
APPENDIX B

CBSC Decision 08/09-1707+ & -1748+ CJCH-TV, CKCW-TV, ASN, CJOH-TV, CKCO-TV, CFTO-TV & CKVR-TV re "Save Local TV" campaign

Complaint File 08/09-1707

Initial Complaint

The following complaint dated May 14, 2009 was sent to the CRTC and forwarded to the CBSC in due course:

I am appalled at CTV's efforts to scare the public into supporting carriage fees over cable. To suggest, as their current propaganda campaign suggests, that local tv news operations and stations will be shut down altogether is quite simply a lie. If BCE can't run these stations profitably, then someone else will come in and succeed where they are failing. As far as local news is concerned, journalists with the right skill set and an entrepreneurial streak will come in and provide an even better service online if they actually were allowed to violate their licence in this way. The owners of these stations made millions in previous years -- and now they want consumers to pick up the tab because they aren't smart enough to come up with a solution on their own. The very propaganda campaign they are waging is an abuse of the public airwaves and should be curtailed. I can't express just how much I object to this kind of intimidation. You should tell them to cease and desist immediately or allow people like me equal time to express an opposing viewpoint.

That complainant then contacted the CBSC directly via its webform on May 24:

station: CTV Atlantic

program: *Live at 5, Evening News*

date: May 22, 2009

time: 5:00 pm and 6:00 pm

concern: I wish to make a formal complaint about CTV's violation of the *Broadcasting Act* with regards [to] its use of news programming to lobby for carriage fees. I watched CTV Atlantic's 2-hour news broadcast this past week with a sense of unbelief as so-called journalists participated in a blatant self-serving propaganda campaign. There was not even a semblance of balance or fairness in their coverage of this issue. Carriage fees are not the answer to what ails the local television news business. Better coverage in the public interest is what will gain and sustain an audience and advertisers, not pennies from heaven. If CTV Atlantic is so concerned that it blackmails the public into believing it will get out of the local

news business, then it should have its licence revoked and allow others to bid for the privilege of serving the public in a professional manner. I want you to tell me what you are going to do to stop CTV's current campaign of intimidation and disregard for the consumer. I look forward to your reply.

P.S. I spent more than 25 years as a broadcast journalist in Canada and overseas and I have never seen anything close to this raw disdain for the public interest in the interests of corporate profits.

Broadcaster Response

CTV Atlantic responded to the complainant on June 12:

We have received your complaint about the balance and fairness of our news coverage as it relates to the "fee for carriage" issue for local private broadcasters and CTV's "Help Save Local Television" campaign.

The first voice in our first story about this issue, broadcast on May 12th, came from Dan McKeen, Co-CEO of Eastlink Cable. He called "fee for carriage" a tax to support local broadcasting that penalizes cable customers:

"It is essentially a tax – a tax to support local broadcasting. If the government wants to support local broadcasting with a tax, then they should put in a tax that affects all customers, not just cable customers."

CTV Atlantic also broadcast, on May 29th, a 6-minute interview with Ken Englehart, Chief of Regulatory Affairs for Rogers on this issue.

Mr. Englehart argued that cable companies should not have to pay for free signals they are legally forced to carry. He offered the opinion that the trouble facing local television is caused by the recession and bad business decisions:

"CTV and Global have made some bad business decisions. They've gone on sort of a berserk spending spree in Hollywood and they've spent too much money for programmes. It is not right to make customers pay for their business decisions."

We have also reported that the cable industry has accused CTV of unbalanced and one-sided coverage of this issue.

We must strongly disagree with your suggestion that CTV Atlantic has participated in a "blatant self-serving propaganda campaign." The CBSC has recognized in past decisions that it does not assess the issue of balance only within the confines of a single program or single news report.

We believe the “fee-for-carriage” issue affects all private stations including CTV, ‘A’, Global, Rogers (as the owner of private stations) and others. Private broadcasters are facing many challenges, as witnessed by layoffs, potential station closures, stations selling for \$1-dollar and entire networks up for sale. However, in our news coverage, as stated previously, contrary positions were provided.

We understand that this may be perceived as a difficult issue for local television reporters to cover. However, we believe that CTV Atlantic has been fair and balanced in its coverage of the “fee for carriage issue”, in accordance with the *Broadcasting Act* and all industry codes and guidelines. CTV is a member in good standing of the CBSC and adheres to its guidelines.

Thank you for watching and taking the time to write with your concerns.

Additional Correspondence

The complainant expressed his dissatisfaction with CTV’s response in an e-mail of August 8:

Further to my complaint regarding CTV News Atlantic regarding their local news broadcast of May 12th [sic, May 22], I have received a response from the broadcaster which I find to be unsatisfactory. I requested a copy of the broadcast in question in order to further my case but this was denied by [CTV Atlantic’s Director of News and Public Affairs] who told me “it would be unwise to voluntarily provide a dub of that broadcast if it is going to be used (to) advance your complaint to the CBSC.” This clearly suggests that they are aware that the content of this broadcast may be viewed by the CBSC in a negative light. My question to you is, can you intervene to obtain a copy of this broadcast which I can view in an effort to support my complaint with detailed information? I look forward to hearing from you.

The CBSC explained to him that it would be ordering copies of the program for its own review, but it is unable to provide complainants with copies.

Complaint Files 08/09-1748, -1753, 1754, -1755, -1756 & -1777

Initial Correspondence

The following complaint dated May 22 and signed by a representative from each of Rogers Communications Inc., Cogeco Cable Inc., Canadian Cable Systems Alliance Inc., Bell Canada, Eastlink and Telus Communications Company was sent to the CRTC:

Dear Mr. Chairman,

Re: Complaint against CTV television network and its member stations

As the Commission is aware, all of the stations of the CTV television network across Canada are currently conducting an aggressive public advocacy campaign under the slogan of SAVE LOCAL TV.

That campaign is designed to influence public opinion and to garner public support for CTV's position on the contentious broadcasting policy issue which is often described as "fee for carriage".

Although we, the undersigned, do not agree with the position of the CTV network and its member stations on this issue, we recognize their fundamental right to express freely their own opinions on such matters of public concern.

However, as both the *Broadcasting Act* and the Canadian Association of Broadcasters' (CAB) own *Code of Ethics* make clear, some reasonable limits do exist to ensure that those licensed to use the public airwaves do not abuse their position of public trust with respect to the dissemination of news programming.

Parliament enshrined in Section 3 of the *Broadcasting Act* the requirement that all broadcasters should "provide reasonable, balanced opportunity for the expression of differing views on matters of public concern".

The *CAB Code of Ethics*, at Clause 5 which deals with news programming, emphasizes that news "... shall be represented with accuracy and without bias" and goes on to stipulate that broadcasters "... shall ensure that news broadcasts are not editorial".

Clause 5 then goes on to specify that,

- (2) News shall not be selected for the purpose of furthering or hindering either side of any controversial public issue, nor shall it be formulated on the basis of the beliefs, opinions or desires of management, the editor or others engaged in its preparation or delivery. The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening, and to understand events so that they may form their own conclusions.

Compliance with the CAB's *Code of Ethics* is, of course, one of the conditions of licence of each of the stations of the CTV television network.

Under the *Broadcasting Act*, a licensee's responsibility to provide a balanced opportunity for the expression of opposing views on matters of public concern arises whenever the licensee presents one particular viewpoint in its programming. CTV is not meeting this obligation.

The rationale for these reasonable limitations on a broadcaster's freedom of expression in its news programming is self-evident. As the Commission itself has noted on many occasions, radio frequencies are both a public property and a scarce resource, and persons licensed by the Commission to use these public frequencies are invested by the trust of all Canadians.

The CTV television network and its member stations across Canada have been, and continue to be, in breach of that public trust in that they have repeatedly incorporated into their local news broadcasts one-sided, unbalanced programming material as a component of the SAVE LOCAL TV public advocacy campaign. We are attaching transcripts of several recent newscasts of broadcast stations of the CTV network which confirm our contention (see Appendix A) and can provide the Commission with further electronic evidence should this be considered necessary.

Simply put, it is wrong for stations of a national television network to abuse the public trust in their provision of local newscasts.

We are writing to request the Commission to take urgent action to ensure that these repeated violations of the *Broadcasting Act* and the *CAB Code of Ethics* are terminated immediately.

This matter is too urgent and too important to await a lengthy investigation by the Canadian Broadcast Standards Council.

We are, therefore, respectfully asking the Commission to exercise its plenary discretion and authority in matters of this kind and to take immediate corrective action.

APPENDIX A

Transcripts

1) **'A' Ottawa**

(a) **One Minute Clip¹**

Sandra Blaikie ('A' Morning Anchor): Every day we have the privilege of serving you, our viewer. And we know it is important to you that we cover the local news stories that define our city.

Kurt Stoodley ('A' Morning Host): We've also been so proud to support and bring you coverage of events like the Help Santa Toy Parade and the Ottawa Regional Cancer Foundation Telethon.

Angie Poirier ('A' Morning Host): What happens in your community impacts you, your families, your work and your lives.

Lianne Laing ('A' Morning Host): But our ability to continue to serve you is being threatened and we need your voice.

Tony Grace ('A' Ottawa Reporter): Cable and satellite companies have been allowed to broadcast our station and charge you for delivering it. We receive nothing in return from them. We think this is wrong.

Jennifer Hall ('A' Ottawa Reporter): Because while cable and satellite companies record record profits, our station faces ever-increasing financial pressures.

Annette Goerner ('A' Ottawa Reporter): So much so that we are now at a crisis point and the very survival of this television station is in doubt.

Laura Lowe ('A' Ottawa Reporter): Tell your member of Parliament that you love local television and that it is important to you.

Jennifer Madigan ('A' Ottawa Reporter): It is time to let your voice be heard so local television isn't silenced forever.

Bill Welychka ('A' Morning Weather): Visit atv.ca for a complete list of MPs that need to hear from you. Send a message that you love local television. Thank you.

2) CTV Ottawa

(a) May 20, 2009: CTV News at Noon (12:07 pm) – Virtual Story re: Save Local TV²

Canada's largest technology association says it supports CTV and the local TV news. The Canadian Advanced Technology Alliance plans a rally this Friday in the virtual world called Second Life.

Second Life is used by 15 million people living virtual lives with electronic avatars like this one.

(Article on screen with headline reading -- CATA Supports Local Television; calls for "Virtual Protest"!)

John Reid, head of the technology group says that it would be a disaster for tech firms to lose access to local TV news. The group also says cable and satellite firms should pay a fee for access to TV content.

(Article highlights quote that reads "This is a disaster for local high tech companies")

The virtual rally will be this Friday runs from noon to 1:00 pm.

(Graphic on screen shows rally and time)

On Saturday, in the real world, you can come to our open house here at CTV Ottawa on Merivale Rd.

(b) May 20, 2009: CTV News at 6PM (6:27 pm) – Save Local TV Story³

We've been telling your stories about your towns and cities for almost 50 years. Now, as you've heard, local television is in crisis.

CTV's Norman Federly [*sic*, Fetterley] tells us why local news, your news, really matters.

It is a drama that opens in our home and plays in yours, local news. Story tellers from the time of Homer have known that events from worlds away will move us less than events on our street or in our city and so your stories have been our stories, both small and big.

Remember 1998's ice storm? Thousands of us felt its effects. As we did when the lights went out with the 2003 blackout. Or the bus strike of last winter. And today's trial of Ottawa's Mayor.

Dr. Michael Pilon is an Ottawa dentist. When he retired from the military, he and his family settled here attracted by the image of Ottawa reflected on CTV news.

Chris Waddell is a veteran reporter who now teaches at Carleton University. He says a jumble of voices will tell us the national and international stories, local is different.

And many of your friends and neighbours agree that our strong and local voice must survive. We're proud to say that local news makes us part of your family and you of ours.

Also aired Virtual Story re: Save Local TV – see (a).

3) CTV Northern Ontario

Peter DalBianco, Bianco's Audiotronic

Bob Gallagher (Blind River)

Earl Freedom (Chapleau)

John Rodriguez (Sudbury)

Tom Laughren (Timmins)

Alan Spacek (Kapusking)

Rick Hamilton (Elliot Lake)

All of the interviews end with: "If you care about a voice for Northern Ontario, go to savelocal.CTV.ca" or "Now local TV needs your support. Go to Savelocal.CTV.ca"⁴

4) 'A' Barrie

(a) May 19, 2009: 'A' News at 11 pm (@11:15 pm) – Justin Trudeau Story⁵

[First half of story deals with Justin Trudeau's visit to a school in Midland.]

Lance Chilton (newscaster): In Midland, Trudeau also voiced his support for local television. CTV-owned stations, including this one, are calling for changes to CRTC rules saying it is time that cable companies pay for our signals, something they already do for specialty channels.

Justin Trudeau: Local TV, local radio, local media is the voice of people in a given place. Nobody wants to only get their news from Toronto. The idea that we have value as citizens is linked to our ability to express ourselves.

Lance Chilton (newscaster): Canadian Idol finalist, Collingwood's own Drew Wright, will be performing at our Save Local TV rally at Centennial Park. That happens this coming Saturday, May 23. We'll be there live for our 6 pm newscast. So drop by and say hello. That's again on Saturday May 23. It starts at 5:30 and goes to 7:30 at Centennial Beach. For more info check our website at ATV.ca.

(b) *Susan Lakehock [sic, Laycock]:* My name is Susan Lakehock [sic] and I support local television.

(voice over): Susan Lackhock [sic] learned local television stations, including 'A' in Barrie are at risk of being shut down. She was immediately concerned for local charities. She's with the United Way.

Susan Lackhock [sic]: The events that they so desperately depend on for operational dollars would not happen without the awareness that's provided.

(voice over): A donated \$1 million dollars in local television spots for local charities last year. That's why Lackhock [sic] decided to get involved with a campaign 'A' television is launching to encourage people in our community to support local TV.

Peggy Habdoman [sic, Hebden]: Without local television, who's going to tell the stories?

(voice over): Peggy Habdoman [sic] is 'A' station's manager. She appeared before the CRTC earlier this month. Stations like 'A' are asking the CRTC to force cable and satellite companies to pay to carry local channels. Right now only specialty channels get the so-called "fee for carriage".

Peggy: We don't get a cent of that revenue and that's kind of what we need to have to survive.

(voice over): Barrie's MP Patrick Brown says the effect on the average cable bill will be minimal.

Patrick Brown: The companies have already said that there'd be a cap of \$3 max. No Canadian is going to pay more than \$3 increase in their cable bill to protect local television. In areas where there's not many signals, it'd be 50 cents. Are you telling

me Canadians wouldn't pay 50 cents? Of course they would. Canadians love their culture.

(voice over): It's that issue of local culture that got Robin Monroe involved. He runs the Barrie Jazz and Blues festival.

Robin Monroe: People rely on television for their up-to-date information, for what's going on in our community and in our region. We would suffer tremendously if we lost our local television show. People want to know, there's a need to know.

(News Anchor): If you think our community deserves its own voice, and its own local television station, there is something you can do to help. There's going to be a rally, right here in Centennial Park on Saturday, May 23rd. There's going to be a BBQ and an opportunity for you to sign a postcard showing your support for local television. Reporting in Barrie for 'A' news, I'm Bridget Brown.⁶

5) CTV Southwestern Ontario

(a) **May 21, 2009: News at Noon (12:14 pm)**⁷

Kyle Christie, Noon News Co-Anchor (interrupts promo airing and speaks under video of CTV reporters in the community with graphics of web site and open house details): Perhaps you have seen these ads telling you local television, including the station you are watching right now, are at risk of shutting down right across the country. Well, how serious is this? To find out we welcome the Vice-President and General Manager of this station, Dennis Watson. Dennis, this is a little bit different (nervous laugh from Mr. Watson). Normally you are asking me the questions but we will flip things over a bit. How serious is this?

Dennis Watson, VP & GM of CTV, Southwestern Ontario: It's a very serious issue. The over-the-air conventional television business basically last year broke even, that's a drop of a quarter billion dollars in operating profit in two years and we suspect that this year, that we are in, the industry will lose two hundred million dollars.

KC: Let's explain to people exactly what we are looking for as we have said in these promos. It's not a bailout that we're looking for from the government, it's some change in the way this all works.

DW: The Canadian broadcasting system over the years has evolved to this point. The point is that the cable and satellite portion of the industry are taking the programs that we pay the exclusive rights for, and distribute them holtas poltas throughout the country. For instance, in Southwestern Ontario, that's the geography that we serve, one third of the tuning to CTV programming, the programming that we

carry, is on CTV stations like Regina, Halifax, Toronto and Winnipeg. That means that we've lost a third of our inventory. We no longer have enough inventory to create enough revenue to pay our bills. Some say that when the recession is over, that this will pass. But my response to that is "are you saying that the 1/3 of the people who aren't watching us anymore, who are watching *CSI* and *Law & Order* on these other CTV stations, are they going to turn back to us when the recession is over?"

KC: Right. And I think a good point to make it that we, as in CTV Southwestern Ontario, we pay for the *Grey's Anatomy*. It's not CTV, the big CTV, paying and just distributing it. We pay for that, to show it to people in Southwestern Ontario. If they are watching it in Winnipeg, then, there's a bit of a loss.

DW: Yes, yes. We pay our percentage to the CTV Network for the rights to air those shows exclusively in those markets. Every time the cable companies or satellite companies bring in a distant signal, they are destroying our program rights. That's what we've been saying. You've put us in a position where we can no longer exist on advertising revenue alone. You've created this problem. You should help us solve it.

KC: And it costs, I believe, about \$10 million a year just to put on the local news production?

DW: To operate this station, at \$10 million a year, that's for all the transmitters, the staff to do the local news.

KC: And half of that goes to Dave MacDonald.

DW: Ha, ha, ha, ha, ha, ha, ... it's actually three quarters ... Or so he wishes (both laughing)

KC: Is that what it is? ... Let's tell everyone at home what they can do.

DW: They can write to their member of Parliament, they can write to Heritage Minister James Moore, they can write to the Prime Minister, they can do this all via emails. Or, more importantly, they can have a little fun and they can come out this Saturday to our Open House. We'll be here to show them through the building, show them how we operate and we'll show them how they can support us at that time.

[Page showing details: CTV Open House – same as last bulletin board page above]

KC: And you're seeing that right now. This Saturday May 23 10 am to 2 pm. For more information you can go to either of those websites swo.ctv.ca and you can see

the banner at the top that will direct you to savelocal.ctv.ca. There's a petition there that you can sign online. And also all of the email addresses and addresses to mail your letters and email your members of Parliament.

DW: And do remember that if you do mail your letter, you don't need to put a stamp on it because postage to your member of Parliament is free.

KC: There you go and now you know. Dennis, thank you very much. We're looking forward to Saturday. It'll be great to meet with the people who watch us every day.

DW: We've done this a couple of times before, it'll be a lot of fun.

KC: Thanks, Dennis – now back over to Nancy.

6) CTV Toronto

(a) May 20, 2009: *News at Noon*

Christine Bentley, Anchor: We'd like to tell you now about an open house that we're holding here at CTV Toronto and you and your family are invited. It's going to be a fun day with a serious message ...

[50 years graphic, then collage of visuals of news stories from the past on screen]

For almost 50 years, CTV Toronto has been supporting our community. We've been there for you, telling the stories that matter the most and we've helped make our community a better place to live. Now, we're asking for your support. Local television stations across Canada face serious issues and our future is in jeopardy. The reality is, we aren't compensated by the cable and satellite companies who take our programming. To learn more about how you can help and get a behind-the-scenes look at our studios, we invite you to join us for a special CTV open house ... *(Open house graphic on screen) ...*

on Saturday May 23rd. Go to our website at CTVToronto.ca to find out more or you can call us at 416-384-4700. We hope to see you next Saturday; many of your favourite TV personalities will be here. So, don't forget your camera.

(Back to Christine Bentley, Anchor on Camera) ...

On yesterday's web poll, we asked, do you support local television?

(web poll graphic on screen) ...

We knew it. The support is out there. 82% of people who took part in our survey said yes, they do support their local television stations. Keep voting on today's question and we'll have the results at the end of the show.⁸

(b) May 20, 2009: News at 6 pm

Christine Bentley & Ken Shaw, Anchors

CB: We'd like to tell you now about an open house that we're holding here at CTV Toronto and you and your family are invited. It's going to be a fun day with a serious message ...

(50 years graphic, then collage of visuals of news stories from the past on screen) ...

KS: For almost 50 years, CTV Toronto has been supporting our community. We've been there for you, telling the stories that matter the most and we've helped make our community a better place to live. Now, we're asking for your support. Local television stations across Canada are facing serious issues and our future is in real jeopardy. The reality is, we are not compensated by the cable or satellite companies who take our programming. To learn more about how you can help and to get a behind-the-scenes look at our studios, we invite you to join us for a special CTV Open house ...

(Open house graphic on screen) ...

on Saturday May 23rd. You can go to our website at CTVToronto.ca to find out more or give us a call at 416-384-4700. We hope to see you next Saturday; many of your favourite TV personalities are going to be there. So, don't forget to bring your camera.

(c) May 20, 2009: News at 11:30 pm

Pauline Chan & Bill Hutchison, Anchors

PC: We are holding an open house here at CTV Toronto this Saturday and you and your family are invited.

BH: It'll be a fun day but with a serious message ...

(50 years graphic, then collage of visuals of news stories from the past on screen) ...

For almost 50 years, CTV Toronto has been supporting the community. We've been telling the stories that matter the most and we've helped make our community a better place to live. Now, we're asking for your support. Local television stations across Canada face serious financial issues and their future is in jeopardy. The reality is, we aren't compensated by the cable and satellite companies who take our programming. To learn more about how you can help and get a behind-the-scenes look at our studios, we invite you to join us for a special CTV open house this Saturday ...

(Open house graphic on screen) ...

on Saturday May 23rd. Go to our website at CTVToronto.ca to find out more or call 416-384-4700. We hope to see you next Saturday; many of your favourite TV personalities will be here. So, don't forget your camera.

7) CTV Atlantic

(a) May 20, 2009: Commercial on at 5:14 pm during *Live at 5* and 6:18 pm during *CTV News*

(Voice over): You might be surprised to know that cable and satellite companies take local TV signals, charge you and pay broadcasters like CTV Atlantic nothing in return. This inequity threatens the survival of local television. Write to the Minister of Heritage or your local MP and let them know you value local television. Visit SaveLocal.CTV.ca and let your voice be heard before local television is silenced forever.

(Written on screen): [Cable and satellite take local TV signals, charge you ... and pay broadcasters nothing in return. This inequity threatens the survival of local television. (CTV logo) SaveLocal.CTV.ca. Write to: The Honourable James Moore, Minister of Heritage or contact your Member of Parliament. (CTV logo) SaveLocal.CTV.ca Let your voice be heard before local television is silenced forever.]

(b) May 20, 2009: Story on at 5:14 pm on *Live at 5* and 12:09 am on *CTV News*

[visual of sign at Dairy Queen saying "Support our Local CTV Open House Sat. 1 to 4"]

Bruce Frisko, Anchor: Well, our friends in the community are getting behind CTV's Save the Local Television Campaign. This sign of support sits outside the Dairy Queen restaurant on Main Street in Dartmouth. You can find out more information about our effort and sign a petition asking for fee for carriage at SaveLocal.CTV.ca (website shown on screen). We

want to thank our friends over at Dairy Queen in Dartmouth for helping us get that message out there.

8) A Atlantic

(a) **May 21, 2009: Commercial done by *Breakfast Television* personalities shown at 7:24 am and 8:14 am during *Breakfast Television***¹⁰

Jayson Baxter: BT is privileged to be part of your life.

Crystal Garrett: We're proud to bring you the news and issues that are important to you.

Cyril Lunney: And to support hundreds of community groups.

Maria Panopolis: But our future is threatened because cable and satellite companies are broadcasting our station and charging you.

Jayson Baxter: In return, we receive nothing.

Cyril Lunney: As they make record profits, we face a financial crisis.

Crystal Garrett: To survive, we need your voice.

Maria Panopolis: Go to SaveLocal.CTV.ca to help.

(website shown on screen).

¹ <http://watch.ctv.ca/news/save-local/a-ottawa/#clip171607>

² <http://watch.ctv.ca/news/save-local/ctv-ottawa/#clip174417>

³ <http://watch.ctv.ca/news/save-local/ctv-ottawa/#clip174414>

⁴ <http://watch.ctv.ca/news/save-local/ctv-northern-ontario/#clip174248>

⁵ Rogers has a video copy of the news story, which can be submitted upon request.

⁶ <http://watch.ctv.ca/news/save-local/a-barrie/#clip171180>

⁷ Also see: <http://watch.ctv.ca/news/save-local/ctv-southwestern-ontario/#clip173029> and <http://watch.ctv.ca/news/save-local/ctv-southwestern-ontario/#clip172725>

⁸ Also see: <http://watch.ctv.ca/news/save-local/ctv-toronto/#clip173572>

⁹ <http://watch.ctv.ca/news/save-local/a-atlantic/#clip173548>

¹⁰ <http://watch.ctv.ca/news/save-local/a-atlantic/#clip173494>

The CRTC responded to the BDUs with the following:

Re: Complaint against CTV television network and its member stations

This is in response to your letter of 22 May 2009 claiming that CTV is not complying with the provisions of the *Broadcasting Act* and the *CAB Code of Ethics*.

You request that the Commission take immediate action, and submit that this matter is too urgent to await an investigation by the Canadian Broadcast Standards Council (CBSC). The letter refers to Section 3(1)(j) in the *Broadcasting Act* regarding the provision of differing views on matters of public concern, and also to Section 5 of the *CAB Code of Ethics*.

As you know, the *CAB Code of Ethics* is administered by the CBSC. The Code also includes in clause 7 the concept of "presenting all sides of a public issue". The Commission considers that the issues raised in your letter should be addressed by the CBSC in light of its applicable Code.

Furthermore, the Commission has consulted with the CBSC and has been assured that this matter will receive its expeditious consideration, with a decision expected by September. Therefore, in the interests of efficiency and promptness, and consistent with its usual practice, the Commission is referring this matter to the CBSC for deliberation.

Should you wish to contact the CBSC directly, you may do so by emailing info@cbsc.ca or by writing P.O. Box 3265, Station D, Ottawa, Ontario, K1P 6H8.

Broadcaster Response

CTV responded to the BDUs' complaint on July 3:

Dear Sirs:

CTVglobemedia Inc. (“CTVgm”), on behalf of its over-the-air television stations CJOH-TV Ottawa, CKVR-TV Barrie, CKCO-TV Kitchener, CFTO-TV Toronto, CKCW-TV Moncton, CJCH-TV Halifax and the Atlantic Satellite Network (“A Atlantic”), is pleased to respond to the above-referenced complaint. This complaint was originally filed with Canadian Radio-television and Telecommunications Commission (the “Commission”), which referred the matter to the Canadian Broadcast Standards Council (“CBSC”), which, in turn, sent it to us to respond.

Background

In early May, CTVgm launched a promotional campaign designed to raise awareness of the issues facing Canada’s local television stations.

Initially, the campaign took the form of a series of promotional spots that aired across CTVgm’s local over-the-air television stations and specialty services. These spots included statements from on-air personalities from CTVgm’s channels about the crisis facing local television stations or testimonials from viewers, politicians or prominent citizens about the importance of local television. These spots were scheduled to run throughout the day in all types of programming. In addition, the spots directed viewers to a website where they could obtain additional information, sign a petition in support of their local television station or send a letter to the Minister of Canadian Heritage encouraging the Government to move quickly to help local television stations.

After merely a few days of airing the promotional spots, tens of thousands of Canadians had already voiced their support for local television by either signing our petition or sending a letter to the Government. As a result, our stations and other licensees (such as CBC Television, CBC Radio and TV Ontario and even Rogers Broadcasting Limited’s radio stations) began to devote coverage to the issue as it was quickly becoming a major national news story.

As the campaign developed momentum, numerous community groups and charitable organizations rallied behind their local television stations. Politicians across the country at all levels also became involved, fielding calls from concerned citizens and responding to thousands of letters and e-mails. For example:

- In Ottawa, City Councillors proclaimed May 23rd, 2009 “Save Local Television Day”;
- In Barrie, the issue came to the forefront in early March given necessary cuts to local programming in the area. As a result, local charities and businesses became very involved in the campaign and the Mayor of Barrie declared May 23rd, 2009 “Save Local Television Day in Barrie”; and
- On May 19th, 2009, the City of Kitchener passed a motion supporting local television. In addition, numerous communities in Southwestern Ontario passed similar motions and organized rallies in support of the local television station.

The community and political involvement in markets such as Montreal, Toronto, Winnipeg, Regina, Saskatoon, Edmonton, Calgary, Vancouver and Victoria was equally high.

The campaign culminated with a series of open houses at CTVgm's local television stations across the country, where approximately 30,000 people turned out to show their support, meet their favourite television personalities and get a station tour. Numerous politicians at the local, provincial and federal level attended these open houses.

The campaign officially ended on June 1st, 2009 when our petition (which was signed by 50,000 Canadians) was sent to the Minister of Canadian Heritage.

The Complaint

In your complaint you have argued that:

- The "Save Local TV" campaign breached the Clause 5 of the *CAB Code of Ethics* (the "Code");
- That a breach of the *Code* is contrary to the "CTV television network's" Conditions of Licence;
- That the programming was unbalanced; and
- That our stations are in breach of Section 3 of the *Broadcasting Act* (the "Act"), which requires that all broadcasters "provide a reasonable, balanced opportunity for the expression of differing views on matters of public concern".

In the Appendix to your complaint, you have included a description of certain programming that ran on eight of our stations. The CBSC has excluded Items 1 (CHRO-TV Ottawa) and 3 (CTV Northern Ontario) as you did not provide sufficient detail. Our response to your concerns with the other programming in question is outlined in detail below.

CTVglobemedia's Stations Were in Full Compliance with Clause 5 of the Code

Clause 5 of the *Code* states that:

"It shall be the responsibility of broadcasters to ensure that news shall be represented with accuracy and without bias. Broadcasters shall satisfy themselves that the arrangements made for obtaining news ensure this result. They shall also ensure that news broadcasts are not editorial."

News shall not be selected for the purpose of furthering or hindering either side of any controversial public issue, nor shall it be formulated on the basis of the beliefs, opinions or desires of management, the editor or others engaged in its preparation or delivery. The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening, and to understand events so that they may form their own conclusions.

Nothing in the foregoing shall be understood as preventing broadcasters from analyzing and elucidating news so long as such analysis or comment is clearly labeled as such and kept distinct from regular news presentations. Broadcasters are also entitled to provide editorial opinion, which shall be clearly labeled as such and kept entirely distinct from regular broadcasts of news or analysis.

Broadcasters shall refer to the Code of Ethics of the Radio and Television News Directors of Canada ("RTNDA") for more detailed provisions regarding broadcast journalism in general and to the CAB Violence Code for guidance with respect to the depiction of violence, graphic reporting of delicate subject matter or the use of explicit language in news and public affairs programming on television."

As noted above, you have stated that "[c]ompliance with the CAB's *Code of Ethics* is, of course, one of the conditions of licence of each of the stations of the CTV television network." We should note at the outset that none of CTVgm's stations have a Condition of Licence requiring adherence to the *Code*. The *Code* is administered by the CBSC and compliance with it is a condition of CBSC membership.

The programming segments you have highlighted fall into two categories – promotional spots for the "Save Local TV" campaign and news stories about the campaign that formed part of the news programming on the particular station in question.

With respect to the former (Items 7a and 8 in the Appendix), these are not covered by Clause 5 as they are clearly not news programming, nor does any other section of the *Code* prohibit their broadcast. Ironically, the Canadian cable and satellite industry ran a similar campaign in partnership with broadcasters a few years ago to influence Government to introduce stronger legislation relating to signal theft.

In terms of the news stories that aired, in our view, these were entirely consistent with the *Code*. In your complaint, you have specifically referenced the second paragraph of Clause 5. As highlighted above, the second part of this paragraph states that:

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

[Emphasis added]

This is exactly what our news stories did in fact do.

The following is a summary of the news stories that are the subject of this complaint:

- On CKVR-TV, newscaster Lance Chilton interviewed MP Justin Trudeau when he visited a school in Midland, Ontario. One of the many questions Mr. Chilton asked Mr. Trudeau as part of the interview related to his views on the importance of local television. Mr. Chilton also informed viewers about the upcoming rally the station was hosting in support of local television (May 19th, 2009 at 11:15 PM);
- Also on CKVR-TV, reporter Bridget Brown did a feature piece on the upcoming rally, including interviews with representatives of local community groups, Barrie area MP Patrick Brown and CKVR-TV General Manager Peggy Hebden. The interviewees were asked to comment on the importance of local television (time not provided);
- CJOH-TV ran a story about the Canadian Advanced Technology Alliance holding a virtual rally in support of local television (May 20th, 2009 at 12:07 PM);
- CJOH-TV also ran a piece that included comments by certain Ottawa residents who believe that a local television voice, and specifically local news, is critical to them (May 20th, 2009 at 6:27 PM);
- CKCO-TV aired an interview with the station manager Dennis Watson about the crisis facing local television (May 21st, 2009 at 12:14 PM);
- On a number of occasions CFTO-TV aired a promo during its news that detailed the issues facing local television and encouraged people to attend the open house at the station; and
- CJCH-TV Anchor Bruce Frisko noted that the local Dairy Queen was encouraging customers to attend the station’s open house and Mr. Frisko reminded viewers of the website where they could go to get more information (May 20th, 2009 at 5:14 PM).

As outlined above, the “Save Local TV” campaign wasn’t covered by our stations because it was a CTVgm initiative. It was covered because it was a legitimate news story. Each of the stories highlighted above were fully consistent with the principles outlined in Clause 5. They

were not biased and they informed viewers of an important matter of public concern. Furthermore, where editorial was provided, it was not the reporter or anchor providing it, it was the person being interviewed.

In addition, many of the segments you have referenced simply mention the open houses or rallies the stations hosted. Nothing in Clause 5 prevents stations from airing this information and, in fact, they do so everyday in the form of community calendars.

Finally, it is important to note that, contrary to your assertion and consistent with Clause 7 of the *Code*, CTVgm's stations made significant efforts throughout this campaign to ensure that a balance of information was provided. The following is a sample of the various segments that ran on our stations that outlined the cable and satellite side of the local television debate:

- The public debate surrounding the issues facing local television were widely canvassed on the *CTV National News with Lloyd Robertson*, which airs on all CTV stations across the country, on several occasions;
- *Power Play with Tom Clark*, CTV News Channel's daily public affairs program examined the issue from all sides, including cable, broadcaster and political;
- Business News Network aired an interview with Peter Bissonnette, Shaw Cable's CEO that Shaw later purchased and put on their website;
- CJCH-TV ran a story that included an interview with Mr. McKeen, Co-CEO of Eastlink;
- Numerous CTV and A stations, including those in Toronto, Ottawa, London, Wingham, Windsor, Winnipeg and Calgary, aired interviews with Ken Stein, Senior Vice-President, Regulatory Affairs at Shaw Communications Inc.;
- Rogers Communications actually refused our request to appear on CFTO-TV and CTV News Channel on May 23rd, 2009;
- CHRO-TV Ottawa aired interviews with both Mr. Stein and Phil Lind, Vice-Chairman of Rogers Communications Inc.; and
- CKCO-TV also aired interviews with Mr. Lind.

We should also highlight that CBSC has established, as a general rule, that "balance in dealing with a controversial public issue may be achieved through the *overall* programming of the broadcaster."¹ CTVgm took great care to ensure this occurred.

Section 3 of the Act

The final aspect of your complaint deals with Section 3 of the *Act*. You have argued that the above-referenced programming segments are in violation of the section of the *Act* that states that broadcasters should “provide reasonable, *balanced* opportunity for the expression of differing views on matters of public concern.”

While the *Act* is not specifically within the mandate of the CBSC, we would like to note that the section you have referenced was removed from the *Act* in 1991. In the current version, the word “balanced” has been dropped. Furthermore, this section refers to the programming provided by the entire system, not just by one licensee. Section 3(1)(i)(iv) in the current *Act* states that the programming provided by the Canadian broadcasting system should “provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern.” As outlined above, CTVgm’s stations fully complied with this requirement.

Conclusion

While you are entitled to your views, we respectfully disagree with the positions outlined in your complaint. As is evident from the foregoing, the conduct of CTVgm’s stations during the “Save Local TV” campaign did not in any way violate the *Code* or the *Act*.

Additional Correspondence

After considerable effort to determine exactly which stations and broadcasts the BDUs were referring to, as well as efforts to obtain e-mail contact information for all of the BDU representatives, the CBSC sent its customary initial response to the BDU-designated point person on June 12. That letter indicated that CTV would be responding within 21 days and, if the BDUs were not satisfied with that response, they would need to file a Ruling Request within 14 days of receipt of CTV’s letter. There was some confusion on the part of the BDUs, however. Since the CRTC Chairman’s letter had indicated that a CBSC decision would be released in September, the BDUs thought that they were not required to file a Ruling Request. The CBSC and the BDUs sorted out this misunderstanding and the BDUs filed their Ruling Request on September 18:

On behalf of Rogers Communications Inc., Bell Canada, Cogeco Cable Inc., EastLink, Canadian Cable Systems Alliance (CCSA) and Telus Communications Company, this letter is to request a ruling by a CBSC Panel in the above-referenced complaint. We make this request on the basis that we are dissatisfied with CTV’s response to our complaint.

We apologize for the lateness of our request and recognize that under your procedures, it should have been submitted to you by July 17, 2009. It is due to the fact that we received CTV’s response to our complaint on the same date as a letter from CRTC Chair, Mr. Konrad von Finckenstein, informing us that he had referred our complaint to the CBSC and had been assured that we would receive an expeditious ruling by September. As a result, it was not

clear to us that we were obliged to actually make a request for a ruling in order for a CBSC Panel to make a determination in this matter.

Given that CTV and its 'A' channel affiliates, along with Canwest Global and CBC, has recently launched a new "Local TV Matters" campaign, we appreciate your accommodation of our request. We believe a ruling in this matter is crucial to ensure that this and any future campaigns are conducted in full compliance with the *CAB Code of Ethics*.