart he made it even more confusing "If you were Prime Minister now, what would you have already done?" Mr. Murphy created the confusion. CTV then used this situation to create news.

Mr. Hurst also states that there was no undertaking by CTV not to air this interview in its entirety. I would refer you to Steve Murphy's comments as he introduced the interview for the evening news. He says, "Initially we indicated that it would not be". I would like CBSC to investigate this matter further. Personally, I feel that CTV went back on a verbal contract because they agreed to start the interview again. No one, whether politically savvy or not, would expect that the entire interview would be shown. This again reinforces that the actions of the network were not fair or just.

I would agree with others who have claimed this violates Article Eight of the RTNDA's Code with regard to decency.

Once Mr. Dion had an understanding of what Mr. Murphy was asking, he answered clearly, intelligently and with conviction. I feel that the network was taking advantage of an innocent misunderstanding to try to show that Mr. Dion was inept. What would the reaction of English Canada be if French-language stations did the same thing as we stumbled with their language?

While it may be tempting to ignore this incident because the election is over, I would hope that the CBSC would not do so. This incident goes beyond partisan politics and, if not addressed, will violate the integrity of Canadian Journalism. The public deserve better than this.

File 08/09-0221

The complainant wrote to the CBSC on December 1:

I did receive a follow up within the timeline your e-mail indicated.

They did not appear to feel any of my concerns were valid. They had a big timeline done up which explains the whole thing. Kind of reminded me of the response you might get from a lawyer or something.

Anyway ... my final impression is unchanged based on their response. I still think it was low caliber journalism that took advantage of watching someone struggle in their second language. The timing of the broadcast speaks to a political motive as well.

At any rate ... I guess that's the end of the road for this process. We can certainly do our part ... and that is to tune out. Pass on to Steve and the CTV crew that my wife and I no longer watch his news show ... and that we generally think of them as a poor example for other journalists.

In response to his statement that this was “the end of the road for this process”, the CBSC pointed out that he did have the option of filing a Ruling Request. He then wrote again on December 8:

I guess I wasn't satisfied with the response that I got but if someone else has already escalated their concerns then there isn't much point of duplication.

Feel free to include my concerns as part of the other complaint.

File 08/09-0303

The complainant responded to CTV on November 7:

Thank you for forwarding the reply from CTV. Unfortunately, this appears to be a generic (albeit, lengthy) reply and nowhere did I see it address my question or concern.

My concern was about the wording of the question, and Mr. Murphy's words in response to Mr. Dion's request for clarification on the timing. While the generic CTV reply appears to indirectly suggest that CTV thinks Mr. Murphy spoke in correct English and provided accurate clarifications, which were not misleading, the reply provides no documentation or arguments (grammatical or otherwise) to support this view.

I think CTV should either

(1) make a clear statement to me that they refuse to address concerns about the wording and responses used by Mr. Murphy (in which case, I will pursue this with CBSC) or (2) explain why Mr. Murphy included the word "now" in his question, then responded with "right now" and "today" (when clarification was requested on the timing) and then stuck the extra word "already" in when he repeated the same question a second time?

If you can explain (2), you will be addressing my concern. However, until you do that, the only thing I find "preposterous" and "offensive" (to use the language of CTV's reply) is that I am making essentially the same written request to CTV for the **third** time now, and I am still waiting for a reply which includes either (1) or (2) above.

This is not a trivial complaint. I think if Mr. Murphy had either not inserted the word "now" in the question (which, by the way, makes the question nonsensical) or had simply responded "yes, I meant if you had been Prime Minister, what would you have done" to Dion's first question, the most likely outcome would have been an interview which could have aired in its entirety, without embarrassment to Mr. Dion, Mr. Murphy or CTV. Therefore, it is reasonable to ask why Mr. Murphy seemed so insistent on repeatedly stressing the present tense in the first half of his question and in his responses, while stressing the past tense in the second half of his question. While I can't read his mind, from watching the interview, I assume that Mr. Murphy meant to ask about past actions. If he actually meant to ask about present actions, or even about present and past actions simultaneously, my concerns stand, although I would reword (2) somewhat. Just let me know.

Were CTV and/or Mr. Murphy trying to create this whole event or is there an explanation for Mr. Murphy's words which I (and others I have discussed this with) have not been able to think of? If it is the former, is this acceptable "gotch-ya" reporting which politicians are expected to be able to dodge? Again, that is an honest question. I would like to think our standards are a bit higher than that, particularly in our officially bilingual country, but I am willing to listen to arguments that this is an acceptable standard. If CTV argues this is acceptable, gotch-ya style, and CBSC agrees, I will then pay more attention to CTV's arguments about whether they acted responsibly in what was said about airing the retakes. However, in the first instance, I am trying to understand whether Mr. Murphy was being purposely misleading to get a desired effect or whether there is some other explanation for his peculiar (and seemingly misleading) choice of words.

She then filed her Ruling Request on November 8 with the following note:

The response did not address the concern raised in my complaint about the wording of the question and the seemingly misleading responses to Dion's requests for clarification. By ignoring my concerns, CTV leaves me with the impression that they created this media event by purposely using incorrect english and misleading and contradictory responses, together with ambiguous statements about whether the entire episode would air. (I am assuming Mr. Murphy is experienced enough to be able to articulate a question when given time to prepare in advance, as well as multiple opportunities to get it right.)

I recognize that gotcha journalism is not uncommon in politics. However, using one's mastery of a language to craft nonsensical questions and give misleading language cues in the politician's second language, in a bilingual country, seems like a particularly negative form of gotcha journalism.

Note, I disagree with CTV's statement, "a Liberal aide (who appeared to clearly understand the question)". The question is nonsensical, as hypothetically being prime minister right now does not imply anything about being prime minister in the past. The best one can do with the question is try to guess what Mr. Murphy wanted to ask. Since the active part of the question,

and also the part with the most information, is in the past tense, it seems reasonable to assume Murphy meant to ask about the past. However, such a thought process is not the same as "clearly understanding" the question. Murphy's responses of "right now" and "today" contradict this interpretation, in any case.

File 08/09-0406

The complainant filed his Ruling Request dated December 1 and attached the following letter:

Re: Complaint regarding CTV Interview (Steve Murphy) with Stéphane Dion (9th October, 2008) CBSC File 08/09-0406

I received the response of CTV on Friday, November 26, 2008 by mail. My reply to the CBSC is being drafted and mailed on Monday, December 1st, within the 14-day timeframe from receipt of the CTV letter as required in your letter, [CBSC Communications Coordinator], to myself.

The details of the letter (signed Robert Hurst, President, CTV News & Current Affairs) has been reviewed in detail. I find Robert Hurst's reply quite unsatisfactory in that it (a) fails to address certain key details and (b) attempts to misrepresent certain components of this issue which clearly are not as stated in the CTV correspondence. The details follow.

(1) The CTV COMMITMENT from Interviewer Steve Murphy to Stéphane Dion NOT to broadcast the initial attempts at the interview.

The CTV response (Hurst) deals extensively with various details of the "pool camera" setup/interview and IGNORES the most important and fundamental issue, namely that CTV executives, on reviewing the tapes (including the initial takes), chose to undermine/ignore the commitment made by CTV interviewer Murphy that the network would NOT broadcast the "fumbling" start.

The Canadian Press release (Halifax) stated, "**Murphy said the network would not broadcast the fumbling start.**" That commitment has been echoed by other sources.

The details of the interview setup, re-takes, etc. outlined in the Hurst CTV letter to myself ignore completely the agreement between Murphy and Dion that the initial takes WOULD NOT BE BROADCAST. CTV executives determined that they would break/ignore the commitment of Murphy.

As someone who has spent 33 years in negotiations with the Government of Canada, Governments of the Province of Ontario, Crown (Ontario Power Generation, etc.), Public and Private Corporations regarding aboriginal community pollution and land claim issues, I can state emphatically that nothing undermines negotiations more than parties who fail to honour commitments, be they verbal or written.

CTV can put forward all the arguments it wants regarding the format of the interview in question BUT the fact remains that CTV executives chose to ignore a promise/commitment issue.

QUESTION: Do the Canadian Radio-Television and Telecommunications Commission and the Canadian Broadcast Standards Council find it acceptable that executives of a major national broadcaster can unilaterally abrogate an understanding established by a corporate interviewer (Murphy) with an interviewee with respect to the undertaking of an interview? Surely CTV's decision represents a breach of ethics.

(2) Disabilities/Linguistic Limitations:

My letter of 20th Oct/2008 raised issues regarding CTV's treatment of individuals with disabilities (hearing), linguistic issues (English as a second language). Let's examine CTV's responses.

The news media (Canadian Press) quoted Robert Hurst, CTV President, as follows, "here's a guy (Dion) who's running to be prime minister of Canada and he's being criticized for his inability to communicate effectively in English. We decided that it was important that CTV News not hide anything during an election campaign."

There are many aspects of the CTV position that raise serious ethical questions. CTV clearly has chosen to publicly embarrass an individual who (a) at the beginning of the election campaign admitted publicly that he had a hearing problem and who (b) communicates primarily in his first language (French) but who has some difficulties with his second language, English. In addition (c) CTV chose to ignore the issue raised by Dion, namely, in what TIMEFRAME was the response to be constructed, as of the day of the interview, the day after being elected prime minister, etc. This writer has grandchildren (15-18) who are fluently bilingual. The issue of determining "tense" is absolutely critical to providing a meaningful response. From all reports, Dion was attempting to clarify the "timeframe/tense" issue and aborted responding until he felt that the timeframe in which the response was to be framed was clarified.

CTV executives chose to ignore these issues.

Question: Is it acceptable to the Canadian Radio-Television and Telecommunications Commission and to the Canadian Broadcast Standards Council that a national broadcaster should be permitted to publicly embarrass ANY individual be it a member of the public or a political party leader over complications resulting from hearing limitations, second language limitations or legitimate attempts to determine the timeframe in which the response is to be framed?

Do CTV executives provide a role model of behaviour to the public and youth by embarrassing an individual in a public forum?

(3) Various Rationale put forward in the CTV (Hurst) Response with respect to several issues suggest a clear political BIAS and undermine his protestation that CTV:

- "favours no political party",
- "we offer no favours or benefits to any one party or candidate",
- "some individuals have suggested CTV News was intent on harming Stéphane Dion five days before the general election. This is completely PREPOSTEROUS",
- "CTV is an independent news agency that favours NO political party",

- "CTV News would not take any action to aid or assist any political during an election campaign"

The Hurst letter attempts to justify CTV's stance in releasing the tapes in contravention of a prior, verbal agreement by asking the following questions:

- are Dion's language skills "so poor" that he would have difficulty with tenses and by extension difficulties with the duties of PM?
- "how often do aides explain important questions to Dion"?
- "is Dion able to think on his feet?"
- "does Dion understand issues like the faltering economy"?
- "is Dion so scripted and programmed with his key messages that he refuses to say anything else?"
- "was Dion exhausted near the end of an election campaign and if so how does he handle pressure and public scrutiny at such times"?

Do those questions suggest an UNBIASED/POLITICALLY NEUTRAL CTV and its EXECUTIVES?

The Hurst (CTV) letter suggests that in breaking the commitment to Stéphane Dion not to broadcast the tapes, the corporation was treating that issue in the same manner as the Conservatives' "pooping puffin" election ads or the Gerry Ritz "listeriosis" mis-statements or the Harper comments (it's a great time to buy stocks, etc., etc.) during the financial crisis.

There is a difference. In the "puffin case", the "listeriosis case" and the Harper statements, ALL were produced directly by members of the Conservative Party. In all cases, those responsible for the damaging statements were the players themselves. The public statements/releases broke NO prior agreement. In the Dion case, an agreement was broken/abrogated by CTV executives.

Question: Is it conceivably possible for the CRTC or the CBSC to interpret the five (5) questions posed above by CTV (Hurst) as unbiased, neutral, even-handed with respect to politics and an election campaign in line with CRTC/CBSC Guidelines?

The CTV response is an embarrassing attempt to justify the unjustifiable, namely, the breach of an agreement and the distortion of its political objectives during this last election campaign.

The complainant sent another letter to the CBSC on December 12:

Re: **Complaint regarding CTV Interview (Steve Murphy) with Stéphane Dion (9th October, 2008)** CBSC File 08/09-0406

Further to the above complaint filed by the undersigned with both the CRTC and the CBSC, there is additional information and clarification I wish to file as part of this complaint.

At 4:15 pm on December 9th, I received a telephone call from Robert Hurst, President CTV News and Current Affairs, indicating that he wanted "to chat" with me. It readily became apparent that the purpose of the "chat" was to determine the source of certain information

contained in my complaint. I should also indicate that Mr. Hurst's questions/comments indicated that CTV was electing to focus on one component of the complaint to the apparent exclusion of several other issues.

As a result of the Hurst/CTV phone conversation, it was obvious that a restating of the various elements of my complaint was necessary to ensure that the CRTC, the CBSC and CTV/Hurst understood each component of the complaint.

(1) The CTV COMMITMENT from the Interviewer Steve Murphy to Stéphane Dion and those present NOT to broadcast the initial attempts at the interview:

In our "chat", Robert Hurst categorically denies that any such commitment, not to broadcast the 3 initial takes, was ever made by CTV.

Hurst asked me for the sources of my statement that such a commitment had been made. I indicated that the Canadian Press Release (attached) was one of the sources. Hurst states that the CP release was erroneous and based on misinformation.

As a result of the discussion with Hurst, I called the Canadian Press (Halifax) to discuss the release in question. They indicated they would review the question internally and get back to me, which they did later the same day. Canadian Press stated that **"they stand by the content of the story"** and that they believe the story **"was accurate and based on information available to them at the time."**

Whereas I had initially depended upon *Toronto Star* transcripts and the Canadian Press release, I was advised to review the entire interview on YouTube which I did on Thursday Dec. 11th.

The Entire Interview Including Set-Up/Preamble: it is dumbfounding to have CTV deny a commitment NOT to run the three aborted takes and then listen to the entire broadcasted component. The lead-in/preamble INCLUDED in the ON-AIR broadcast includes the following comments by Steve Murphy before the pre-recorded interview with Dion begins.

States Murphy, **"initially we INDICATED that it (the interview false starts) would NOT be (broadcast), however ON REFLECTION, CTV News believes we owe it to you to show everything that happened."** Clearly Murphy made a commitment NOT to broadcast the re-takes, and clearly (on reflection) on subsequent discussion/review with CTV executives, "CTV believes we owe it to you (the viewers) to show everything."

How can CTV/Hurst possibly deny a commitment was made and later, post-interview, CTV abrogated that commitment? The broadcast tape confirms what CTV/Hurst deny.

(Note: I have today faxed data to Mr. Dion's offices in both Ottawa and his Riding/Constituency and will forward any additional data, although the CTV tapes speak for themselves and need no clarification regarding the CTV commitment.)

QUESTION: Do the Canadian Radio-Television and Telecommunications Commission and the Canadian Broadcast Standards Council find it acceptable that executives of a major national broadcaster can unilaterally abrogate an understanding established by a corporate interviewer (Murphy) with an interviewee with respect to the undertaking of an interview? Surely CTV's decision represents a breach of ethics.

(2) Disabilities/Linguistic Limitations:

My letter of 20th Oct/2008 raised issues regarding CTV's treatment of individuals with disabilities (hearing), linguistic issues (English as a second language). Let's examine CTV's responses.

In a separate news release, Canadian Press quoted Robert Hurst, CTV President, News & Current Affairs as follows, "here's a guy (Dion) who's running to be prime minister of Canada and he's being criticized for his inability to communicate effectively in English. We decided that it was important that CTV News not hide anything during an election campaign."

There are many aspects of the CTV position that raise serious ethical issues. CTV has clearly chosen to publicly embarrass an individual who (a) at the beginning of the election campaign admitted publicly that he had a hearing problem and who (b) communicates primarily in his first language (French) but who has some difficulties with his second language, English. Is this CTV's corporate policy with individuals with hearing or linguistic challenges?

Clearly the decision in the Dion case was politically motivated on CTV's part and a deliberate attempt to undermine one party (Liberal) to the benefit of another (Conservatives). The neutrality that Hurst espouses in his letter to myself is clearly absent.

(3) The Question from Steve Murphy to Dion:

It is useful to analyze the question posed by CTV interviewer Murphy to Dion. The question states, "**If you were Prime Minister TODAY, what would you HAVE DONE**" that differs from Stephen Harper's actions/position?

Dion asked for clarification of the timeframe in which the response was to be placed: today? when elected PM? etc., etc. Examine Murphy's question and you'll note he includes TWO CONTRADICTORY tense/timeframes in the same sentence. What would you do TODAY (present tense) and what would you HAVE DONE (past tense).

Had Murphy's question been framed (as it should have) in the present tense, "if you were PM today, what would you DO" that is different from Harper's actions, a clarification would not have been necessary.

I don't believe Murphy deliberately asked a question including contradictory tenses; however, his question clearly was subject to various TIMEFRAME interpretations in framing a response, particularly for someone where English is their [*sic*] second language.

Question: Is it acceptable to the Canadian Radio-Television & Telecommunications Commission and to the Canadian Broadcast Standards Council that a national broadcaster should be permitted to publicly embarrass ANY individual, be it a member of the public or a political party leader, over complications related to (a) hearing limitations, (b) second language limitations or (c) legitimate attempts to clarify a question which in itself contains conflicting tense/timeframe interpretations?

Do CTV executives provide a role model of behaviour to the public and youth by consciously choosing to televise footage that embarrasses an individual in a public forum? CTV had a choice but opted to embarrass.

(4) Various Rationale put forward in the CTV (Hurst) response with respect to several other issues suggest a clear BIAS on the part of the corporation's executives and undermine his "preposterous" protestations that CTV:

- "favours no political party"
- "we offer no favours or benefits to any one party or candidate"
- "some individuals have suggested CTV News was intent on harming Stéphane Dion five days before the general election. This is completely PREPOSTEROUS."
- "CTV is an independent news agency that favours NO political party"
- "CTV News would not take any action to aid or assist any political party during an election campaign"

It is impossible to accept the preceding CTV protestations of neutrality given:

- the decision to release the tapes in contravention of an agreement which appears on and is confirmed in CTV's own telecast
- Hurst's statements as contained in his letter to myself of 26 Nov/2008 as follows:
 - "was Mr. Dion's understanding of his second language (English) so poor that he could not understand a question with different tenses?"
 - "how often do aides explain important questions to Mr. Dion?"
 - "does Mr. Dion understand issues like the faltering Canadian economy?" (apparently neither Harper nor Flaherty did, given their aggressive denials of a pending recession/deficit during the election campaign)
 - "is Mr. Dion able to think on his feet and answer questions directly and with precision?" (see my NOTE at the end of this memo)
 - "was Mr. Dion so scripted and programmed with his key messages that he refuses to say anything?"
 - "was Mr. Dion exhausted nearing the end of an election campaign, and if so, how does he handle pressure and public scrutiny at such times?"

QUESTION: Are the preceding protestations of NEUTRALITY by Hurst/CTV reflected in the heavily biased questions posed by CTV in their letter as outlined above? Do both the CRTC and the CBSC accept Hurst's argument that these questions as posed are reflective of a neutral corporation that describes criticism of its clearly biased actions as PREPOSTEROUS?

What is preposterous is that CTV would expect the public to accept its grossly misleading plea of impartiality.

(5) CTV argues that in breaking a commitment NOT to run the tapes, the corporation was treating that issue in the same manner as the Conservatives "pooping puffin" election ads or the Gerry Ritz "listeriosis" mis-statements or the Harper comments (there's not recession/it's a great time to buy stocks, etc., etc.) during the financial crisis.

There is a difference: in the “puffin case”, the “listeriosis case” and the Harper statements, ALL were produced/stated directly by members of the Conservative Party. In all cases, those responsible for the damaging statements were the players themselves.

The public statements/releases broke NO prior agreement. In the Dion case, an agreement was broken/abrogated by CTV executives (the evidence is included in the telecast tapes themselves as broadcast nationally by CTV).

Question: Is it conceivably possible for the CRTC or the CBSC to interpret the five (5) issues raised in this submission/complaint as unbiased, neutral, even-handed with respect to politics and an election campaign in line with CRTC/CBSC Guidelines?

I find BOTH (1) CTV's actions in broadcasting the tape in light of a clearly stated agreement NOT to, and (2) the corporation's clearly misleading/distortive justifications for its actions an embarrassment, recognizing its CRTC obligations as a national broadcaster.

I look forward to both the CRTC and the CBSC fulfilling their obligations to the Canadian public by ruling that CTV and its executives clearly acted in a manner that conflicts with CRTC/CBSC requirements and the public's expectations of a national broadcaster.

Note: When Mr. Dion was Minister of the Environment in the Martin Government, I had a number of interactions with him on (a) renewable energy issues and (b) environmental assessments involving developments on the Treaty Lands of aboriginal communities. On ALL occasions his responses were technically & legally accurate but also communicated in a clear and precise fashion.

One occasion involved a group of 20+ environmentalists who peppered Dion with questions regarding solar panel technology and other renewable energy issues. There were no requests from him for clarification; he understood even the most challenging questions. His responses were clear and to the point.

The issue of multiple “tenses” in Murphy's question leads me to the conclusion the problem was not so much Dion's issue, but a less than clear question from Murphy involving mixed/conflicting tenses. Clearly CTV had NO interest in empathy for Dion with the problems posed by the question/questioner; a political opportunity was obvious and CTV could not resist!