



Canadian Broadcast Standards Council  
Conseil canadien des normes de la radiotélévision

# 2003 / 2004 Annual Report

(For the fiscal year running from  
September 1, 2003 to August 31, 2004)

**“Encouraging Excellence in Broadcasting”**

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## 1. MESSAGE FROM THE NATIONAL CHAIR

Each year at this time I have the opportunity to report and reflect on the CBSC's activities of the past year.

In addition to the customary subjects I cover relating to CBSC activities, there have been some out-of-the-ordinary events in this past fiscal year which deserve comment. The most notable of these is the stark contrast between the Canadian and American approaches to the treatment of potentially offensive broadcast content.

### A COMPARISON WITH THE AMERICAN PROCESSES ON CONTENT ISSUES

In Canada, we of course benefit from a combination of regulatory and self-regulatory measures to respond to public complaints about broadcast content. In the United States, the self-regulatory option does not exist. It would also be fair to observe that Canadian and American values regarding broadcast content issues are not identical. Here, avoiding discriminatory and sexist comments on air appears to be a greater concern than it is there. And nudity seems to be more troublesome to audiences there than here.

While we do share some concerns about explicit sexual content on radio talk shows, we also separate our television day in Canada into pre- and post-Watershed (9:00 pm) divisions, which is further bolstered by the requirement to have viewer alerts in the form of advisories and classification icons. With these tools, we are able to permit more adult content in later evening viewing hours, when most homes will have at least one parent able to exercise control over what programming is accessible to their families.

In the United States, the First Amendment appears to trump many matters that, in Canada, would be content concerns, while not

standing in the way of issues of indecency on the airwaves. The American solution to such content has been the levelling of significant fines against broadcasters, which, at \$27,500 per incident, have quickly mounted to totals in the vicinity of \$500-600,000 and more for networks or station groups for particular broadcasts.

Broadcasters of the Howard Stern radio show received that sort of punitive treatment by the American regulator in 2004 and a huge hue and cry was raised with respect to the exposure of Janet Jackson's right breast during the halftime show of the Super Bowl in January. At about the same time, the American House of Representatives passed legislation boosting the level of fines almost 20 times, to \$500,000 per incident. That legislation awaits Senate approval.

In Canada, both the Stern show and the Super Bowl incident fell within the mandate of the private broadcasters' self-regulatory process. In fact, the Stern show had been dealt with quickly by the CBSC when it arrived in Canada in 1997, and the Super Bowl matters (about which slightly more below) were effectively laid to rest by the power of a persuasive voluntary process, deriving its strength from willing broadcasters. No bludgeons. No heavy artillery. No Canadian governmental regulation or intervention required.

### COMPLAINTS AND DECISIONS

This has been another extremely active year for the CBSC, both at the level of incoming complaints and outgoing decisions. Complaint files opened have risen to more than 2,000 in the past year; by way of comparison, in our Annual Report of 10 years ago, we reported 219 files opened. Of the recent complaints, a total of 160 related to one aspect or another of the January 2004 broadcast of the Super Bowl (which included

music and advertising issues as well as the Janet Jackson incident noted above). At election time, 342 files were opened as a result of the exclusion of the Green Party from the Debates (these were naturally forwarded to the CRTC, which has authority over election-related broadcast issues). When late night host Conan O'Brien broadcast his show from Toronto for a week and found it humorous to have a go at Quebeckers, the CBSC opened 39 complaint files. The Quebec reality show *Loft Story* generated 58 files relating either to the program itself or one or more of its episodes.

CBSC Panels and the Council's Secretariat were also extremely active when complainants requested further action following the broadcasters' responses to their complaints. There were 36 formal decisions and 66 of the "Summary Decision" variety issued in 2003-2004. Looked at in other terms, our small but effective team rolled out about two decisions every week. Statistics relating to the complaints and a more detailed summary of the formal decisions can be found in the body of the Annual Report.

### **POSITIVE PORTRAYAL OF ETHNOCULTURAL GROUPS**

I reported last year that the funding provided by Rogers Broadcasting to enable the CBSC, first, to enhance the portrayal of ethnocultural groups and, second, to provide access to the CBSC's self-regulatory process to all Canadians was solidly underway. The brochure introducing Canadians to the mandate and processes of the CBSC had been translated into 13 languages (which are listed in last year's report). This year we galloped forward, adding 13 additional languages to the total: Cree, Czech, German, Greek, Japanese, Korean, Ojibwa, Polish, Russian, Tagalog, Turkish, Urdu and Vietnamese. We have developed a thorough mailing list of nearly 2,000, including over 500 community organizations, a nearly equivalent number of multilingual media (in both print and broadcast arenas), and have put 12,000 brochures in the hands of Canadians whose languages of comfort are neither English nor French. More details can be found in Section 2 of the Annual Report.

In addition, we revamped our web site in the past year, not only to accommodate the presence of the brochure information and more in all of these languages but also to leave visitors from diverse backgrounds with the visual sense that this is a web site, and a Council, that recognizes and serves *all* Canadians.

### **THE WEB SITE**

The much anticipated web site revisions were announced this year. The CBSC site was always a rich source of information but its format has been totally revamped in order to facilitate navigation by visitors. Without going into great detail here (I suggest you visit [www.cbsc.ca](http://www.cbsc.ca) to enjoy the full benefit of the web site), you will find new drop-down menus, which remain available wherever you are on the site, a new complaints form, a site map, a special members' site, and an all-important body of FAQs (frequently asked questions). All of this is made available to visitors in a totally redesigned and very attractive and societally-inviting package. And so, in addition to its new format, the web site continues to be the CBSC's 24/7 interface with the public, providing all of our decisions, annual reports, Codes, Code annotations, lists of member stations, networks and services (with links to their web sites), corresponding links for other bodies both Canadian and international, relevant documents galore, biographies of Panel Adjudicators, and so on.

As a point of comparison with previous years, the measurement of access to the CBSC web site on the basis of "hits" showed continuing significant increases, from 200,000 to nearly 300,000 per month, or more than 3.5 million per year. The total web site sessions averaged almost 24,000 per month, representing a monthly average of more than 66,000 pageviews.

### **CBSC OUTREACH**

This past year, I addressed Media and Ethics and Communications Policy classes at the British Columbia Institute of Technology, Mohawk College, and Carleton University.

Those academic institutions that offer communications and media ethics courses render an extremely important service to the industry since they acclimatize all of the hundreds, indeed thousands, of students who pass through their portals to several important principles relating to the Canadian broadcasting system. They reinforce the underlying notions that Canada's private broadcasters have created a system of standards, that they apply these vigorously to their operations, and that they achieve important results without the need for outside intervention. Accordingly, I consider invitations to talk to these classes of emerging broadcasters a great opportunity.

I also delivered speeches to the National Ethnic Press and Media Council of Canada and the Canadian Ethnic Journalists' and Writers' Club and was able to tell them about the Council's active attempts to communicate broadcasters' good works to *all* ethnic communities in Canada.

The Council's central presence in the human rights area led to a second opportunity to participate in a CRARR conference, this year's being entitled "Racism and Discrimination in Canadian Media".

The success of our efforts in areas of ethnocultural outreach and human rights has been recognized in other countries and I was invited to speak on "Legislation and Self-Regulation" to the Second International Congress on "What Does Society Expect from the Media?" in Mexico City and to participate there in an international round table with representatives from Mexico, Spain, the United States and numerous South American countries. That was followed by an international conference on "Democracy and Communication or the Imperative of Inclusiveness" in Brasilia, at which Canada's Minister of State for Multiculturalism also spoke.

I also reported to the annual meetings of the Atlantic, British Columbia and Western Associations of Broadcasters and attended the annual convention of the RTNDA in Saskatoon. With the Executive Director, I participated in the important conference of

the Conseil de Presse du Québec on the Journalistic Treatment of the Reality of the Indigenous Peoples, which provided me the opportunity to intervene during the panel dealing with the electronic media on the effective system of the private broadcasters in dealing with these and other human rights issues. I have also continued my participation on the Board of Directors of the AV Preservation Trust and as Special Advisor to the Board of Directors of the Academy of Canadian Cinema and Television.

There were, as is the case each year, queries from, and interviews with, the media. Included in this category were *Broadcaster Magazine*, the *Calgary Journal* (at Mount Royal College), Canadian Press, CBC, CFRA, CFRB, CHML, CHQR, CJME, CJOB, CKAC, *Convergence Magazine*, Global Television, the *Globe and Mail*, the *Journal de Montréal*, the *London Jewish News*, *Now Magazine*, the *New Brunswick Telegraph Journal*, *Newsworld*, the *Ottawa Citizen*, *La Presse*, Report on Business Television, *Le Soleil*, *Strategy Magazine*, Toronto One, the *Toronto Sun*, the *Victoria Times Colonist*, the *Wall Street Journal* and the *Western Jewish Bulletin*. My letters to the Editor were also published in *Le Devoir* and the *Ottawa Citizen*.

## ACKNOWLEDGMENTS

It is patently clear that the CBSC could not function without its staff and volunteers. What is not so obvious without my noting it here is the level of skill and dedication they bring to the work of the Council. Dina Salha, our Broadcast Analyst, Nicole Lafrance, our Complaints Officer, and Burhaan Warsame, the CBSC Ethnocultural Outreach Project Officer, make the machine run well and smoothly. To them and, for her singular and varied contribution across a myriad of spheres, Executive Director Ann Mainville-Neeson, go my enduring gratitude.

Readers of this Message, indeed television and radio audiences generally, owe the volunteer Adjudicators, both from the industry and the public sides, a vote of thanks. Those volunteers play a thoughtful and material role in shaping broadcast content policy in Canada. They watch and

listen, consider past CBSC decisions, take a measure of the codified standards in their present-day context and formulate content policy case-by-case. They do this by recognizing the consequences of the role they play in an important process. In so doing, they leave by the door their professional, corporate and personal partisanship in order to deliberate collaboratively and fairly. They earn our appreciation every time they meet.

Ultimately, the entire self-regulatory structure works because Canada's private broadcasters and their collective voice, the Canadian Association of Broadcasters, buy into the process. They support the work of the Council because they know that, although its decisions cannot possibly provide the results they might hope for on every occasion, they will be thoughtful and balanced and will consider issues large and small before concluding.

In a year in which our neighbours to the south have resolved contentious content issues with heavy legislative, regulatory and punitive force, it ought to be satisfying to Canadians that similar results are achieved here because it is right that they should be, without similar coercions.

RONALD I. COHEN  
National Chair

## 2. ETHNOCULTURAL OUTREACH AND POSITIVE PORTRAYAL INITIATIVE

As we mentioned in last year's report, the CBSC's Ethnocultural Outreach and Positive Portrayal Initiative, which is made possible by the generous funding of OMNI Television, has two inter-related objectives:

- first, informing ethnocultural communities of the existence of broadcast standards and the self-regulatory system established by Canada's private broadcasters;
- second, helping enhance the portrayal of ethnocultural communities in Canadian broadcasting.

In the 2003–2004 fiscal year, there has been progress in both aspects of the initiative. As this section will attest, the Council has put more emphasis on the outreach and provision of information aspect because of its belief that an informed public is likelier to be the best promoter of fair and consistent portrayal of diversity in the broadcast media. In other words, an informed public is apt to be in a better position to encourage broadcasters, who are largely responsive to the concerns of their audiences, to more accurately portray Canadian diversity.

### THE OUTREACH COMPONENT

The main emphasis of the initiative has been to convey to *all* communities information about audience expectations, not only with respect to positive portrayal, but also in every area of broadcasting. Broadcasters are responsible for everything they air, including programming that they produce, programming that they purchase, advertising, promos, content of third party calls to talk shows, etc. So whether it's accuracy in the news, human rights issues, violence on television, unfair comments on talk shows, sexual content and so on, everyone in the public ought to know the full extent of his or her rights as an audience member. And this

without being handicapped by a lack of fluency in English or French.

In order to increase public awareness of broadcast standards and ensure the widest possible contact with our increasingly multi-lingual society, the CBSC has developed an outreach database and has translated its expanded brochure and parts of its web site into more third languages for citizens whose language of comfort is neither English nor French. And advice regarding the availability of these multilingual brochures has been given to many ethnocultural communities through the placement of public service announcements in numerous multilingual community newspapers.

### Outreach Database

As it stands, the project database consists of eleven target audiences, including Aboriginal community and media entities, ethnocultural publications, ethnocultural radio and TV stations, ethno-specific community associations, multicultural organizations, organizations serving immigrants, government agencies, MPs, college and university contacts, legal aid clinics and embassies. Around 1350 sets of coordinates have been entered into the project database, with over 700 others awaiting such treatment, bringing the total to more than 2000 contacts. These are deemed to be opinion-leaders whose participation is important to the distribution and dissemination of the CBSC information.

### Multilingual Brochures

Aside from the more than a dozen brochures translated and printed last year, we have this year added 13 other language versions, in Cree, Czech, German, Greek, Japanese, Korean, Ojibwa, Polish, Russian, Tagalog, Turkish, Urdu and Vietnamese, as well as corresponding expanded unilingual versions in English and French. An additional four

brochures – in Armenian, Amharic, Farsi and Kanien'kéha (aka Mohawk) are in process. The availability of the new round of brochures was announced to all of our contacts in different ways, including through an official CBSC Canada Day press release. And so far, about 12,000 copies of the CBSC multilingual brochures have been distributed to various community and media contacts. The distribution was done either as a result of initial mail-outs or as fulfillment of direct orders from interested parties. An even more aggressive mailing campaign is scheduled once the production of all the brochures has been completed.

### Multilingual Print PSAs

Public Service Announcements (PSAs) in over 25 languages have been distributed to ethnocultural newspapers and magazines across the country for publication. The print PSAs, which come in three sizes (1/4 page or 5"x8", 1/8 page or 5"x4", and a base bar or 11"x2"), have already appeared in numerous community publications, resulting in additional orders of the brochures. Among the publications that have carried the print PSAs at no charge are *Multicultural News* and *Ambassador* (in English), *Les Presses Chinoises* (in Chinese), *Satellite* (in Czech), *Nikkei Voice* (in Japanese), *Afghan Post* (in Dari and Pashtu), and *Thamilar Senthamarai* (Tamil). More print PSA placements are planned in the coming months.

### Multilingual Web Pages

Due to an increase in requests for electronic files of the brochures, the CBSC has this year posted the entire text of all the multilingual brochures. All the selected outreach languages (except Kanien'kéha) now have their own pages, which includes the full text of the brochure, within the CBSC web site. Easy navigation of the full text of the brochure is provided through a menu bar on the right-hand side of each language page. Picture icons of the brochure have also been added on the left-hand side of the "Other Languages" section page to give a visual clue of the brochures to our web visitors. By posting the entire text of the multilingual brochures on the web, the CBSC hopes to

reach even greater numbers of Canadians, certainly more than we could ever hope to reach with the printed brochures.

### Other Outreach Materials

A roll-up display unit, a kit folder with diversity visuals and an insert detailing the aims and strategies of the project have also been produced for the project. The kit folder and the insert complement and complete the other outreach print materials. The complete outreach materials have been on display and available for distribution at recent functions that the CBSC team has attended, including the annual conference organized by the Centre for Research Action on Race Relations (CRARR) in Montreal and the Innoversity Summit in Toronto.

## THE PORTRAYAL COMPONENT

The second objective of the Ethnocultural Outreach and Positive Portrayal Initiative is to explore creative and effective approaches to Positive Portrayal and to strengthen CBSC capabilities to deal with portrayal complaints resulting from the Project's own information and outreach campaigns.

The CBSC has closely followed the work of the Canadian broadcast industry's Task Force for Cultural Diversity on Television and recognizes the important contribution of the dialogue. Their report, which is the outcome of two years of research on issues of portrayal and reflection of diversity on Canadian television, has presented concrete suggestions in the form of best practices as well as ways of measuring whether or not broadcasters implement their stated commitment to diversity.

The CBSC supports the industry's commitment to better reflect Canadian diversity and will continue administering the voluntary system of codes that set high standards for all of their programming.

The existing broadcast codes enable the CBSC to deal with many concerns relating to the portrayal of Canada's multicultural makeup and Aboriginal reality. Especially relevant are

the Human Rights provision found in the *CAB Code of Ethics* and the Demographic Spectrum provision found in the *CAB Sex-Role Portrayal Code*.

The Human Rights Clause stipulates that “broadcasters shall ensure that their programming contains no abusive or unduly discriminatory material or comment which is based on matters of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status or physical or mental disability.”

The Demographic Spectrum Clause stipulates that “Television and radio programming shall portray the wide spectrum of Canadian life [...] taking into account age, civil status, race, ethnocultural origin, physical appearance, sexual orientation, background, religion, occupation, socio-economic condition and leisure activities, while actively pursuing a wide range of interests.”

Thanks to the concerted efforts of the CBSC staff and countless other professionals and volunteers who are taking part in the Ethnocultural Outreach and Positive Portrayal Initiative, more Canadians, irrespective of their language proficiencies, are getting to know about the CBSC and the standards put in place by Canada’s private broadcasters.

### 3. DECISIONS RELEASED IN 2003/2004

The CBSC released 102 decisions this year, which is comparable to last year's record number of 107 decisions. Of this year's total, 36 were Panel Decisions (resulting from a formal adjudication by a Panel of industry and public representatives) and 66 were Summary Decisions (resulting from a determination by the CBSC Secretariat that the complaint did not warrant formal adjudication).

The facts and conclusions relating to the 36 Panel Decisions released in 2002–2003 are summarized below. Summary Decisions are not similarly described in this Annual Report (other than statistically) since, by their nature, they raise no issue which has not been previously dealt with by an Adjudicating Panel.

The summaries are divided into four broad categories, Ethics and Human Rights (covering issues arising both out of television and radio broadcasting), Television Broadcasting (covering issues relating to the scheduling, classification and advisory requirements for television broadcasting), Radio Broadcasting (covering the various issues of radio broadcasting which are not already covered under Ethics and Human Rights), and News and Public Affairs. Although many decisions deal with more than one issue under more than one Code, each decision is summarized only once in this report, under the heading considered most pertinent to it.

#### ETHICS AND HUMAN RIGHTS

Decisions summarized under this heading include those relating to discriminatory comment as well as sex-role portrayal. Also included are the CBSC decisions relating to, broadly speaking, "inappropriate commentary", which are summarized under the subheading "Full, Fair and Proper Presentation". This year, the CBSC has noted a growth in the area of concerns related to

privacy, which are also dealt with under the same subheading, as the concerns raised did not relate to a news context, for which there exists a specific Code provision dealing with privacy matters.

#### Discrimination

The four Panel Decisions reported under this heading deal with commentary relating to the Muslim community, Irish Catholics, persons suffering from Tourette's syndrome and Asians.

#### Questionable Quiz

A spoof quiz on a Calgary radio station's morning show was considered unduly discriminatory when it linked the *raison d'être* of Muslims' pilgrimages to Mecca to the terrorist activities of 9/11, despite the declared humorous intention of the piece. In its decision, [\*CIAY-FM re Forbes and Friends \(Multiple Choice Quiz\)\*](#) (CBSC Decision 02/03-0638, December 15, 2003), the Prairie Regional Panel stated:

There are times in the life of a society when it is far too easy to single out an identifiable group as a recipient of harsh discriminatory comment. Society is frequently ready to find a scapegoat for segments of its ills, perhaps as a catharsis for their resolution. It is perhaps when such solutions come most easily that society ought to be most vigilant. Since the shocking events that have come to be known simply as '9/11' and the proliferation of incidents of terrorism both before and after that date, it has been all too easy to target the Muslim communities with comments that are generalizations which are negative, hurtful and utterly unjustified.

That was the case with the challenged program. The humour in this broadcast was singularly unacceptable.

The implication that all Muslims [...] might travel to their *holiest* city in order to fund terrorist activities is outrageous. To put it in perspective, the failure to distinguish between the Muslim community and terrorists is no more acceptable or justifiable than a failure to distinguish between (to choose one of many possible examples) white persons and the Ku Klux Klan. The Muslim community bears no more responsibility for persons within its ranks who break the laws than all white persons bear responsibility for the illegal actions of Klan members [...] The broadcast of this part of the "quiz" constitutes a breach of Clause 2 of the *CAB Code of Ethics*.

### **Who Are Those Irish Eyes Smiling At?**

A Vancouver radio listener was concerned when he heard a spoof song in honour of St. Patrick's Day, which implied, in his view, that Irish Catholics, specifically the Irish clergy, sought inappropriate sexual relationships with young men. The B.C. Regional Panel did not in the end have to determine whether such commentary should be considered abusive or unduly discriminatory since the Panel disagreed with the complainant's recollection and interpretation of the song. The Panel's decision in [CFMI-FM re Brother Jake Morning Show \(St. Patrick's Day\) \(CBSC Decision 02/03-0904, December 23, 2003\)](#) said in part:

A review of the actual wording of the song, however, reveals no language reflecting any of the concerns which were the underpinning of his [the complainant's] two letters. There simply is not *any* religious issue in the song. It refers to two guys who are *themselves* gay. They are not looking for anyone else, young or otherwise, since they live together in an apartment. The word "Madonna" clearly refers to the singer and not, by *any* stretch of the imagination, to the Virgin Mary. Nor is that word connected to the use of the word "immaculate", which describes, to all appearances, the condition of their apartment. In fact, there is not a single reference, either explicit or implied, to priests or religion

anywhere in the song.

It follows from the unequivocal wording of the song that there is not even an issue to treat under Clause 2 of the *CAB Code of Ethics*.

The Panel also examined the sexual content of the song to determine whether it fell afoul of the standards relating to sexual explicitness in radio broadcasting. While finding undeniable references to sexual matters in the song, the Panel concluded "that the two comments [were] quite subtle and far from explicit. They might, in the view of the Panel, even be sufficiently obscure to pass under the radar of many persons." Consequently, the Panel did not find that they were sufficiently explicit to fall afoul of the provisions of the Code. They did not, in other words, "constitute a description of overt sexual acts of such a nature as to be in breach of Clause 9(b) of the Code."

### **What's So Funny About Coprolalia?**

A pre-recorded comedy segment concerning persons afflicted with Tourette's syndrome was considered "cruel and discriminatory" by a listener of the Calgary radio station CJAY-FM. In examining the parody in question, titled "Really Stupid People with Tourette's Syndrome", which involved made-up conversations with fictitious people afflicted with the condition, the Prairie Regional Panel explained that, in evaluating references to physical disabilities, the CBSC has generally only found a breach when the broadcast mocked the disabled group or attributed negative stereotypical characteristics to it. With respect to the parody in question here, the Prairie Regional Panel concluded as follows in its decision [CJAY-FM re Forbes and Friends \(Tourette's Syndrome\) \(CBSC Decision 02/03-1415, April 16, 2004\)](#):

In the matter at hand, the Panel acknowledges that the "humour" arguably focussed on persons afflicted with Tourette's syndrome, although not necessarily solely there, in the sense that some of the commentary was simply targeted at so-called "stupid" people. In addition, the Panel understood that what focussing there

was on Tourette's stayed away from the symptoms of motor tics and movement disorders, limiting itself to an aspect of the Syndrome, namely, coprolalia, that is reflected in a small percentage only of persons with the condition. Moreover, coprolalia, or the tendency of persons to blurt out socially inappropriate or taboo expressions, is not a requirement of a Tourette's syndrome diagnosis. Notwithstanding the foregoing, the Panel does view the skit as a regrettable example of the use of the microphone to have fun at the expense of individuals with a mental affliction. It is a cheap and unnecessary shot, which, however, the Panel considers does not bludgeon, to import the CHFI terminology. Consequently, it views the broadcast as a matter of bad taste, extremely close to the line, but not over it. The Panel finds no breach of Clause 2 in this instance.

### The F-word in Chinese?

In another decision involving the morning show on CJAY-FM in Calgary, the Prairie Regional Panel found the station in violation of the codified standards for having broadcast the f-word. The incident occurred during a segment in which the host took a phoney call from a Mr. Wong, who offered to help the hosts learn some phrases in Chinese. The ensuing "translations" provided by Mr. Wong were in English but pronounced so as to sound Chinese. The complaint to the CBSC was made by a listener who considered the skit to be demeaning to the Chinese community. In its decision, [CJAY-FM re Forbes and Friends \(Chinese language "Translations"\) \(CBSC Decision 02/03-1646, April 16, 2004\)](#), the Panel found that

the humour is neither deep nor cutting. It depends principally on the relatively light-hearted technique frequently applied in cases of ethnically-oriented humour, namely, the use of accents. While these are generally employed so as to leave the impression that the person or group that is the brunt of the "joke" is inferior, occasionally the issue is simply that the person or group is different. The Panel believes that this is the case in the matter at hand. The

Panel considers that the Chinese community is not belittled, mocked or marginalized. It is the object of humour, to be sure, but not on the grounds of any alleged or even implied inadequacy, weakness or failure.

Although the Panel did not find a breach of the Human Rights Clause, it did find that the use of the expression "f\*\*ing super" in the humorous dialogue constituted a breach of Clause 9 of the *CAB Code of Ethics*, which prohibits the use of unduly coarse or offensive language.

### Sex-Role Portrayal Issues

Two complaints raised specific issues under the *Sex-Role Portrayal Code* this year.

#### On Valentines and Vaginas

American shock-jock Tom Leykis drew the ire of one listener when his Valentine's Day show, broadcast from a San Francisco tavern, consistently referred to women as ignorant vaginas not deserving of any special treatment on this lovers' day and also "put breasts on display as best he could in a radio context." A complainant argued that the radio program promoted the objectification and hatred of women. The CBSC's British Columbia Regional Panel concluded in its decision in [CHMJ-FM re Tom Leykis Show \(Valentine's Day\) \(CBSC Decision 02/03-0673, July 22, 2003\)](#) that the CHMJ broadcast was in breach of certain clauses of the Canadian Association of Broadcasters (CAB) *Code of Ethics* and *Sex-Role Portrayal Code*, which prohibit the objectification and degradation of individuals based on gender, on the one hand, and the broadcast of unduly sexually explicit material, on the other.

During the episode in question, the host took calls from male and female listeners during a live broadcast from a local tavern. The general subject matter was a combination of sex and relationship advice in the context of Valentine's Day. The host continually used, and allowed the use by others of, words and comments such as "bitch", "money whore", "pathetic chicks", "another illiterate ignorant vagina" and other such terms in reference to women. He emphasized that women merited

no special treatment on Valentine's Day. He also put breasts on display, as best as he could in a radio context, and engaged in unduly sexually explicit conversations that described, among other things, oral sex acts.

The B.C. Regional Panel considered that the host's comments about women exceeded the broadcast of mere sexual innuendo and "underscored only their worth as objects for male gratification." The Panels cited the Howard Stern decision principle that "Women in this country are entitled to the respect which their intellectual, emotional, personal and artistic qualities merit. No more than men. No less than men. But every bit as much as men." The Panel added, in relation to the challenged *Tom Leykis Show* episode, that

the extent of its disrespect for women and sweeping generalized disregard for their equality are astonishing. As the CBSC has observed in previous decisions, programming that may be acceptable in the United States may not meet the more respectful standards in the Canadian corner of the global village. The desensitization that such broadcast mockery of women may generate in Canadian audiences should not be underestimated. Nor does it bring benefit to our airwaves. While freedom of expression is a cherished value, the exercise of that freedom without limits does not strengthen Canada's social fabric.

Several of the calls relating to sexual activity focused on examples of oral sexual acts; the Panel considers that they were unduly sexually explicit in terms of the radio provision in the *CAB Code of Ethics*.

**"She's Got Legs ..." and various other body parts**

Several viewers complained that a television commercial for a radio station exploited and degraded women, and that it was too raunchy to be aired at times of the day when young teens could be watching. The Prairie Regional Panel found no breach of Article 4 (Exploitation) of the *Sex-Role Portrayal Code*.

The commercial was produced in the style of a rock music video with quick edits and shadowy blue lighting. It featured an attractive young blonde woman in a white tank top and panties. While short excerpts from classic rock songs played on the sound track, she danced provocatively in front of a film screen, on which the names and images of the performing rock bands were displayed. Each musical excerpt accompanying her dancing had a body-related theme that led the camera to focus on the corresponding parts of the woman's body. In finding no breach of the exploitation provision of the *Sex-Role Portrayal Code*, the Prairie Regional Panel stated the following in its decision [CKCK-TV re an advertisement for "The Wolf" radio station \(CBSC Decision 02/03-0609, -0641 and -0753, December 15, 2003\)](#):

In dealing with the issues of substance relating to the complaint, the first point to note is that exploitation and degradation are not time-dependent issues, since exploitative content is unacceptable at *any* time of day. In dealing with complaints about exploitation on previous occasions, CBSC Panels have determined that there is nothing inherently exploitative in focusing on scantily clad or nude women where other elements provide context and justify the exposure.

Taking into consideration the context of the advertisement, the Panel added the following:

It [the advertisement] involves a provocatively-dressed woman but one who is performing in a way that is entirely appropriate for the matter advertised. She was not selling cars or toothpaste but rather music and, more than just music, it was rock music. Each song excerpt related to her physically. In that sense, none was inappropriate. While she was alluring, her demeanour and dress were contextual.

**Full, Fair and Proper Presentation**

Clause 6 of the *CAB Code of Ethics* provides generally that all commentary broadcast on the airwaves will be "full, fair and proper". This year, the CBSC reviewed five broadcasts

under this provision.

**More than a little politically incorrect**

An attempt at humour on CIGL-FM (Belleville) drew a complaint from a listener who alleged that the deejay's comments concerning Pygmies contributed to the desensitization of the public toward serious issues. The afternoon host, Joey Martin, apparently took a current news report regarding a U.N. investigation about Pygmies being subject to cannibalistic practices in North Eastern Congo and attempted to convert it into a humorous story. He opined that Pygmies were perhaps like lobsters, the sweetness of their meat being a function of their size.

In its reply to the complainant, the broadcaster pointed out that it was becoming more difficult to inform and entertain in the "present state of 'Political Correctness'." In examining the issue under Clause 6 of the *CAB Code of Ethics*, which requires that the presentation of comments and other material be full, fair and proper, the Ontario Regional Panel dealt with the issue of "political correctness" and the challenged joke of the host in the following terms in its decision in [CIGL-FM re Announcer Comments \(Pygmies\) \(CBSC Decision 02/03-0514, February 10, 2004\)](#):

The problem with "political correctness" is that the phrase suggests an artificial correctness, one that is driven by "political" motivations, a desire to please or to be responsive, without necessarily otherwise supporting the underlying principle. The issue for the Panel is that there are statements that are, on the one hand, discriminatory but acceptable and those, on the other hand, that are discriminatory and unacceptable. Not because someone might be "politically" offended but because the statements are themselves inherently *offensive*. While there *may* have been an era in which Canadian society was untroubled by such statements, Canada has evolved. It is a better place, rich in the ethnocultural multiplicity which is its make-up, proud of the diversity which it reflects, and conscious of its collective merit.

Had it ever been different is not the issue. It is *now*. Statements which are either unduly discriminatory or otherwise constitute improper comment do not meet the standards which Canada's private broadcasters have seen fit to impose on themselves collectively. [...] The standards are, from the point of view of the CBSC and its members, honoured in their observance because it is correct to do so. Period.

In the end, the Panel explained that the humour used by the host diminished the human tragedy of the Pygmies in a mocking and dehumanizing tone, and thus fell afoul of the codes. It stated that

[t]he host of the hour may well have been unaware of the apparent plight of the Pygmies or, if aware, was insensitive to their reported problem. In any event, the situation which he chose to mock appeared to be a serious one, involving the murder of Pygmies, who were not even implicated in any form of conflict with the alleged perpetrators of the indignities. The Panel cannot know why the host chose to make light of this reported tragedy. Was it because he viewed the sufferers as unfamiliar and remote? Was it because cannibalism is a practice which is to all intents and purposes unknown to him and to Canadians generally? The underlying reasons matter little.

**If you don't have anything nice to say...**

The Quebec Regional Panel dealt with some nasty insults and ugly epithets in [CHOI-FM re Le monde parallèle de Jeff Fillion \(CBSC Decision 02/03-0115, November 19, 2003\)](#). In the episode in question, Quebec City radio shock jock Jeff Fillion and his co-host responded to remarks made during the course of a television interview the previous night by rival Quebec City radio host Jacques Tétrault (who had commented about a defamation lawsuit lost by Fillion and another Quebec City radio host). Fillion referred to Tétrault and the television news host with terms such as "conceited asshole", "that worthless piece of trash", "shit-disturber",

and “a tree with rotten roots.” A listener complained about Fillion’s general treatment of individuals who disagree with his opinions, as well as his use of aggressive and coarse language.

The Panel reviewed the complaint under Clause 6 of the *CAB Code of Ethics* which requires full, fair and proper presentation of opinion, comment and editorial. The Quebec Regional Panel explained:

At its worst, talk radio becomes a form of squabbling or worse and meaningless grabbing for attention and audience share. That it is entertainment is fair enough. When, however, it becomes shrill, brash, unpleasant, nasty insults, without substance, it may overreach the broadcasters’ own standards.

It added that “while interactive talk shows are rightfully regarded as a bastion of freedom of expression, the Canadian airwaves are not a free-for-all.” It concluded that Fillion had

spouted ugly and generalized epithets, comprehensible only in their flailing nastiness and not because a serious listener might have actually understood what his competitor did, if anything, to merit criticism.

The Panel also reviewed the case at hand under Clause 9(c) of the Code which requires that programmers ensure that no unduly coarse or offensive language be aired. It concluded:

There is probably a tendency to consider coarse or offensive language as limited to swear words or those words referred to in English as “four-letter words”. The Panel wishes, however, to make it clear that such words are not the only ones that qualify as coarse or offensive language under Clause 9 of the *CAB Code of Ethics*. [...] The Panel considers that the terms “hostie de prétentieux”, “hostie de pas bon”, “un vomit” and “un chieur” all fall clearly within the ambit of either coarse or offensive language and that the broadcast of these terms by CHOI-FM constitutes a breach.

### Unfair Game

When a television news host verbally assaulted a viewer who had complained about him to the CRTC on air, the Quebec Regional Panel found the host’s comments neither fair nor proper. In the broadcast in question, host Gilles Proulx of TQS’s *Journal du midi* continued a discussion of the then ongoing public transportation strike which he had started in previous broadcasts. On this particular broadcast, Proulx commented on a complaint that had been made against him regarding his views on the strike. The complainant had written directly to the host and also registered his concerns with the CRTC. Proulx’s comments on the complaint began with the on-air disclosure of the full name of the complainant and an identification of both the city where the complainant worked and that where he lived. The host then added that the complainant “[translation] has understood nothing – couldn’t get it into his thick head and his pea-sized brain.” The same complainant wrote to the CBSC regarding his concern about two issues: first, the broadcast of his name and other confidential information on television without his knowledge or consent; and second, the host’s attitude toward, and characterization of, those who opposed his views.

The Panel reviewed the broadcast and found it in breach of both the general *CAB Code of Ethics* and the *RTNDA Code of (Journalistic) Ethics*. The Panel stated in its decision [TQS re Gilles Proulx comments on Journal du midi \(Transportation Strike\) \(CBSC Decision 03/04-0334, April 22, 2004\)](#) that the disclosures were

an unjustifiable exercise of the power of the microphone for petty and vindictive reasons. There was no conceivable justification for Gilles Proulx to mention his name, much less to identify the city where he lives and that where he works, on the air. The host’s actions were taken in an atmosphere of nastiness and insult. That the complainant had written Proulx directly was a private matter, that he filed a complaint with the CRTC was also a non-public act [...]

It should also be remembered that those who complain to the CRTC or the CBSC are not persons who have access to the power of a microphone and a broadcast licence. Those who receive such complaints and do have the power of a microphone and a licence must be conscious that those powerful tools have not been provided for personal retributive purposes. Audience members are *entitled* to complain and, in the vast majority of cases that pass through the hands of the CBSC, broadcasters deal responsibly and responsibly with them. It is, thankfully, rare that a situation such as the present one occurs.

[...] The general principle is that complaints *are confidential*, at least insofar as the broadcast of any personal information about those who make them is concerned. The broadcast of the name of the complainant and the information relating to where he works and lives constitutes a breach of the above-cited provisions of the CBSC and RTNDA Codes and the broadcast of the insulting comments is both unfair and improper and in breach of Clause 6 of the *CAB Code of Ethics*.

### **"I just called to say 'I love you'"?**

A birthday gag led to a complaint not by the "victim" of the radio prank, but from an unrelated listener who was concerned that the young girl's privacy had been unduly invaded and that the gag could lead to incidents of sexual harassment. The gag was part of a regular segment in which the Rimouski radio host conspires with friends and family members to play a joke on a person celebrating her or his birthday.

The particular "réveil-anniversaire" which sparked the complaint related to a young woman's 18th birthday. The host, having provided the celebrant's full name and age, and named her University residence on air, broadcast a call he had made earlier to the "victim" in which he had pretended that he wanted to go out with her, because, he alleged, he had heard so much regarding her sexual prowess. The host said to the "victim",

"apparently you're something in bed" and he said that she had apparently been performing the sexual activities known as "the Quebec top and the wheelbarrow". The complainant expressed her concern that the privacy of the "victim" might have been infringed by airing her detailed personal information, especially in combination with the sexual content mentioned on air.

In its decision, [\*CIKI-FM re a joke on Tout le monde debout \(CBSC Decision 02/03-0358, July 17, 2003\)\*](#), the Quebec Regional Panel pointed out that, had the "victim"'s consent not been obtained, the revelation of such detailed information would have been a breach of the Code; however, the Panel had no way of assessing whether or not such consent was given. It concluded that "there are no grounds for finding any breach on the part of the broadcaster with respect to the airing of such personal information." The Panel was, however, in a position to judge the sexual content when it assessed the complaint under the Code provision dealing with radio broadcasting which prohibits the airing of unduly sexually explicit material:

The question of the broadcast of sexual content is another matter. Consent is not the issue in this case. The issue is the audience, not the "victim". The issue relates to the sensibilities of the listeners, not of the object of the humour. In dealing with the airing of comparable subject matter, namely, the broadcast of a description of sexual activity on the workbench the evening before, the [...] Panel concluded [...] that the program was too sexually explicit and, consequently, "unsuitable for times of the day when children could be expected to be listening." [The Panel] also decided that comments about the sex lives of the hosts and various celebrities were too explicit for such times of the day. In the matter at hand, the Panel finds that the comments about [C.] being hot in bed and doing "[translation] the Quebec top and the wheelbarrow" are unduly sexually explicit and in breach of Clause 9(c) of the *CAB Code of Ethics*.

### **Who Was That?**

The broadcast of an unidentified caller's voice led to a finding of breach of Clause 6 of the *CAB Code of Ethics*, which requires the full, fair and proper presentation of news, opinion, comment or editorial. A caller had phoned a Toronto radio station's main published phone line to find out which number she should call to participate in a contest later that afternoon on the station. The call was answered by the deejay, who taped the very brief exchange and used it as part of the promotion for the contest. Although she had not been identified on-air and the brief dialogue consisted merely of a confirmation of the number to call to attempt to win the tickets, the complainant objected to the broadcast of that recording on the grounds that her voice had been used without her consent.

While the Ontario Regional Panel did not find that the broadcast invaded the privacy of the complainant (since she had not been identified), it did find that the broadcaster's use of her voice without her consent breached one of the standards to which private broadcasters adhere. In its decision, [\*CISS-FM re the broadcast of a recorded conversation \(CBSC Decision 03/04135, February 10, 2004\)\*](#), the Panel stated:

It may be that many individuals have no objection to the use of their voices on air; some may even relish that opportunity. That general principle cannot, needless to say, be determinative of the rights of any individual *not* to have his or her voice broadcast. In order to ensure, however, that there is no confusion on the part of callers, any broadcaster ought to make it clear, at the time of inviting listeners to call, that the line they are calling (or, in such cases, the machine on which they are leaving a message) is one that may result in the conversation being broadcast or edited for rebroadcast. It is hardly necessary for this Panel to suggest to broadcasters the myriad of creative or enticing ways to provide such information to a caller. The simple bottom-line point of the Panel is that potential callers must be made aware that, in calling or leaving a voice recording, they are in effect providing their consent, even if only implied, to

the broadcast of some or all of their words. There was not, in anything the Panel has read in the correspondence or listened to on the recording of the challenged item, any such consent given in this case.

## TELEVISION BROADCASTING

While most of the decisions summarized below relate to "adult fare", the CBSC was also called on to deal with two complaints this year relating to children's programming.

### Children's Fare

The first of two decisions dealing with children's programming led the CBSC to revisit a 10 year-old decision and the second forced it to consider the socially destructive behaviour of bullying.

### Nothing So Wild about these *Power Rangers*

The National Conventional Television Panel was asked to revisit the CBSC's 10-year old decision relating to the *Mighty Morphin Power Rangers* when it was called on to deal with a complaint concerning a new incarnation of the action hero series, *Power Rangers Wild Force*. A complainant expressed his concern about the airing of this (fourth) version of the series based on the conclusions of the earlier CBSC decision that the series as a whole contained too much violence for children's programming. In examining the complaint, the CBSC Panel drew comparisons between the original series and the new version. It found that the issues of concern in the 1994 decision, namely, the amount of violence (some of which encouraged dangerous imitation), the absence of realistic physical consequences to the fighting, the lack of pro-societal messages, and the violence's irrelevance to the plot, had largely been resolved in the new series. The Panel stated that "the level of violence had dropped by 50% or more from the 1994 series," "there is almost no fighting that the Panel considers realistic in nature," "almost none of the violence, whether realistic or fantastical, is shown *without* consequences," and "considerably more effort was made to define

the individual Power Rangers characters by dramatic indicators of personal traits and to make the fighting consequences relevant to the plot.” The Panel concluded that it had no series-wide difficulties with the content in the episodes under consideration.

In its decision, namely [CTV re Power Rangers Wild Force \(CBSC Decision 02/03-0260, May 2, 2003\)](#), the Panel also noted that each episode of the new series was rated “G” (indicating a program intended for a general audience). The Panel found that “it is a misunderstanding of the system to apply a G (or higher) rating to a children’s program in order, perhaps, to alert audiences to the fact that there may be content that is a bit edgy for children.” It explained the point in the following way:

[T]here is an assumption that the classification system is a single ladder, ascending in a straight line from the floor, namely, the C-rating, to the ceiling, namely, the 18+-rating. In other words, every rung may represent, to those with such a view, a level of increased caution on the part of the audience sentinels (the parents).

That perspective is incorrect. There is not only one ladder. There are two ladders, or scales, or gradations of ratings. The two correspond to two separate types of programming, the first, one that is general and may appeal to any component of the audience, including children, and the second, one that is specifically aimed at children (who are defined as persons under 12) [...]

The point is that the C and C8 categories are not *below* G, PG, 14+ and 18+; they are parallel to G, PG, 14+ and 18+. The issue is the *nature* of the programming. If intended for children, there are only two possible ratings, C and C8. If *not* intended for children, only G, PG, 14+ and 18+ are possible. Looked at from another perspective, children’s programming *cannot have* a rating other than C or C8, and programming not developed for and targeted at children *cannot have* a C or C8 rating.

### *Room for the Girls’ Room in Children’s Programming*

A parent complained about another children’s show, the *Amanda Show*, for its apparent sanctioning of bullying tactics. In a recurring segment of this youth variety show, Amanda reigns over the “Girls’ Room” (the girls’ school washroom) and invariably in each segment, someone, be it the school principal or the prom queen gets his or her head flushed in the toilet (the event is only simulated, off-screen). The complainant considered that the scene “depicted unsafe and potentially dangerous behaviour, both physically and emotionally,” and that there was a risk that children might be “tempted to emulate this behaviour.” The National Specialty Services Panel did not conclude that the broadcasts breached the Children’s Programming provisions of the *CAB Violence Code*. In its decision, [Family Channel re the Amanda Show \(CBSC Decision 03/04-0486, May 11, 2004\)](#), the Panel stated:

The Panel distinguishes between the issue of bullying in society and what was shown as a part of the plots of the two Amanda episodes. There was, in the Panel’s view, a kind of self-deprecating, spoofing nature to the flushing actions in the two episodes. [T]here was in fact no violence. There was not even any genuinely aggressive behaviour. [... Nor were the characters] portrayed with any degree of approval or admiration. In other words, there was no suggestion whatsoever that their pushy tactics ought to be emulated or even looked-up to. [...]

In the end, the Panel does not equate the two Amanda episodes to the horrible social practice of bullying, which tends to be behaviour that aggressively mocks, belittles, demeans, vilifies or physically harms its victims. The Panel does not find in these episodes the harbinger of that dangerous anti-social behaviour. This is not to say that parents watching these episodes with their children might not find some useful lessons or guidance to bring to their offspring. It is just to say that, in its review of the rules in the Children’s Programming

article of the *Violence Code*, the Panel finds no problems in the broadcasts. There is, first of all no violence, either actual or implied. Second, there are no themes of a nature that would threaten the sense of security of the young audience; examples of such themes are “domestic conflict, the death of parents or close relatives, or the death or injury of their pets, street crime or the use of drugs.” There are no actions inviting dangerous imitation, as is anticipated by another of the Code paragraphs. All in all, the Panel finds no breach of any of the provisions of Article 2 of the Code.

It was, however, clear to the Panel that the broadcaster was obliged to include the C8 classification icon at the beginning of each episode. The failure to do so constituted a breach of the requirements of the AGVOT (Action Group on Violence on Television) rating system, as rooted in Article 4 of the *CAB Violence Code*.

### Sexual Content

Many of the concerns expressed in 2003/2004 related to sexual content either on radio (dealt with further down in this Annual Report) or on television. The CBSC reviewed many instances of faulty use of advisories and program classification, and of course the proper scheduling of material intended for adults. On the issue of scheduling, the CBSC dealt with the placement of an advertisement for a sex-shop which was considered “steamy” by some complainants. In so doing, the Panel needed to consider the problem created by the reception of sexually explicit material in time zones other than that in which the signal originated.

### *Wishing the Whole Family a very Sexy Christmas*

The Quebec Regional Panel was called upon to deal with complaints concerning an advertisement for a Montreal sex shop broadcast during family Christmas programming. The film broadcasts during which the commercial at issue aired carried a classification rating of “General” and included

*Home Alone* and *Mathilda*. The commercial itself showed a tired man arriving home from work and being greeted by his female significant other waiting provocatively by the Christmas tree dressed in white lace lingerie with garters. The man’s positive reaction was suggestively photographed via a camera angled between the woman’s legs. The camera then zoomed to a close-up of the woman’s face and shoulders as she said, “Joyeux Noël, mon amour.” The commercial concluded with a voice-over narration stating “[translation] La Boutique Sexe Cité, your partner in love for a very Merry Christmas.”

The Quebec Regional Panel examined the complaints under the scheduling provision for television broadcasting that states “advertisements which contain sexually explicit material or coarse or offensive language [...] shall not be telecast before 9 pm.” The Panel concluded in its decision [TVA re a commercial for the Boutique Sexe Cité \(CBSC Decision 02/03-0447 & - 0478, July 17, 2003\)](#): that the commercial did not contain such exclusively adult content:

The Quebec Panel does not consider the Boutique Sexe Cité commercial appropriate for broadcast to families, on the one hand, but it does not consider it *so* adult-oriented that it could be said to be viewable by an exclusively adult audience. On the substantive level, the Panel simply does not find that the commercial was *sexually explicit*. At worst it was sexually suggestive but even such an acknowledgment cannot result in a finding of breach under Clause 10(f) of the *CAB Code of Ethics*. [...]

Moreover, the Panel wishes to underscore the fact that it understands the commercial to be depicting a domestic situation or relationship and not a clandestine erotic tryst. The Panel does not conclude that the latter would necessarily present a Code-related problem but rather that the commercial, as broadcast, portrayed an even less problematic representation than might have been the case.

### *Advisories No Laughing Matter*

The Quebec Regional Panel also dealt with two comedy shows, *Comicographies* and *Festival Juste pour rire* broadcast on Canal D, and concluded that the episodes reviewed required viewer advisories due to their sexual content. It also decided that the second show also required post-Watershed scheduling.

*Comicographies* was a humorous biographical documentary about comedian François Morency and featured clips of his performances, some of which either had a sexual element to them or contained offensive language. In one scene, Morency's stand-up routine contained remarks such as "[translation] That grosses me out [...] having a penis in your mouth." The other program at issue was an episode of *Festival Juste pour rire* during which stand-up comedian Maxim Martin made jokes of a sexual nature, such as the introduction of "fat-free sperm for the whore who's watching her weight" and references to then current and widely-discussed American experience involving a "cigar in the vagina". In its correspondence, the broadcaster agreed that, because the two programs contained references to sexuality that may not be suitable for all audience members, a viewer advisory would accompany all future broadcasts of those episodes.

The Quebec Regional Panel examined the complaint under Clauses 10(a) and 11(b) of *CAB Code of Ethics*, which require that broadcasters air programming intended for adult audiences between 9:00 pm and 6:00 am and provide viewer advisories during programming with mature subject matter, whether broadcast before or after the Watershed. In its decision, [Canal D re Festival Juste pour rire and Comicographies: François Morency \(CBSC Decision 02/03-0142 and -0143, July 17, 2003\)](#), the Panel distinguished between the two episodes and considered that

the sexual references in the biographical episode dealing with the story of comedian François Morency [...] were often brief, veiled or light-hearted and employed double entendres or other humorous devices. They were neither graphic nor explicit and did not constitute programming intended exclusively for adults. That

episode was, in other words, susceptible of being broadcast in the midday time slot in which it aired. This was not, however, the case with the routine by Maxim Martin, which was, in the view of the Panel, lengthier, cruder and more graphic on the subjects of fellatio and presidential masturbation of an intern with a large cigar, among others. Such material is suitable only for adult audiences and must not be broadcast before the 9:00 pm Watershed hour.

### *This Century's Time Zone Conundrum*

The broadcast of an episode of the series *Sexual Century* led to a complaint that the content was too sexually explicit for its timeslot. The series examining human sexuality in the 20<sup>th</sup> century was broadcast by History Television out of Toronto at 10:00 pm but was received at 7:00 pm in Vancouver. While not without sympathy for the complainant's concerns, in its decision [History Television re an episode of Sexual Century \(CBSC Decision 02/03-1495, January 30, 2004\)](#), the National Specialty Services Panel had to recognize the exception to the customary Watershed provision for broadcasts which respect the 9:00 pm to 6:00 am requirement in the time zone in which the signal originates. It thus did not find the specialty service in breach of Clause 10 (Scheduling) of the *CAB Code of Ethics*.

The challenged episode of *Sexual Century* dealt with the history and commerce of pornography. It included scenes with full nudity, sexual explicitness and descriptions, and coarse language. The complainant's concern was that persons in every Canadian time zone are entitled to the same consideration with respect to the scheduling of adult material. The Panel explained that the Watershed exception "exists to fulfill far larger national policy goals, including the furnishing of a broad panoply of programming choices to Canadians from coast to coast to coast." It also recognized the broadcaster's sensitivity to the Watershed issue in the following terms:

On balance, insofar as the *Sexual Century* episode is concerned, the

Panel concludes that the broad-caster has not breached the Code in broadcasting the show at 10:00 pm, Toronto time. In fact, by broadcasting it at that hour, rather than immediately at the point of entitlement, namely, 9:00 pm, History Television has done better for its audience than it might have done if adopting the earlier broadcast hour. It could, of course, in the case of particularly difficult material, have chosen a still later hour [...] but consistency of schedule and development of audience do not easily accommodate *ad hoc* changes on an interim basis.

The Panel did, however, find the broadcast in breach of Clause 11 (Viewer Advisories) of the *CAB Code of Ethics*, which requires that programming containing mature subject matter aired in late viewing hours include viewer advisories at the beginning of, and after, each commercial break during the first hour of programming. The Panel also explained the importance of viewer advisories and History Television's promised steps:

One of the ways in which broadcasters can be of help is by the use of viewer advisories. Their presence when called for enables viewers to make *informed* choices in their homes. Although it realizes that the complainant considers them an unsatisfactory tool when weighed against the hour of broadcast, the Panel considers that they have a role to play even then. It appears that, in the present case, the broadcaster only realized months later that they ought to have been present on the broadcast. It acknowledged its error and promised to include them "in the future, [on] any program requiring advisories." Although their absence does constitute a breach of Clause 11 of the *CAB Code of Ethics*, the Panel views positively History Television's commitment regarding future application of advisories.

#### *When it Comes to Real Sex, Timing is Everything*

Showcase Television broadcasts its programming on a split-feed basis across the country. In the case of the documentary magazine series *Real Sex*, Showcase ran the

adult-content series on its Vancouver feed at 4:45 am; however, notwithstanding that, the program was received by a viewer in Winnipeg between 6:45–7:45 am on a Saturday morning. The complainant was concerned that the content was too sexually explicit to be aired outside the Watershed hours in her Central time zone. Recognizing the exception to the customary Watershed provision for broadcasts which respect the 9:00 pm to 6:00 am requirement in the time zone in which the signal originates, the National Specialty Services Panel found no breach of Clause 10 (Scheduling) of the *CAB Code of Ethics* in its decision [\*Showcase Television re an episode of Real Sex\* \(CBSC Decision 02/03-1667, January 30, 2004\)](#).

As the show's title suggests, the series has a sexual theme and the episode of that date included explicit sexual content. The show had an 18+ classification icon at the beginning and was preceded by two viewer advisories in oral and visual form, one before and one following the opening credits. The broadcast also included viewer advisories coming out of each commercial break.

In its decision, the Panel noted that the documentary magazine series *Real Sex* was broadcast Monday through Thursday from 4:45 to 5:45 am by Showcase, which, as noted above, provides two feeds, one based on Toronto time and the other based on Vancouver time. Both signals are uploaded to satellite from their operations centre in Toronto and then downloaded by cable companies, which select the appropriate signal for their time zone. The series *Real Sex*, together with all other Showcase programming, was uploaded to satellite in order to be available at the same hour in the Pacific time zone as it had been in the Eastern time zone. In the matter at hand, the complainant, being from neither of those time zones, had seen the program between 6:45–7:45 am in Winnipeg, without being aware of the fact that it had been the choice of the local cable operator to supply its subscribers with the Vancouver signal (which is two hours behind Winnipeg's Central Time zone).

In considering the complaint, the Panel

explained that the time of broadcast was the cable operator's decision, not the broadcaster's; it added the following:

It should also be noted that the fact that the physical signal originated in Toronto does not render the exception that "these guidelines shall be applied to the time zone in which the signal originates" inoperative. When the codifiers laid down the principle of the time zone in which the signal originates, the Panel understands that they intended to say that the issue was where the signal was *intended to appear to be originating*. While the *Violence Code* (where this principle was first introduced) was presented to the public in a different technological era, in October 1993, its intention was even then related to time and not to geography. The Specialty Services Panel is applying it on this basis (whether with respect to the *Violence Code* exception or that in the *CAB Code of Ethics*) and expects that any other CBSC Panels called upon to deal with this issue will do so in the same way.

### **Let's hear it for viewer advisories**

The Quebec Regional Panel did not consider a viewer advisory presented as a "crawl" at the bottom of the screen as having met the required standard in its decision [TQS re two episodes of the program Sex Shop \(CBSC Decision 03/04-0162 & -0320, April 22, 2004\)](#). The "docutainment" program *Sex Shop*, broadcast by TQS at midnight, featured adult-entertainment stars and contained sexually explicit scenes. Two viewers complained that the program exploited and demeaned women. The Quebec Regional Panel disagreed. It found no aspect of the content of either of the two episodes in question to be problematic in terms of Article 4 (Exploitation) of *CAB Sex-Role Portrayal Code*. Nor did it find any problem with the very late night scheduling choice made by TQS.

On the information side, however, a viewer advisory was presented both on screen and in audio format at the beginning of each episode. Thereafter, a viewer advisory in the form of a crawl at the bottom of the screen

was shown coming out of each commercial break. The Panel considered that the failure of the broadcaster to provide advisories in both audio *and video* formats constituted a breach of Clause 11 of the *CAB Code of Ethics*. The Panel did, however, laud the broadcaster for taking the useful step of displaying an 18+ classification icon with the extra mention of "érotisme" at the beginning of the program as well as following each commercial break despite the fact that this type of program is exempt from classification because it falls within the category of "documentaries and other information programming".

### **Hot Tub Scene Not So Hot**

Numerous complaints were received concerning an episode of the reality series *Loft Story*, broadcast by TQS at 7:00 pm. All of the public concern focussed on the concluding moments of the episode during which, somewhat obscurely, on a split screen (on the other part of which credits were rolling), the lofters were seen in a hot tub, kissing, changing partners, and, in some cases, removing their bikini tops (although no nudity was actually shown). The episode carried a 13+ classification icon at the beginning of the program and following each commercial break, for a period of 5 to 6 seconds on each occasion. TQS did not broadcast any advisories.

The Quebec Regional Panel found that the challenged scene was not sexually explicit and did not require viewer advisories. It explained its position in the following terms in its decision [TQS re an episode of Loft Story \(CBSC Decision 03/04-0200, April 22, 2004\)](#):

While there is clearly kissing and hugging going on in the hot tub amongst the lofters, there is no nudity shown nor is there anything else shown that would lead viewers to conclude that the intimate activity goes any further than the kissing. All in all, the Panel considers that the scene is sufficiently innocuous to be acceptable at the time it was shown without the requirement of additional safeguards such as viewer advisories. The Panel understands that some

viewers may not consider it appropriate for these young adults to be doing what they were doing but this level of morality is not what the Panel needs to judge. Anyone who would have wanted to avoid such programming would have been alerted by the 13+ classification.

The Panel did, however, find that, by airing the icon for only 5 to 6 seconds at the beginning of the show, TQS had breached one of the technical requirements of the classification system. It explained that “the fact that TQS aired the icon more frequently than was necessary (TQS displayed the icon coming out of each commercial break although there was no requirement for it to do so) does not relieve the broadcaster from its responsibility to respect the duration requirement.”

### **Coarse and Offensive Language**

In addition to the scheduling, classification and advisory requirements of dramatic programming containing coarse and offensive language, some of the CBSC’s dealings with concerns over coarse and offensive language on television had a special twist this year. In one case, the Quebec Regional Panel had to determine whether language considered offensive in France was inappropriate for use in a children’s program promo in Canada. Another case dealt with the use of foul language in a pre-recorded acceptance speech in an awards show. Finally, the CBSC was also called on to deal with a concern that the presence of children during the making of a program with coarse and offensive language constitutes child abuse.

### **Divided by a Common Language**

A promotion for the animated program *Godzilla* on VRAK.TV sparked a complaint from a French-speaking viewer who was concerned with the coarse and offensive language written on on-screen panels in the style of an old silent movie. The complainant asserted that these words were offensive and improper by polite standards in France, his country of origin. In this case, the Quebec Regional Panel concluded that, while the

words used in the *Godzilla* promo might well be offensive in France, they “are trivial and insignificant in the Canadian context and certainly do not rise to the level of a breach of the Code clauses [relating to children’s programming and scheduling].” The Panel explained that the standards to apply in judging coarse language are set by the community that the broadcaster serves. In its decision [VRAK.TV re a promotion spot for Godzilla \(CBSC Decision 02/03-0330, July 17, 2003\)](#), the Panel explained:

Content appreciation is a local, not an international, question. Standards relating to coarse or offensive language or other such issues will be judged in local, not international, terms. This is not to say that the same view on a particular point may not be universally held. It may, of course, but it is local sensibilities which are germane and by which the matter in each instance must be judged. It is, after all, on that basis that the Codes were developed in the first place. The job of broadcasters in respecting the breadth of local tastes and concerns is difficult enough. The skills they apply in this regard must be finely honed. It would be unreasonable that they also be held to standards from outside their expected audience ambit.

### **This Eminem Is not a Sweet Candy**

The National Conventional Television Panel was called on to deal with a complaint concerning rap-artist Eminem’s pre-recorded acceptance speech for the “International Album of the Year” award during the Canadian music awards known as the Junos. In his message, the artist used a derivative of the F-word. The broadcast of the Junos had begun at 8 pm but only a single viewer advisory was aired during the course of the broadcast. It occurred within the first few minutes of the show but not at the beginning of the program at 8:00 pm, nor was one provided coming out of any of the other commercial breaks throughout the broadcast of the Gala. Eminem’s acceptance speech was broadcast at 9:18 pm. In rendering its decision, [CTV re a segment featuring Eminem at the Junos \(CBSC Decision 02/03-1130, January 30, 2004\)](#), the Panel concluded as

follows:

Because the challenged item was pre-recorded, there was no element of surprise for the broadcaster. The Junos began a full hour before the Watershed and parents were entitled to expect that the *entire* program would be free of material about which they could be expected to have some concern. It was not, and the broadcaster *knew* that this would be the case. The attempt to “alert” viewers of the coming strong profanity did not reflect any serious effort. Running no advisory at the start of the show and but a single viewer advisory at 8:08 pm (while Eminem’s offending comment was made at 9:18 pm) was as close to *no* notice as CTV could have come. The broadcaster had a choice. It could have excised the offending word, which has consistently been held by CBSC Panels to constitute exclusively adult programming, or it could have broadcast the Junos after the 9:00 pm Watershed. By doing neither, it has breached the scheduling provisions of Clause 10 of the *CAB Code of Ethics*. By failing to include the requisite viewer advisories, it has also breached Clause 11 of that Code.

### **Sticks and Stones... but Words Will Never Hurt Me?**

A viewer of the pseudo-documentary *Trailer Park Boys* was concerned with the presence of children in scenes in which extremely coarse language was used. In her opinion, this constituted a form of child abuse. While the National Specialty Services Panel did not uphold the complainant’s concerns, it did find that the broadcaster was in breach of the viewer advisory requirement in the *CAB Code of Ethics*.

The episode of the *Trailer Park Boys* contained numerous scenes with extremely coarse language, including the f-word and various derivatives. The program was rated 18+ and accompanied by a viewer advisory but it was only aired at the beginning of the show. The Panel concluded that the failure to provide the requisite viewer advisories after

each commercial break constituted a breach of Clause 11 of the *CAB Code of Ethics*. The Panel also addressed the complainant’s concern that a child had been present during the filming of the scenes containing coarse language, including her contention that this might constitute child abuse. After examining the terms and provisions set by ACTRA, the union responsible for the collective interests of actors, including matters relating to their work conditions, the Panel explained that

[i]n any event, all of the foregoing provisions suggest that it is anticipated that there *may* well be inappropriate circumstances in which child actors *must* be involved in order to dramatically reproduce the scenes required by the creative team to give effect to the story they have created. The anticipation on the part of the actors’ guild is that caring parents will review the script and determine whether they wish to have their children play such scenes and whether any form of psychological assistance would be appropriate. There is not, however, anything inherent in such material that renders it contrary to either law or broadcast standards to produce or, subsequently, to air.

### **Afternoon Delight Not To Everyone’s Liking**

In two decisions relating to Showcase Television’s broadcast of movies in the afternoon, namely [Showcase Television re the movie Frankie Starlight \(CBSC Decision 02/03-0682, January 30, 2004\)](#) and [Showcase Television re the movie Muriel’s Wedding \(CBSC Decision 02/03-0882, January 30, 2004\)](#), the National Specialty Services Panel ruled against Showcase for broadcasting the “f-word” prior to the Watershed and without sufficient viewer advisories. Both movies contained foul language and scenes of nudity and sexuality. Both did include advisories but the broadcaster was inconsistent in the frequency of their use; it failed to air them coming out of some of the commercial breaks. The Panel even found that, in the case of *Frankie Starlight*, “Showcase failed even to refer to the issue [of coarse language] in its advisory, which deals only with sexuality and nudity.”

The Panel concluded that the broadcast of both films was in breach of Clause 10 (for broadcasting strong foul language before the Watershed hour) and of Clause 11 of the *CAB Code of Ethics* (for failing to include advisories at the beginning of the films and coming out of each commercial break). The Panel also found that, in the case of *Frankie Starlight*, “the not infrequent use of coarse, as opposed to mild, profanity renders the film a 14+, rather than a PG, film.” The Panel concluded that the error in classification constituted a breach of Clause 4 of the *Violence Code*.

### Television Violence

This year, the CBSC released five decisions relating to television violence, although one of these, in the context of WWE wrestling, had more to do with a degrading act than a violent one.

#### Not so Charming Violence

An episode of the series *Charmed* which began with a young man being violently killed and burned led to a complaint from a viewer who protested the unnecessary violence. The episode of *Charmed* broadcast in a dubbed version on VRAK.TV began with a viewer advisory and a 13+ classification icon. The icon was rebroadcast following each commercial break; the advisory never reappeared. The action began with the shooting of a young man, whose ghost rose from his body and watched the killers pour gasoline over the corpse and set it afire. With the exception of that scene, there was little of a violent nature in the episode. The Quebec Panel concluded that, while some of the violence may have been shocking to young viewers, it was essential to the plot development and not gratuitous. Moreover, while the Panel found the episode “far from being exclusively intended for adult audiences,” it concluded that it was inappropriate for young children. Consequently, while VRAK.TV was entitled to air the episode prior to 9:00 pm, it needed to do so with appropriate audience alerts. In its decision, [VRAK.TV re Charmed \(Dead Man Dating\)](#) (CBSC Decision 02/03-0365, July 17, 2003), the Panel stated that its

conclusion applies to the specific episode considered here and only to such other episodes of *Charmed* (or other programs) as may include comparable content. Such decisions regarding the provision of viewer information must be made from time to time as they may be called for by the content of individual episodes. [...] VRAK.TV appears to have confused the required frequency of icons and advisories [...] In the result, the viewer advisories were not repeated following each commercial break. Consequently, VRAK.TV has breached Article 5.2 of the *CAB Violence Code*.

#### Scary Disregard for the Rules

In a decision relating to a broadcast of the dubbed version of the American film *Scary Movie*, the Quebec Regional Panel noted a continual disregard for the standards relating to viewer advisories. It also found that the classification icon was not being properly displayed. The movie in question, as a spoof on the horror film genre, included scenes of rather bloody (frequently exaggerated) violence, numerous sexual situations and references, as well as vulgar language. A viewer complained that the film included gratuitous violence as well as unsuitable and degrading language and that it played too early in the evening.

In its decision, [TQS re the movie Film de peur](#) (CBSC Decision 02/03-0940, April 22, 2004), the Quebec Regional Panel disagreed with the complainant regarding the nature of the violence and language. It concluded that the violence was not gratuitous. It also concluded that the nature of the violence, language and sexual content was not such that the program could be characterized as being intended exclusively for an adult audience, and that, consequently, the broadcaster was justified in airing the movie before 9:00 pm. The Panel also assessed the content of *Film de peur* under Article 4 of the *Sex-Role Portrayal Code* and found no breach since “there [we]re no comments that degrade[d] either gender relative to the other.” It did, however, decide that the level of violence, sexual content and coarse

language used was not suitable for children, and thus advisories should have been provided at each commercial break throughout the broadcast.

Although TQS had in fact broadcast a viewer advisory at the start of the movie, it only repeated it once during the rest of the broadcast, and then only as a horizontal crawl at the bottom of the screen (without an audio component). The broadcaster had also provided a 13+ classification icon at the start of the broadcast and following each commercial break, for 8, 9 or 10 seconds, on each occasion.

The Panel found that TQS failed to respect the frequency and format requirements for viewer advisories, as these are provided by the CAB Codes:

In the matter at hand, the broadcaster did include a viewer advisory at the start of the film but only one other advisory was displayed during the entire broadcast and it was in video form only, done as a crawl at the bottom of the screen. Since viewer advisories need to be provided coming out of every commercial break, the failure of the broadcaster to provide these with that frequency constitutes a breach of Article 5.2 of the *Violence Code* and Clause 11(b) of the *CAB Code of Ethics*.

[...] Oral-only advisories are inadequate to satisfy the requirements of Article 5 and Clause 11 and video-only advisories are no better. When viewer advisories are required, they must be presented in both video and audio formats at the start of the program and following the commercial breaks (either during the first hour or for the entire program, depending on factors dealt with elsewhere in this decision). Consequently, TQS is in breach of the foregoing clause by reason of its failure to broadcast the requisite number of advisories and advisories in the correct format.

In relation to the rating icons, while the Panel found that the 13+ classification was the appropriate choice for the broadcast, it concluded that the duration of the display of

the required icon was clearly insufficient. It explained that

[t]he broadcasters' rules provide that the icon must be displayed for 15–16 seconds at the start of the program and at the top of each subsequent hour. In the case of *Film de peur*, the display of the pre-program icon was for 9 seconds, the 7:00–pm display was for 8, and the 8:06–pm display was for 10. Each of these displays was insufficient and constituted a breach of the technical requirements of the classification system, as established pursuant to Article 4 of the *Violence Code*.

### *Wrestling with Drama*

The dramatic interludes interspersing the wrestling contests in a WWE wrestling program were considered by the National Specialty Services Panel to warrant advisories and an appropriate Canadian rating. The challenged episode followed the usual pattern of a combination of wrestling matches interrupted by outside-the-ring and behind-the-scenes dramatic segments that weave to some extent into the story line of the whole episode. At the beginning of the program, the broadcaster aired a visual-only advisory that read as follows: "The following program contains material that may offend some viewers. Discretion is advised." Although no Canadian classification icons were displayed, the American ratings icon "TV 14 DLV" did appear on the screen for 4 seconds at the start of the program and once more for 6 seconds later in the show. The visual-only advisory was repeated after each commercial break. A viewer complained about the treatment of women in the program as well as a scene in which a wrestler was tied, doused with what was intended to appear as gasoline and threatened with a match (the wrestler was not harmed in the end).

The National Specialty Services Panel considered the complaint under the provisions of the *CAB Voluntary Code regarding Violence in Television Programming* and the *CAB Sex-Role Portrayal Code*. While the Panel expressed its discomfort with some elements in the dramatic scenes, it did not find that the broadcast of any of those scenes

constituted a breach of the foregoing Codes. In its decision [TSN re an episode of WWE \(CBSC Decision 02/03-1656, May 11, 2004\)](#), the Panel did, however, find that the broadcaster failed to adhere to the requirements relating to viewer advisories and classification icons established in the *Violence Code*. On the issue of viewer advisories, the Panel concluded that

TSN's commitment to broadcast advisories (called "disclaimers" by them) must respect the requirements of the Council's rules, namely, that they must be presented in audio and video formats whenever they are aired. The failure to employ both formats in the present matter constitutes a breach of Article 5 of the *Violence Code*.

In relation to the use of classification icons, the Panel explained that the exemption from the requirement to display on-screen ratings icons in sports programming did not apply to the challenged WWE programming. It explained its position in the following terms:

In general, sports programming is exempt from the requirement for the display of classification icons on Canadian television. (Note that this is not the case in the United States, where the challenged episode bore the distinctly American "TV 14 DLV" rating.) As noted earlier in this decision, however, the WWE professional wrestling is a hybrid genre, which includes both sports and dramatic elements. As the federation's own attorneys noted, the episodes "are carefully written as soap operas, involving scripted characters performing wrestling." It follows that, particularly for the out-of-the-ring segments, the broadcaster must apply classification ratings to the program, in accordance with the AGVOT rules. In this case, the Panel considers that, not unlike the applicable American rating, it is the "14+" level that would be applicable in Canada. The failure to have displayed that icon at the start of the program and at the top of the hour at 10:00 pm and 11:00 pm constituted a breach of Article 4 of the *CAB Violence Code*. Moreover, the broadcaster should note

carefully, for future broadcasts of the program, that the AGVOT system requires that the icon be displayed for 15-16 seconds on each occasion. The Panel makes this point since the display of the American ratings icon, which was not, and would not have been, appropriate as a substitute for the Canadian icon, was only displayed for 4 seconds at the start of the program and for 6 seconds at 21:55.

### **Pucker Up for the Bottom Line**

The Score's *Monday WWE Bottom Line* is a "best of" magazine-style program that features updates and scenes on recent wrestling matches and events in the WWE world. A viewer had complained to the CBSC about a clip that showed an announcer who had been forced to kiss what appeared to be (from the digitally pixillated image) the bare buttocks of the WWE's CEO. The complainant felt that the scene was degrading and that it sent an inappropriate message to potential young viewers. Although the National Specialty Services Panel did not dispute that the clip was in bad taste, it found that it did not rise to the level of a Code breach. In its decision [The Score re WWE Bottom Line \(CBSC Decision 02/03-0520, January 31, 2004\)](#), the Panel stated:

Bad taste is not [...] a Code-related issue. In broadcasting, as CBSC Panels have often explained, the primordial applicable principle is that of freedom of expression. It is not, however, a principle without limitation. The various constraining principles are those enunciated in the laws and regulations enacted by Parliament and the CRTC and in the Codes created by the private broadcasters as a reflection of their common standards of acceptable content. Simple bad taste is not, however, a breach of Code or statute.

The Panel examined the segment under the *CAB Sex-Role Portrayal Code's* General Principle (c) and Article 4 (Exploitation), which together require that broadcasters avoid airing content degrading to women, children or men. The Panel explained that

degrading comments must be related

to the “role and nature of women, men or children.” And the next sentence in the [Code] Article provides that “Modes of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex.” In other words, it is of the essence of the Article that the comments must be *generic*, not individually focussed. They must go, in the first instance, to the “role and nature” of one of the gender groups or children or, in the second example, be degrading to the gender as a whole. Comments or actions which are (regrettably, on one level) merely humiliating or degrading to an individual *qua* individual, rather than as a member of the male or female gender, do not attract the application of the Code provisions noted above. They may be, as in this case, tasteless and crude but they are not in breach of the *Sex-Role Portrayal Code*.

#### **It's Ultimate Fighting. What did you expect?**

A viewer complained that the content of an episode of the *Ultimate Fighting Challenge* broadcast on TSN was too violent for the time of day at which it was shown. The program depicted two combatants fighting for the UFC championship in Mixed Martial Arts. Without any of the customary boxing gear, the fighters hit each other on different parts of the body, especially on the head and in the face. Bleeding lips, noses and foreheads were shown on screen. Takes of the “hitting strategies” were repeated after each round. In its decision, the Panel noted that the nature of the fighting is different from wrestling for it appears (and likely is) more brutal and realistic. It also noted that there was no indication that what was broadcast involved violence which would fall outside the sanctioned limits of the sport. Accordingly, recognizing the nature of the sport and the anticipated nature and level of violence, the National Specialty Services Panel found no breach of Articles 3 (Scheduling) and 10 (Violence in Sport Programming) of the *CAB Violence Code*. It did find, however, that the failure to air viewer advisories breached Article 5 (Viewer Advisories) of the Code. In its decision [TSN re Ultimate Fighting Challenge](#) (CBSC Decision 02/03-1395,

[January 30, 2004](#)), the Panel explained its conclusions:

While fighting in another sport (such as baseball, football, hockey or basketball, to provide some popular professional examples) may fall outside that sport's sanctioned limits, that can hardly be said to be the case when fighting is the very nature of the sport. This would, in principle, be true of boxing, wrestling, judo, ju-jitsu, and other similar sports. It does not mean that just any level of violent activity in any such pugilistic sport can be broadcast without the provision of the audience tools which the broadcast industry has put in place to enable viewers to make informed viewing choices. It should, however, be noted that classification icons would not be required since sports broadcasting is exempt from the requirement to apply ratings. This does not mean that the provision of such ratings would not be informative and a positive gesture; broadcasters are not, however, obliged to provide such information.

The Panel also explained that, even though the fighting breached no Code provisions, broadcasters were still required to comply with the other provisions of the Code and alert viewers as to possibly inappropriate content.

Where, therefore, a certain level of violence is predictable given the nature of the sport, broadcasters will be expected to deal with this level of “predictable” violence in the same way as they would any other type of programming.

Thus, in the circumstances of the present complaint, the Panel finds the level of violence of this sport unsuitable for children (although not exclusively intended for adults, the consequence being that it is suitable for broadcast before 9:00 pm). It follows that TSN's broadcast of *Ultimate Fighting Challenge* should have been accompanied by the appropriate viewer advisories, alerting audiences to the coming content so that they would be in a position to make informed viewing choices. Since TSN has not supplied those advisories

here, the Panel concludes that the broadcaster is in violation of Article 5.2 of the *Violence Code*.

### **Not Only Shocking but also Shameful**

The Ontario Regional Panel found that CITY-TV (Toronto)'s 9:00 am broadcast of an episode of the *Maury Povich Show*, which was entitled "Shocking Life or Death Moments Caught on Tape" constituted a sensationalization of violence. It also considered that it should not have been broadcast outside of the Watershed hours of 9:00 pm to 6:00 am and should have included viewer advisories.

The broadcast dealt principally, although not exclusively, with life or death moments. On the issue of the nature of the content, the Panel found the amount and the sensationalization of violence in the episode problematic. A number of the more shocking video segments (such as a clerk being struck hard on the side of the head by a crowbar during a robbery) were repeated at normal speed and in slow motion and were then employed again as teasers going into the commercial breaks. While the host himself did from time to time provide some indication of the upcoming content, he did this more as a "teaser" to attract audience than as an alert to viewers that they might find any of the content disturbing. While the Panel did not find that the episode encouraged violence, it considered that the repetition of, and emphasis on, the violent content constituted a gratuitous depiction of violence. In its decision [CITY-TV re an episode of The Maury Povich Show \(CBSC Decision 02/03-1424, February 10, 2004\)](#), it stated that

It rather considers that much of the violence in the episode was, by reason of the creators' editing decisions, gratuitous. In the Panel's view, this results primarily from the decision of the program's producers to replay all of the shocking videos time and again, even repeating them in slow motion to ensure that viewers missed no tragic moment, and finally airing them as teasers going into commercial breaks. The Panel also notes that there was nothing didactic in the episode. There was no theme which related to the avoidance of dangerous actions, which

could lead to injurious consequences. The program simply consisted of the threading together of shocking footage, linked by the serendipitous capture on video of shocking and tragic circumstances.

The Panel noted that this was not a customary episode of the magazine format show, in that it included graphic segments, many of which resulted in danger, injuries or death. That made the scheduling even worse for the show's customary audience and the Panel's finding was, in any event, that much of the material in the episode was intended for adults and ought not to have aired before 9:00 pm. This rendered the absence of advisories even more problematic in terms of the *Violence Code's* requirements.

## **RADIO BROADCASTING**

The majority of complaints concerning radio broadcasting this year dealt with inappropriate material broadcast at times when children were likely to be listening.

### **Song re Ex X-Rated?**

A parody song entitled "My Ex-boyfriend", performed by a man, consisting of a list of epithets directed at a former lover, was found to contain unduly sexually material by the Prairie Regional Panel in its decision [CJAY re Forbes and Friends \(Joke Songs and Parody Advertisement\) \(CBSC Decision 02/03-0674, December 15, 2003\)](#). A listener had complained that the content broadcast on CJAY-FM's (Calgary) morning show *Forbes and Friends* contained content referring to sexual activities which should not be aired at a time of the day when children could be listening. While other material reviewed was not considered to have crossed the line, with respect to the song in question, the Prairie Panel stated:

It would be fair to observe, in general terms, that there may come a point in descriptive commentary when the accumulation of individual metaphors, any one of which might be sufficiently subtle to be excusable, becomes obvious and inexcusable. At that

point, the body of subtleties loses any characterization as forgivable innuendo and crosses the line into sexual explicitness. That is the case with “My Ex-boyfriend”, which, line-by-line, finds a different metaphorical treatment for sexual acts, principally of the anal variety. Heard, or read, cumulatively, they are, without doubt, explicit.

The other content examined by the Panel included a song, which was a whistling tune about one man’s cure for “the blues” (which is to look at his “enormous penis”), and a parody advertisement for a product called “Mr. Big, the Wiener Wizard” which “doubles the size of that wiener” and produces results that “anybody would be proud of.”

The Panel concluded that the two latter matters complained of did not go as far as the first song and that they consisted of mere sexual innuendo; consequently, they were not in breach of the Code.

### **Not Quite Blowing in the Wind**

Another parody song gave rise to a complaint this year. In a crooner’s style, the parody song in question dealt with oral sex and was rather descriptive. It was broadcast on CFBR-FM (Edmonton) in the late morning. A listener complained that the song was too sexually explicit for that hour, on the one hand, and that it was degrading to women, on the other. In its decision [CFBR-FM re a spoof song \(CBSC Decision 02/03-0738, December 15, 2003\)](#), the Prairie Regional Panel found that the parody song was in breach of Clause 9 (Radio Broadcasting) of the *CAB Code of Ethics*, which requires that programming contain no unduly sexually explicit material but the Panel did not find that the song had also breached Article 4 of the *Sex-Role Portrayal Code*.

On the issue of explicitness, CBSC Panels have previously established that, while unduly sexually explicit material is unacceptable radio fare, mere sexual innuendo will not be in breach of the Code. In the matter at hand, the Prairie Regional Panel compared the challenged song to previous programming and concluded that,

[o]n the issue of explicitness, the present song is easier to characterize. It is not metaphorical or built on innuendo, whether isolated or accumulated. It is obvious. It is explicit. It is, in the Panel’s view, unduly explicit and, consequently, in breach of the requirements of Clause 9(b) of the *CAB Code of Ethics*.

On the issue of sex-role portrayal, on the other hand, the Panel did not find a breach of the Code; it explained the difference between the two conclusions in the following way:

The Panel wishes to make it clear that the one is quite distinct from the other; in other words, a finding that material broadcast is sexually explicit does not necessarily lead to the conclusion that it is either exploitative or demeaning. In the matter at hand, the oral sexual activity described is a mutual act and one which, in the view of the Panel, is not in principle demeaning to either partner to the activity. In other words, in ordinary circumstances, it is neither demeaning nor exploitative. If anything, the soft crooning style of the presentation takes the performance even further away from any sense of the imposition of unequal power in the relationship.

### **Ashes to Asses**

A parody entitled “Singapore Whore”, which mimicked a sex-trade worker with a thick accent trying to sell anal sex services but being misunderstood because of her language difficulties, prompted a complaint from a listener who considered the segment to be discriminatory. While the Prairie Regional Panel did not consider the parody to have exceeded the private broadcasters’ codified standards relating to Human Rights and full, fair and proper comment, it did consider it to be unduly sexually explicit for morning radio. The parody aired on CJAY-FM (Calgary) during the Forbes and Friends morning show. In its decision [CJAY-FM re the Forbes and Friends morning show \(Parody Song re Chinese Restaurant & Thai Sex Trade Workers\) \(CBSC Decision 03/04-0259, April 16, 2004\)](#), the Panel concluded that “the humour of the skit, which may well be in bad

taste, is neither nasty nor bludgeoning to use the criteria long ago established” by the CBSC and thus not in breach of the Human Rights clause or that requiring the “full, fair and proper presentation of [...] opinion, comment or editorial.”

On the issue of the explicitness of the sexual comments, the Prairie Panel said:

The Panel considers that, in this case, some of the morning crew’s comments regarding occurrences in common bawdy houses were unduly sexually explicit. Specifically, the Panel notes the repetition of a prostitute’s invitation to have anal intercourse with her as well as [certain other] comment[s] [which] constitute unduly sexually explicit content for morning radio and are in breach of Clause 9 of the *CAB Code of Ethics*.

### ***Maybe a Foul but It’s a Pass***

A discussion concerning the rape allegedly committed by American basketball player Kobe Bryant prompted a complaint from a listener who considered that the content of that “humorous” dialogue, as well as a joke about a confused drunk and a parody commercial about a fictitious shampoo (both with sexual connotations), to be inappropriate and too explicit for the airwaves. While the Prairie Regional Panel considered that both the joke and the parody were “not even, in fact, on the cusp of explicitness,” it found the discussion involving Bryant and his accuser to be unduly sexually explicit.

With respect to the first issue, the *Shorter Oxford English Dictionary* defines the aspect of “explicit” that is material to the Panel as “distinctly expressing all that is meant; leaving nothing merely implied or suggested; unambiguous; clear.” While there can be no doubt that the use of the verb “rape” alone could be understood as clear and unambiguous, it is not in this sense that the Panel understands the codifiers’ intention in using the term “explicit”. The Panel considers that the codifiers meant explicit in the sense of graphic, full, expressing all that is meant, which is to say more than the isolated verb could convey. Indeed, it

would make little sense for the use of a solitary verb, however unequivocal, to fall into the “explicit” category. What was intended was the unnecessary and excessive building upon that foundation, the “unduly explicit” description of, in this case, sexual activity.

In applying that understanding to the words “He grabbed her by the neck with both hands, which is a foul, turned her around, bent her over the chair and raped her,” the Panel considers that the broadcaster has been “unduly sexually explicit”. Had the host limited his observation to the fact that Bryant had raped the accuser, that would almost certainly have presented no problem. He chose, however, to convert the rape (if rape there was – this matter is still before the Courts as of the date of this decision) into a four-step event, which exceeded the bounds of [...] the *CAB Code of Ethics*.

The Panel also applied Article 7 of the *Violence Code*, namely, the issue of the glorification or glamorization of violence against women, to the Kobe Bryant discussion and found that there was no Code breach. It explained that “there were attempts at humour but none at the sanctioning of violence against women” and that “the humour was itself predicated on questions of consent and the facts giving rise to any doubts in this regard (on the basis of public reports) but there was none with respect to any aspect of violence against women.”

### Teasing Not Pleasing

The morning discussion on Quebec City's CHOI-FM involved show host Jeff Fillion "critiquing" the content of certain popular women's magazines and how they always have a "big sex teaser" ("un gros sex-choc"), which does not generally follow through on its promise. In support of this point, Fillion provided his audience with made-up headlines and ensuing articles from such magazines, which were quite sexually explicit. A listener characterized the on-air discussion as "aural pornography" and, consequently, inappropriate for broadcast. In its decision [CHOI-FM re Le monde parallèle de Jeff Fillion \(CBCS Decision 03/04-0018, April 22, 2004\)](#), the Quebec Regional Panel assessed the complaint under Clause 9 (Radio Broadcasting) of the *CAB Code of Ethics*, which requires that broadcasters ensure that no unduly sexually explicit material be aired. The Panel agreed with the complainant and found that the content amounted to a breach of the Code.

In its defence, the broadcaster replied that a critique using humour and exaggeration, even where sexual content was a component of the humour, constitutes justification for the broadcast of such content. Moreover, CHOI-FM argued that humour is subjective. The Quebec Regional Panel concluded that

there was nothing equivocal about the broadcast; there was neither the innuendo nor the *double-entendre* [present in other earlier cases] [...] Nor could it be said that the comments were understated or subtle in anyway. They were plainly and simply explicit, and unduly so.

Furthermore, the Panel explained that the comedic intention of the broadcaster cannot be an excuse for airing unduly sexually explicit material. It explained that "that defence is usually proposed by a broadcaster in an attempt to justify some form of commentary, frequently discriminatory matter, which would not, but for its intended humorous nature, be at all justifiable." The Quebec Regional Panel elaborated on its position in the following terms:

That a comedic environment may create a different atmosphere where comments may, exceptionally, be acceptable is the first level of principle.

At a secondary level, there will be an assessment of the nature and extent of those comments. The Panel will assess whether they are likelier to "tickle" than be "nasty", to "poke fun" rather than to "bludgeon" [...]

In other words, the comedic intention of the broadcaster does not inevitably lead to the conclusion that "anything goes". As aptly stated [in a previous decision] "Comedic intention is not [...] a defence to a broadcast that would otherwise breach the Human Rights Clause of the *CAB Code of Ethics*. Comedic intention does not, in other words, sanitize or rehabilitate material that is unduly discriminatory under that provision." Put in other terms, intention, whether to be comedic, satiric or analytical, does not change the characterization of what was *actually* broadcast. That a host, or a broadcaster, "intended" to be funny, or to be presenting a critique, is no justification. In the application of broadcast standards, purpose and intention do not outweigh execution [...]

Nor is the subjectivity of humour the issue, as the broadcaster contends in its response. That one person might be amused when the complainant is not is scarcely the issue. The CBSC administers *standards* and these are not subjective. Indeed, in the case at hand, Fillion could, in fact *ought*, to have made his point without going so far as to include the unduly sexually explicit content.

### NEWS AND PUBLIC AFFAIRS

In the single decision released in 2003/2004 relating to news and public affairs, the CBSC was called on to consider the nature and responsibilities of point-of-view documentaries.

### Confrontation with an Opinionated

### Documentary

The documentary film *Confrontation at Concordia*, which was written and directed by Martin Himel and broadcast on Global Television, led to numerous complaints from various groups, members of the public and some of the interviewees for the documentary. Of a total of 19 complaints originally received, only 4 complainants requested adjudication by the CBSC's National Conventional Television Panel. Although they collectively raised a variety of issues, their principal focus was on what the viewers described as the bias of the film, which documented the tense relations between the different factions in the then upcoming Concordia University Student Council elections. There was also mention of a comment made late in the program relating to anti-Semitism in Quebec.

In telling his documentary story, the filmmaker also dealt with the incident of September 9, 2002, in which former Israeli Prime Minister Benjamin Netanyahu had been prevented from speaking at Concordia as the result of street protests and the physical confrontation of the opposing sides. There were interviews with Netanyahu, Concordia University representatives, the Vice President of Solidarity for Palestinian Human Rights and the President of Montreal Hillel, among others.

The National Conventional Television Panel did not find that the documentary was "objective, dispassionate and even-handed" but it considered that there was no reason to expect that it ought to have been. It was, the Panel explained, a "point-of-view documentary", with the consequence that "a viewer can expect from such a genre of film great latitude in the expression of the filmmaker's viewpoint and opinions, and even in the tone and style of presentation of that perspective." The Panel went on to distinguish this genre from traditional broadcast journalism in its decision [CIII-TV \(Global Television\) re Confrontation at Concordia \(CBSC Decision 02/03-1340, -1368, -1514 and -1530, April 26, 2004\)](#):

Accurate, comprehensive, fair and objective presentation is a hallmark of broadcast journalism. Documentary filmmaking, on the other hand, should not be *in*accurate but it need not be objective. It is, in fact, an artistic genre of filmmaking. It will frequently carry the creator's name in a prominent way, since it can be expected to express his or her perspective on a subject. As a genre, it permits artistic licence, although that licence is not unrestricted. A point-of-view documentary is not false but it is the expression of the truth through the eyes of its creator. The truth is told as the filmmaker seeks to represent that truth. There is bound to be a significant element of subjectivity in the work. By techniques of video footage selection and judicious editing, the creator of the documentary film can be expected to manipulate the viewer since his or her goal is, after all, to either convince the viewer of the filmmaker's perspective or to, at the very least, stimulate discussion of the subject treated.

The Panel dealt with many specific questions and issues raised by the complainants but concluded that the filmmaker had expressed his point of view regarding the responsibility for the Concordia events without distortion: "in reviewing the [filmmaking] tools he [Himel] has used, the Panel finds no fault on his part."

In responding to the complaint that accused the broadcast of a disparaging remark about anti-Semitism in Quebec, the Panel referred to the fact that it was a single, brief reference which was only the filmmaker's "warning of potential modern resurgence". It concluded that "the peripheral statement relating to historical anti-Semitic events in Quebec does not constitute unfair or improper comment, in violation of Clause 6 of the *CAB Code of Ethics*."

## 4. SUMMARY OF COMPLAINTS

### OVERVIEW OF CORRESPONDENCE RECEIVED

In 2003/2004, 2,369 persons lodged formal complaints with the CBSC. Since some of these did so by signing a petition (represented by a single file), the total number of files opened by the CBSC in the year was 2,031. Some issues drew a large number of complaints, most notably the exclusion of the Green Party from the June 2004 Election Leader's Debate (342 complaints, all of which were referred to the CRTC for resolution), followed by the Super Bowl broadcast, during which Janet Jackson bared her breast, and the broadcaster aired an advertisement for Labatt's Blue, which centred on two women sharing lipgloss via a passionate kiss (190 complaints).

- Of the 2,031 complaint files opened in fiscal 2003/2004, the CBSC actually handled 1,492 or 73.5%; 82 files were referred to Advertising Standards Canada (ASC), one to the Cable Television Standards Council (CTSC), and 455 to the Canadian Radio-television and Telecommunications Commission (CRTC) (of these 455 files, 62 related to non-member broadcasters and 393 dealt with issues which did not fall within the parameters of the Codes administered by the CBSC, such as those relating to election coverage). One file was referred to Industry Canada.
- The CBSC, nonetheless, responded to all the complaints including those sent elsewhere for ultimate resolution. In the case of petitions, however, the CBSC responded to only one appointed spokesperson for each group of signatories.
- This year, the CRTC forwarded 1,066 complaints to the CBSC (52.5% of the total files opened in 2003/2004). Only 17 complaints were forwarded from other agencies this year (0.8% of the total

complaints). The CBSC received 948 complaints directly (46.7% of the total complaint files opened this year).

- The overwhelming majority of complainants chose e-mail as their favoured method of communication this year. E-mailed complaints accounted for 1,839 files (90.6% of the total files opened in 2003/2004); snail mail and faxed complaints trailed behind at 85 complaints (4.2%) and 50 complaints (2.5%), respectively.
- In addition, as in previous years, the CBSC received a large quantity of "general correspondence" from people seeking, for example, general information about the Council and its Codes or contact information for a broadcaster. This year, had such correspondence been classified in the same manner as standard complaints, it would have added a further 113 "files" to the total.

## RADIO AND TELEVISION COMPLAINTS

Of the 1,492 complaint files handled by the CBSC,

- 336 dealt with radio programming (22.5%);
- 1,109 dealt with television programming (74.3%);
- 47 dealt with general concerns about broadcasting or could not otherwise be categorized (3.2%).
- 

## ADJUDICATING PANELS

Of the 1,492 complaint files handled by the CBSC,

- Nearly equal numbers of complaints were received with respect to files that would, if carried to their conclusion, have led to Quebec, Ontario or National Conventional Television Panel adjudication: 332 (22.3%), 316 (21.2%) and 339 (22.7%), respectively.

### Region of Complaint (Adjudicating Panels)

<u>Adjudicating Panel</u>	<u>Radio</u>	<u>Television</u>	<u>N/A</u>	<u>Total</u>
Atlantic	6	15	3	24
Quebec	97	228	7	332
Ontario	123	185	8	316
Prairie	67	53	1	121
B.C.	34	101	5	140
National Conventional	--	339	--	339
National Specialty Services	--	170	--	170
Non-determined	9	18	23	50
<b>TOTAL</b>	336	1,109	47	1,492

Notes:

- 1) The vertical "N/A" axis includes complaints concerning matters other than radio or television programming, such as cable bills or satellite reception.
- 2) The region of complaint origin is determined by the location of the broadcaster unless the concern relates to matters which must be dealt with by one of the National Panels (principally resulting from the national nature of the broadcaster targeted by the complaint). Many complaints could not be regionally situated this year as in past years; this is due in large part to the increase in complaints received by e-mail which provide only the complainant's e-mail address. Where no other clues as to the appropriate region are provided in the complaint, it is categorized as non-determined.

**LANGUAGE OF PROGRAM**

Of the 1,492 complaint files handled by the CBSC,

- 1,128 complaints dealt with English-language programming (75.6%);
- 303 dealt with French-language programming (20.3%).

**SOURCE OF PROGRAM**

Of the 1,492 complaint files handled by the CBSC,

- 899 complaints dealt with Canadian programming (60.3%);
- 346 dealt with foreign programming (23.2%).

**Language of Program**

Language	Radio		Television		N/A		Total	
	#	%	#	%	#	%	#	%
English	250	74.4	877	79.0	1	2.1	1,128	75.6
French	85	25.3	218	19.7	0	0.0	303	20.3
Foreign	0	0.0	1	0.1	0	0.0	1	0.1
Non-determined	1	0.3	13	1.2	46	97.9	60	4.0
<b>TOTAL</b>	<b>336</b>	<b>100</b>	<b>1,109</b>	<b>100</b>	<b>47</b>	<b>100</b>	<b>1,492</b>	<b>100</b>

**Source of Program**

Source	Radio		Television		N/A		Total	
	#	%	#	%	#	%	#	%
Canadian	303	90.2	595	53.7	1	2.1	899	60.3
Foreign	14	4.2	332	29.9	0	0.0	346	23.2
Non-determined	19	5.6	182	16.4	46	97.9	247	16.5
<b>TOTAL</b>	<b>336</b>	<b>100</b>	<b>1,109</b>	<b>100</b>	<b>47</b>	<b>100</b>	<b>1,492</b>	<b>100</b>

## TYPE OF PROGRAM – RADIO

The CBSC classifies the type of programming of its complaints in a non-exclusive manner, *i.e.* allowing for a program to be classified under more than one category. While this provides more useful information to readers, the sum of the radio complaints in the chart below, if given, would naturally exceed the actual number of radio complaints received in 2003/2004.

Of the 336 radio complaints,

- the overwhelming majority dealt with informal discourse / open line programming, namely, a total of 224 complaint files (66.6% of all radio complaints).

<u>Type of Program - Radio</u>			
Type of Program	# of Radio Complaints	% of Radio Complaints	% of All Complaints
Advertising	13	3.9	0.9
Comedy	6	1.7	0.4
Contests	8	2.4	0.6
Education (Human Interest)	1	0.3	0.1
Infomercial	2	0.6	0.1
Informal Discourse / Open Line	224	66.6	15.0
Music	36	10.7	2.5
News and Public Affairs	21	6.3	1.4
Promos	3	0.9	0.2
Religious	3	0.9	0.2
Sports	2	0.6	0.1
Undetermined	13	3.9	0.9
Non-applicable	4	1.2	0.3

### Notes:

- 1) While the CBSC's non-exclusive categorization of programming results in some duplication, the percentage of complaints in each category is, nevertheless, calculated on the basis of the actual number of complaint files concerning radio programming (336). Accordingly, the sum of the percentages would, if totaled, of course, be greater than 100%.
- 2) This percentage is based on the total number of complaint files handled by the CBSC (1,492). Accordingly, the sum of the percentages would, if totaled, of course, be greater than 100%.

## TYPE OF PROGRAM – TELEVISION

As explained in the immediately preceding section, the CBSC classifies the type of programming of its complaints in a non-exclusive manner. You should refer to that explanation to understand the percentages provided in the chart below.

In 2003/2004, the primary concerns with respect to television programming were:

- News and public affairs, with a total of 242

complaints (21.8% of all television complaints);

- Sports, with a total of 178 complaints (16.0% of television complaints);
- Advertising, with a total of 131 complaints (11.8% of television complaints).

<b><u>Type of Program - Television</u></b>			
<b>Type of Program</b>	<b># of Television Complaints</b>	<b>% of Television Complaints</b>	<b>% of All Complaints</b>
Advertising	131	12.0	8.8
Animation	17	1.5	1.2
Children's Programming	6	0.6	0.4
Comedy	49	4.5	3.3
Contests	2	0.2	0.1
Drama	66	6.0	4.5
Education / Documentaries	63	5.7	4.2
Fantasy / Science Fiction	3	0.3	0.2
Talk Show / Variety	88	7.9	5.9
Movies	60	0.5	0.4
Music	12	1.1	0.8
News and Public Affairs	242	21.8	16.2
Promos	32	2.9	2.1
Reality Programming	88	7.9	5.9
Religious	15	1.4	1.0
Sports	178	16.0	11.9
Undetermined	53	4.8	3.6
Non-applicable	4	0.4	0.3

### Notes:

- 1) The percentage of complaints in each category is calculated on the basis of the actual number of complaint files concerning television programming (1,109). See note 1 on the previous page.
- 2) See note 2 on the previous page.

**CODES AND CLAUSES**

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

**CAB Code of Ethics**

In 2003/2004, 869 complaints handled by the CBSC raised at least one issue to be considered under the *CAB Code of Ethics*.

<b><u>CAB Code of Ethics</u></b>			
<b>Clause</b>	<b>Radio #</b>	<b>Television #</b>	<b>Total #</b>
Human Rights	91	96	187
Sex-Role Stereotyping	13	71	84
Children's Programs	0	14	14
News	13	74	87
Full, Fair and Proper Presentation	71	73	144
Controversial Public Issues	12	29	41
Religious Programming	5	5	10
Radio Broadcasting	125	0	125
Television Broadcasting	0	209	209
Viewer Advisories	0	26	26
Contests and Promotions	10	5	15
Advertising	5	168	173
Prohibition of Subliminal Devices	0	19	19

**CAB Sex-Role Portrayal Code**

200 complaints handled by the CBSC in 2003/2004 raised at least one issue under the *CAB Sex-Role Portrayal Code*.

<b><u>CAB Sex-Role Portrayal Code</u></b>			
<b>Clause</b>	<b>Radio #</b>	<b>Television #</b>	<b>Total #</b>
Exploitation	5	119	124
Diversity	4	0	4
Commercial Messages	1	90	91
Changing Interaction	1	0	1
Demographic Spectrum	0	0	0
Non-sexist Language	0	1	1
Visibility and Involvement	0	0	0

**RTNDA Code of (Journalistic) Ethics**

In 2003/2004, 69 complaints handled by the CBSC were considered under the *RTNDA Code of (Journalistic) Ethics*.

**CAB Violence Code**

295 complaints handled by the CBSC in 2003/2004 raised at least one issue to be considered under the *CAB Violence Code*.

**RTNDA Code of (Journalistic) Ethics**

<b>Clause</b>	<b>Radio #</b>	<b>Television #</b>	<b>Total #</b>
Accuracy	4	29	33
Equality	3	4	7
Authenticity	1	1	2
Privacy	5	16	21
Conflict of Interest	1	0	1
Decency and Conduct	2	6	8
Covering Violent Situations	1	2	3

**CAB Violence Code**

<b>Clause</b>	<b>Television #</b>
Gratuitous or Glamorized Violence	2
Children's Programming	17
Scheduling	205
Scheduling of Promos and Ads	0
Classification	10
Viewer Advisories	24
News and Public Affairs	19
Violence Against Women	13
Violence Against Specific Groups	5
Violence Against Animals	11
Violence in Sports	5

## GENERAL COMPLAINTS

In addition, the CBSC handled concerns of a general nature which could not engage its formal complaints resolution process (and for which Code provisions were not examined). Some of these complaints raised more than

one issue and thus the sum of all complaints (if totalled) would be greater than the actual number of general complaints (which was 552).

<u>General Complaints</u>	
<u>Issue</u>	<u>Radio and TV #</u>
Advisories	14
Bad Taste / Inappropriate Comments / Offensive Humour	95
Classification / Program Ratings	2
Coarse Language	34
Conflict of Interest	1
Contests	1
Human Rights	68
News and Public Affairs / Journalistic Practices	102
Privacy	11
Program Selection / Quality	42
Religious or Anti-religious Content	7
Scheduling / Watershed	25
Sexually Explicit Content	86
Sexual Stereotyping	14
Unsuitability of Programming for Children	37
Violence	45

## **STATUS OF COMPLAINTS AT YEAR END**

Of the 1,492 files handled by the CBSC, 940 (63.0%) were “Code relevant and specific complaints”, meaning that they (a) provided sufficient information concerning the broadcast in question to enable follow-up by the CBSC and (b) related to a Code provision administered by the CBSC. The remaining 552 complaints were considered “general” meaning that they may not have provided sufficient detail to enable follow-up, may not have raised an issue under the Codes administered by the Council or were made too late; consequently, these files were closed by the CBSC immediately following its response to the complainant.

Of the 940 “Code relevant and specific” complaints, 760 (80.9%) will not require follow-up by the CBSC as they were resolved at the level of broadcaster and complainant communication. 44 complaints (4.7%) were either resolved through the release of decisions of the various Panels and the CBSC Secretariat or through the issuance of other Secretariat correspondence. 61 complaints (6.5%) have yet to complete the dialogue process with the broadcaster and 64 complaints are at various stages in the complaints review process, i.e. the complainant has requested a ruling by the CBSC. In the case of five complaints, the complainants have decided to take their complaints to another forum such as the CRTC or the courts.

## 5. ADJUDICATORS

Below is a list of CBSC Adjudicators who have served for some or all of fiscal 2003/2004. A short biography for each of these members may be found during their term on the CBSC's website at [www.cbsc.ca](http://www.cbsc.ca).

Since Adjudicators come and go during the

year, it may appear that there is more than one Chair or Vice-Chair, but they are successive, not overlapping. There are five public Adjudicators and five industry Adjudicators on each Panel; however, there remain some vacancies to fill as of the end of the fiscal year.

### *ATLANTIC REGIONAL PANEL*

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Hilary Montbourquette, Chair, Broadcaster member  
 Gilbert Clements, Vice-Chair, Public member  
 Burnley A. (Rocky) Jones, Public member  
 Bob MacEachern, Broadcaster member  
 Carol McDade, Broadcaster member  
 Randy McKeen, Broadcaster member  
 Roberta Morrison, Public member  
 Toni-Marie Wiseman, Broadcaster member

### *B.C. REGIONAL PANEL*

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Sally Warren, Chair, Public member  
 Hudson Mack, Vice-Chair, Broadcaster member  
 Hiroko Ainsworth, Public member  
 Prem Gill, Broadcaster member  
 Gordon Leighton, Broadcaster member  
 Mason Loh, Public member  
 Erin Petrie, Broadcaster Member  
 Joan Rysavy, Public member  
 Norman Spector, Public member  
 Ross Winters, Broadcaster member

### *ONTARIO REGIONAL PANEL*

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Robert Stanbury, Chair, Public member  
 Madeline Ziniak, Vice-Chair, Broadcaster member  
 Bill Bodnarchuk, Broadcaster member  
 Jennifer David, Public member  
 Hanny Hassan, Public member  
 Mark Maheu, Broadcaster member  
 Mark Oldfield, Broadcaster member  
 John Pungente, Public member  
 Cynthia Reyes, Public member

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**PRAIRIE REGIONAL PANEL**

Daryl Braun, Chair, Broadcaster member  
 Daniel Ish, Vice-Chair (then Chair), Public member  
 Vince Cownden, Broadcaster member  
 Dorothy Dobbie, Public member  
 Vic Dubois, Broadcaster member  
 Jennifer Fong, Public member  
 Fil Fraser, Public member  
 Raya Gallagher, Broadcaster member  
 Kelly Johnston, Broadcaster member

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**QUEBEC REGIONAL PANEL**

Guyline Bachand, Chair, Broadcaster member  
 Tara Rajan, Vice-Chair, Public member  
 Michèle Audette, Public member  
 Sylvain Chamberland, Broadcaster member  
 Bernard Guérin, Broadcaster member  
 Brian Kenemy, Broadcaster member  
 Gilles Moisan, Public member  
 Marie-Anna Murat, Broadcaster member  
 Robert Parent, Broadcaster member  
 Peta Tancred, Public member

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**NATIONAL PANELS**

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***Public Members***

Ronald I. Cohen, Chair  
 Howard Pawley,  
 Vice-Chair  
 Peter O'Neill  
 Meg Hogarth  
 Catherine Murray  
 Fo Niemi

***Specialty Services  
 Broadcasters***

Sarah Crawford,  
 Vice-Chair  
 Rita Cugini  
 Rita Deverell  
 Michael Harris  
 Valerie Morrisette

***Conventional Television  
 Broadcasters***

Suzanne Gouin,  
 Vice-Chair  
 Bob Culbert  
 Peggy Hebden  
 Edward Holmes  
 Joanne Levy

## LIST OF CBSC MEMBERS BY REGION

### Newfoundland

CFCB · CFCV-FM/RB · CFDL-FM/RD · CFGN/RB · CFCL-FM/RB · CFLW/RB · CFNN-FM/RB · CFNW/RB · CFOZ-FM/RB · CFSX · CHCM/RB · CHOS-FM/RB · CHOZ-FM · CHVO · CIOS-FM/RB · CIOZ-FM/RB · CJON-TV · CJOZ-FM/RB · CJYQ · CKCM · CKGA · CKIM/RB · CKIX-FM · CKOZ-FM/RB · CKXB/RB · CKXD-FM · CKXG-FM · CKXX-FM · VOXM · VOXM-FM

### P.E.I. CHTN

### Nova Scotia

CFDR · CFRQ-FM · CIGO-FM · CIHF-TV · CIOO-FM · CJCB-TV · CJCH · CJCH-TV · CJLS · CKTY-FM · CKUL-FM

### New Brunswick

CFJX-FM · CFXY-FM · CHSJ-FM · CHTD-FM · CHWV-FM · CIBX-FM · CIKX-FM/RB · CJCJ-FM · CJMO-FM · CJXL-FM · CKBC · CKCW-TV · CKHJ-FM · CKLT-TV · CKTO-FM

### Quebec

CFAP-TV · CFCF-TV · CFCM-TV · CFDA-FM · CFEL-FM · CFEM-TV · CFER-TV · CFGL-FM · CFGS-TV · CFIX-FM · CFJO-FM · CFJP-TV · CFKM-TV · CFKS-TV · CFLO-FM · CFMB · CFOM-FM · CFQR-FM · CFRS-TV · CFTM-TV · CFVD-FM · CFVM · CFVS-TV · CFZZ-FM · CHAU-TV · CHEM-TV · CHEY-FM · CHGO-FM · CHGO-FM-1/RB · CHGO-FM-2/RB · CHIK-FM · CHLN · CHLT · CHLT-TV · CHMP-FM · CHOA-FM · CHOE-FM · CHOM-FM · CHOT-TV · CHPR-FM · CHRC · CHRL · CHRМ-FM · CHVD · CHVD-FM/RB · CIGB-FM · CIKI-FM · CIME-FM · CIMF-FM · CIMO-FM · CINF · CINW · CITE-FM · CITE-FM-1 · CITF-FM · CJAB-FM · CJAD-AM · CJDM-FM · CJFM-FM · CJGO-FM · CJLA-FM · CJLP/RB · CJMF-FM · CJMM-FM · CJMS · CJMV-FM · CJNT-TV · CJOI-FM · CJPM-TV · CJRC · CKAC · CKDG-FM · CKGM · CKLD · CKLS-FM · CKMF-FM · CKMI-TV · CKOI-FM · CKRN-TV · CKRS · CKRT-TV · CKSH-TV · CKSM/RB · CKTF-FM · CKTM-TV · CKTV-TV · CKVM · CKYK-FM

### Ontario

CFBG-FM · CFBK-FM · CFCA-FM · CFFX · CFGO · CFGX-FM · CFHK-FM · CFJR · CFLG-FM · CFLO-FM-1/RB · CFLY-FM · CFLZ · CFMJ · CFMK-FM · CFNY-FM · CFPL · CFPL-FM · CFPL-TV · CFRA · CFRB · CFTO-TV · CFTR · CHAM · CHAS-FM · CHAY-FM · CHBX-TV · CHCD-FM · CHCH-TV · CHEX-TV · CHEZ-FM · CHFD-TV · CHFI-FM · CHKS-FM · CHKT · CHML · CHMS-FM · CHMS-FM/RB · CHNO-FM · CHRE-FM · CHRO-TV · CHTZ-FM · CHUC · CHUM · CHUM-FM · CHUR-FM · CHVR-FM · CHWI-TV/TS · CHWO · CHYC-FM · CHYK-FM · CHYK/RB · CHYM-FM · CHYR-FM · CICI-TV · CICX-FM · CICZ-FM · CIDC-FM · CIDR-FM · CIGL-FM · CIGM · CIHT-FM · CIII-TV · CILQ-FM · CIMJ-FM · CIMX-FM · CING-FM · CIOX-FM · CIQB-FM · CIQM-FM · CIRS · CIRV-FM · CISS-FM · CITO-TV/TS · CITS-TV · CITY-TV · CIWW · CJAQ-FM · CJBK · CJBK-TV · CJBQ · CJBX-FM · CJCL · CJDV-FM · CJET-FM · CJEZ-FM · CJLA-FM · CJLB-FM · CJMJ-FM · CJMR · CJMX-FM · CJOH-TV · CJOY · CJPT-FM · CJQM-FM · CJQQ-FM · CJRQ-FM · CJSD-FM · CJSS-FM · CJTN · CJXY-FM · CKAP-FM · CKAT · CKBY-FM · CKCB · CKCB-FM · CKCO-TV · CKDK-FM · CKDO · CKEY-FM · CKFM-FM · CKFX-FM · CKGB · CKGE-FM · CKGL · CKKL-FM · CKKW · CKLC · CKLH-FM · CKLW · CKNR-FM · CKNX · CKNX-FM · CKNX-TV/TS · CKNY-TV · CKOC · CKPR · CKPR-TV · CKPT · CKQB-FM · CKQM-FM · CKRU · CKSL · CKTB · CKVR-TV · CKWF-FM · CKWS-TV · CKWW · OMNI.1 · OMNI.2

### Manitoba

CFAM · CFAR · CFRY · CFWM-FM · CHIQ-FM · CHMI-TV · CHSM · CHTM · CILT-FM · CITI-FM · CJAR · CJEL-FM · CJKR-FM · CJOB · CJRB · CKDM · CKJS · CKLQ · CKMM-FM · CKMW · CKND-TV · CKX-FM · CKX-TV · CKXA-FM · CKY-FM · CKY-TV · NCI-FM

### Saskatchewan

CFMC-FM · CFMM-FM · CFQC-FM · CFQC-TV · CFRE-TV · CFSK-TV · CFSL · CFWF-FM · CFYM · CHAB · CHMX-FM · CHQX-FM · CICC-TV · CIMG-FM · CINT · CIPA-TV · CIZL-FM · CJCQ-FM · CJDJ-FM · CJGX · CJME · CJMK-FM · CJNB · CJNS · CJSL · CJSN · CJWW · CJYM · CKBI · CKCK-FM · CKCK-TV · CKOM · CKRM · CKSW

### Alberta

CFAC · CFBF-FM · CFCN-TV · CFCW · CFFR · CFGP-FM · CFMG-FM · CFMY-FM · CFRN · CFRN-TV · CFRV-FM · CHBW-FM · CHED · CHFМ-FM · CHFМ-FM-1/RB · CHLB-FM · CHQR · CHQT · CHRБ · CHRК-FM · CHRК-FM-3/RB · CHUB-FM · CIBK-FM · CIBQ · CIBW-FM · CICT-TV · CIRK-FM · CISA-TV · CISN-FM · CITL-TV · CITV-TV · CIYR/RB · CIZZ-FM · CJAY-FM · CJBZ-FM · CJMN-FM · CJMN-FM-1/RB · CJOK-FM · CJPR · CJRX-FM · CJXX-FM · CJYR · CKAL-TV · CKDQ · CKEM-TV · CKER-FM · CKGY · CKHL/RB · CKKX-FM · CKLA-FM/RB · CKMX · CKNG-FM · CKRA-FM · CKRD-TV · CKRY-FM · CKSA · CKSA-TV · CKSQ · CKWA · CKYL · CKYX-FM

**British Columbia**

CFEK/RB · CFGQ-FM · CFJC-TV · CFKC/RB · CFMI-FM · CFOX-FM · CFSR-FM · CFTK · CFTK-TV · CFUN · CHAN-TV · CHBC-TV · CHBZ-FM · CHDR-FM · CHEK-TV · CHKG-FM · CHMJ · CHNM-TV · CHNU-TV · CHOR · CHQM-FM · CHRX-FM · CHSU-FM · CHTK · CHTT-FM · CICF · CIEG-FM/RB · CIFM-FM · CIGV-FM · CILK-FM · CIOC-FM · CIOR · CIPN-FM/RB · CISC-FM/RB · CISE-FM · CISL · CISP-FM/RB · CISQ-FM · CISW-FM/RB · CIVI-TV · CIVT-TV · CJAT-FM · CJEK/RB · CJEV/RB · CJFW-FM · CJJR-FM · CJMG-FM · CJOR · CJVB · CJZN-FM · CKBD · CKBZ-FM · CKCL-FM · CKCL-FM-1/RB · CKCL-FM-2/RB · CKCR · CKDV-FM · CKFR · CKGF · CKGO-FM · CKGO-FM/RB · CKGR · CKIS-FM · CKIZ-FM · CKKC · CKKN-FM · CKKQ-FM · CKLG-FM · CKLZ-FM · CKMK/RB · CKNL · CKNW · CKOR · CKOV · CKQR-FM · CKSR-FM · CKST · CKTK · CKVU-TV · CKWX · CKXR · CKZZ-FM

**National Broadcasters**

Animal Planet · APTN · BBC Canada · BBC Kids · Biography Channel · Book Television · Bravo! · Canadian Learning Television · Canal D · Canal Évasion · Canal Vie · CMT · The Comedy Network · Court TV Canada · CPAC · CTV Network · CTV Newsnet · CTV Travel · Discovery Channel · Discovery Civilization · Discovery Health · Discovery Kids · The Documentary Channel · ESPN Classic Canada · Fairchild Television · Family Channel · Food Network Canada · G4techTV · Global Television Network · Historia · History Television · Home & Garden Television Canada · IFC · LCN · Life Network · MenTV · MusiMax · MusiquePlus · National Geographic · NHL Network · Outdoor Life Network · Pridevision · Prime · Pulse24 · RDS · ROBTv · Réseau TQS · Réseau TVA · The Score · Scream · Séries+ · Showcase · Showcase Action · Showcase Diva · Space · Sportsnet · Star! · Talentvision · talktv · Telelatino · Teletoon · TreeHouse · TSN · TV5 · Vision TV · VRAK.TV · The Weather Network · W Network · YTV · Z Télé