

Office of the Ombudsman



ombudsman

English services

ANNUAL REPORT

2018-2019



OFFICE OF THE OMBUDSMAN, ENGLISH SERVICES

June 6, 2019

Michael Goldbloom, Chairman of the Board
CBC/Radio-Canada

Catherine Tait, President & CEO
CBC/Radio-Canada

Members of the Board of Directors
CBC/Radio-Canada

Attached please find the Annual Report of the Office of the Ombudsman, English Services for the period April 1, 2018 to March 31, 2019.

Sincerely,

Jack Nagler
CBC Ombudsman, English Services

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CBC OMBUDSMAN ENGLISH SERVICES

Annual Report 2018-19

I am pleased and honoured to present the annual report of the English Services Ombudsman for the year 2018-19. This is my first such report, and it comes at a time when both journalists and journalism, as a whole, exist in an environment of intense scrutiny and intense skepticism as well. I look forward to the challenge of building upon the thoughtful and principled work of my predecessor, Esther Enkin. I began my appointment in January, so credit for the majority of the work covered by this report belongs to her.

It has become almost cliché to state that public discourse is polarized, but it's impossible for that to not be the most glaring takeaway from my first months on the job. Whatever their ideology, complainants are furious about what they see, read and hear in the media, and a surprising number appear to have no interest in being appeased - they simply want to be heard. Many display remarkable intolerance to views which are not their own. Among these people there is a reluctance to believe that journalistic balance is anything other than outright bias, and their distrust is amplified by the frenzy of rage that sometimes appears in social media. Indeed, it appears to me that many of the high-volume cases handled by this office emerge from the ashes of anger on social media platforms. That does not mean their complaints are wrong, or less worthy of consideration. It does, though, mean that at times civil dialogue can be a challenge.

In all, this office received **3,693** comments, complaints and expressions of concern. Of those, **562** were outside the mandate of this office. Of the **3,131** within the mandate, **825** were sent to programmers for a response. The remainder were shared with news management so they could take the concerns expressed into account. This office does not insist on a reply if the nature of a complaint is too broad, or if it duplicates a complaint already received as part of an organized campaign.

As of mid-April there are **20** complaints still awaiting a response. From the complaints to which CBC responded, there were **88** requests for a review. By the close of the fiscal year, **79** reviews had been completed, and the other **9** were carried over into the new fiscal.

Of the 79 completed by either Ms. Enkin or myself, we found either a violation of policy or room for improvement in **17** of them. This ratio seems roughly in line with previous years. There was no easily discerned pattern to the nature of errors or policy infractions.

TRENDS

Looking back on the year, the key themes that emerged are especially worthy of exploration because they will be all the more relevant in the year ahead, as CBC journalists grapple with how to cover this year's federal election. There are three particular themes I wish to highlight in this report: framing stories, balance over time, and the effects of social media.

| Framing Stories

Some issues covered in the news are straightforward. If a tornado destroys a house, the basic story is simply that the tornado destroyed the house. There may be subsequent questions to ask about building construction, or the quality of weather forecasting, or the effect of climate change, but the first “frame” of the story is simple and obvious. Otherwise, the reporting would feel unnatural, and its focus less clear.

For many issues, though, the choice of how to frame a story is neither obvious nor straightforward. Political stories, in particular, pose a challenge. In today's callously partisan environment, the frame of a reporter's story may not be seen as a way to give the work focus and clarity. Instead, it can feel to some as though the reporter is pursuing an agenda. When this happens, it undermines confidence - fairly or unfairly - in the journalist's impartiality and independence.

The political furor over how the federal government has handled the SNC-Lavalin case and the resignation from cabinet of Jody Wilson-Raybould is a perfect example of this effect. CBC's coverage generated dozens of complaints. What follows is an excerpt of a blog post I published this spring:

“With a federal election looming, CBC's audience is keenly attuned to the way this story has been covered. There is a recurring theme of complainants saying that the coverage is biased, though the question of HOW it's biased has been all over the map. I'll share a sliver of my correspondence on the subject.

There are some who feel the coverage has been biased toward the government:

“I demand that you instruct your reporters to stop pandering to the Liberals and give us perspectives that are truthful and objective...”

There are others who feel the coverage has been biased against the government:

“...your bias toward everything that comes out of JWR’s mouth as truth has tarnished the reputation of CBC...”

There are still others who feel the coverage is designed to replace the government:

“The CBC is a taxpayer funded public broadcaster, not an arm of the previous government or of the Conservative Party of Canada!!”

The point to be drawn is how much care needs to be taken each time reporters and editors write a headline, select an image, or invite guests to be part of a panel. They may seem like small decisions, but their impact on the perception of the audience can be enormous. During the election campaign, Canadians have a right to expect that their public broadcaster will make choices that reflect a variety of frames through which to examine the candidates and the issues.

Another example of how framing changes perspective was an online story published immediately after Brazil had elected a new president named Jair Bolsonaro last October. Bolsonaro’s election produced some echoes from the election of Donald Trump in the United States: fervent enthusiasm from his supporters and dire warnings about a looming dictatorship from his critics, who described him among other things as a misogynist, a racist, and a threat to the environment.

Among the stories CBC published in the aftermath of the vote was one intended to describe the impact of Bolsonaro’s free-market doctrine on Canadian businesses with interests in Brazil.

It is reasonable for CBC to provide that sort of analysis. Yet the framing of the article - especially how it was described by the CBC News Alerts Twitter account - left the impression that CBC's primary lens on the election of this highly controversial figure was the opportunity for Canadian companies to make a buck. It caused a visceral negative reaction on social media, and more formally in 144 complaints to my office. CBC News eventually posted an entry on its [Editor's Blog](#) to acknowledge its mistakes and defuse the controversy.

| Balance Over Time

One of the key principles laid out in CBC's Journalistic Standards and Practices is the notion of balance - the requirement to represent a wide range of relevant opinions on matters of public controversy. However, for issues which are complex or nuanced, it is impossible to include every perspective in a single story or program segment. Therefore, the JSP talks about offering these divergent views over a reasonable period of time.

Unsurprisingly, there can be divergent views over what constitutes balance, and what constitutes a reasonable period of time. This emerged as a theme in two areas that prompted a high number of complaints.

The first was CBC's coverage of events in Venezuela. CBC invested a considerable resource into this story, sending a crew to the region twice after having not been to Venezuela since 2013. Considering the scale of the troubles there, and the prominence of the issues at stake, that was heartening to see.

Complainants to my office, though, felt that CBC's sense of balance was askew in its coverage. They argued that by focusing on a growing movement against President Nicolás Maduro, and the international criticism of his regime by Canada and others, CBC was undermining Maduro's legitimacy and essentially supporting a campaign of regime change led by the U.S., likely in order to take control of Venezuela's vast oil reserves.

There were three separate reviews on Venezuela coverage over the course of the year. In each it was determined that CBC had adhered to policy, either by using credible sources, by accurately discerning between news and analysis, or by providing appropriate balance over time.

I wrote this in one of those reviews:

“...the ideas you and other complainants are seeking have been there in CBC’s coverage. Perhaps not to the extent that you prefer, and perhaps not with the emphasis that you believe to be correct - but they are there.

Canadian media organizations have an ongoing dilemma of how to provide thorough, thoughtful and relevant coverage of international issues - and to do so within whatever financial framework they face. They make decisions about when to go to a place like Venezuela, and what stories and angles to cover, and hope they are proven by history to be right.

I can’t see into the future to judge what will happen in Venezuela, nor to judge whether the coverage choices CBC programmers have made there are “right”. However, I can say in conducting this review that they are making appropriate efforts to be accurate, to be balanced, and to be impartial.”

Defenders of Nicolás Maduro were far from the only skeptics about CBC’s commitment to providing balance over time. The biggest letter-writing campaign of the year came from people supporting the rights of Canadian gun owners.

The incident that triggered their complaints was not even the work of CBC News. Rather, it was a decision made in late January by Radio-Canada International to remove an article published on its website that gun owners felt represented their views very well. RCI had decided that the article did not meet the standards of the JSP, in part because it was “incomplete.” Many gun owners responded by sharing to this office a list of CBC News stories relating to guns that they felt were incomplete and not in their favour. However one might judge the quality of any particular story on gun ownership or regulation, it is clear that CBC News has a challenge in convincing gun owners that their concerns are being represented fairly.

Journalists have a responsibility to resist giving false equivalence to views that obscure the truth rather than illuminate it. They should embrace as duty the need to identify clearly words and deeds which are false, or hateful.

At the same time, we expect them to be open to contrary views, and to treat balance not only as an obligation but as a shining badge of honour in CBC journalism. Perhaps there are proactive and transparent methods CBC News can devise to demonstrate how they provide balance over time on controversial issues, ranging from guns to immigration to health care. When addressed smartly, the combination of story framing and balance over time can help programmers succeed by allowing more Canadians to see themselves and their interests reflected in CBC's coverage.

| Social Media

The ability of a single tweet to undermine the reputation of a news organization is breathtaking. CBC's updated Journalistic Standards and Practices includes new sections on the use of social media, but new rules are merely one piece of the puzzle. On social media platforms there is a constant churn in how people communicate. There is a rush to judgement for any perceived faux pas, and there can be a challenge discerning which posts are authentic and which are the work of bots.

One of the year's biggest controversies involved a tweet by News Network presenter Natasha Fatah regarding the man who killed 10 people and injured 16 others on Toronto's Yonge Street. She had relayed that a witness on another broadcast outlet described the man as "wild eyed, angry and middle-eastern." Her tweet went viral, and even though she published subsequent tweets with different information, that initial tweet had more impact and generated an impressive backlash. My predecessor, Esther Enkin, wrote this:

"It underlies the challenges of using Twitter in a breaking story. It emphasizes the extremely low reliability of eyewitnesses - especially early in a breaking news story - and it is a cautionary reminder that CBC policy, which warns against stereotyping and the use of race descriptors in reporting, should be well understood by news staff.

CBC News managed to acknowledge the Tweet violated its standards, and I agreed:

- **If there was ever a time when race or ethnicity should be checked and rechecked, it is in these cases of random acts of violence.**

- **It is no accident that the tweet that described the perpetrator as “Middle Eastern” was shared significantly more than Ms. Fatah’s second tweet quoting an eyewitness who described him as “white.” Social media has become the weapon of choice for those who stereotype. It is not useful to hand them ammunition.”**

Another developing theme is a tendency for complainants to condemn CBC for failing to ban from its airwaves people who have expressed contentious or offensive opinions on social media. To varying degrees this has been a factor in concerns this office has received about appearances on CBC panels by Barbara Kay (who had offended many with remarks about gender identity) and more recently Rachel Curran (who had used Twitter to launch scathing personal attacks on Justin Trudeau).

External guests invited to discuss issues of the day on CBC are, quite properly, not subject to the requirements of the JSP. At the same time, the CBC does say something when it selects the commentators who appear on the airwaves of the public broadcaster. Management may want to establish protocols for programmers to help them handle similar situations in the future. One possible place to start would be setting an expectation that producers consider the social media feeds of prospective guests before extending an invitation to panellists or commentators.

More broadly, I encourage management to continue its dialogue with staff about appropriate use of social media. This includes not only how journalists should express themselves, but also how social platforms can be assessed as a source - or not - of useful information, or as a gauge of public opinion.

A recent New York Times article described a conference of U.S. journalists debating the best approaches for reporting on the next election in their country had this headline: **“How to Cover 2020: Assume Nothing and Beware of Twitter.”** That is succinct and sage advice as we approach our own election coverage in 2019.

OTHER ISSUES

| Story Selection

A considerable number of complaints come in criticizing something even more basic than how CBC covers stories, and that is which stories CBC chooses to tell. Essentially, these complaints are a critique of CBC's editorial priorities. Once again, this year, there were concerns expressed about the volume of coverage relating to Donald Trump and the U.S. political story. There were also people who stated - often in disturbingly visceral ways - the view that CBC focuses too much on issues relating to Indigenous people, Muslims, and the rights of refugees. In other cases, there were complaints about stories being undercovered, particularly climate change. This office also received more than 2,000 versions of a petition calling on CBC to stop producing "one-sided propaganda programs on assisted death" and instead air a documentary called The Euthanasia Deception.

As Ombudsman, I have no mandate to assess which stories editors and programmers decide to cover. Therefore, in most instances, these sort of complaints are simply shared with management. These are useful complaints, though, for managers to note, as they speak in their own way to questions people have about how well CBC adheres to the notions of fairness and balance.

| Non-Mandate Complaints

As noted, this office received 562 complaints this year which were unrelated to the mandate. Of those 271 - nearly half - were complaints about online comments being disabled. That is a considerable jump up from a year ago. I note that there has been an increase in the number of stories open for comments, and a corresponding increase in the volume of comments, so I'm not clear of the significance of the number. I have been told it may also relate to a design change on story pages - a button linking to Audience Services contact information was removed. Whatever the cause, I am struck by the passion that tends to characterize these complaints. They are frequently accompanied by an allegation that the reasons their comments were disabled can only be explained by partisan bias on the part of the CBC.

| JSP Training

When CBC unveiled the latest version of its Journalistic Standards and Practices in 2018, it launched a training program for its journalists. (Full disclosure: at the time I worked for CBC News and was a key player in both the update and the training). I would strongly encourage that such training be ongoing. Public trust is fragile, to put it mildly.

It is impossible to overstate the value of providing more employees with deeper understanding of the bedrock values and principles behind public service journalism. This applies to rookies and veterans alike in the corporation's newsrooms. It also applies to some of the program areas not deemed as journalistic, because that distinction can be lost on the audience.

CONCLUSION

CBC is fortunate to have journalists and managers who embrace their role as providers of public service journalism. That commitment will be more important than ever between now and the time of the federal election. I wish to emphasize this, but not because I foresee failure. Rather, it stems from the belief that at a time where misinformation and mistrust are so prevalent, CBC journalism, when done well, can make such an important contribution to Canadian discourse. This country needs a journalistic organization dedicated to the public interest, free of commercial or partisan influence. An organization that is transparent and accountable. An organization that lives up to the five foundational principles outlined in the JSP - Accuracy. Fairness. Balance. Impartiality. Integrity. Adhering to these principles leads to the best possible outcome: offering citizens reliable information and context so that they can make up their own minds on what arguments are persuasive, and how they can best participate in the democratic process.

As for my own process, I have so many people to thank. It begins with Esther Enkin. Beyond setting a high standard as my predecessor in this office, she made my transition as easy as possible, assisting me through the first weeks of my mandate with advice, insight and empathy.

Similarly, my colleague at French Services, Guy Gendron, and his assistant Laure Simonet, have already made themselves indispensable to me. Their intelligence, warmth, and openness to discuss and debate gives me great confidence.

CBC News management under the leadership of Jennifer McGuire continues to accord this office, and this process, appropriate respect and attention. They have pledged to ensure that responses to complaints are timely, and I look forward to an ongoing productive working relationship. The remainder of the Senior Executive Team, in particular President and CEO Catherine Tait, have been thoroughly supportive as well.

I have nothing but gratitude for my executive assistant, Teresa Batista. Her organization, wit and professionalism contribute mightily to whatever success I might have. I also owe thanks to Laura Marshall, who filled in for Teresa during my first couple of weeks on the job. The only drawback to having such high-quality support is that if there are ever failures in the functioning of this office, it will be difficult to pin the blame on anyone but me.

Jack Nagler
Ombudsman, English Services

NUMBER OF COMMUNICATIONS RECEIVED

	INFORMATION PROGRAMMING	GENERAL PROGRAMS/ OTHER	TOTAL	REVIEWED	REVIEW UNDER WAY/CARRIED OVER
2018-19	3,131	562	3,693	79	9
2017-18	3,185 (+2,145 petition on assisted death/redress)	884	4,069	76	11
2016-17	2,162	1,008	3,170	68	8
2015-16	1859	923	2782	61	1
2014-15	1706	1171	2877	70	4
2013-14	1671	1225	2896	68	3

OMBUDSMAN'S MANDATE

Recommendation for modification by Jennifer McGuire and Luce Julien – February 27, 2019:

| Principles

CBC-Radio-Canada is fully committed to maintaining accuracy, fairness, balance, impartiality and integrity in its journalism, as expressed in its unique code of ethics and practice, the Journalistic Standards and Practices. Our journalistic mission is to inform, to reveal, to contribute to the understanding of issues of public interest and to encourage citizens to participate in our free and democratic society. We base our credibility on fulfilling that mission through adherence to the values, principles and practices laid out in the Journalistic Standards and Practices.

The Ombudsman is completely independent of CBC program staff and management, reporting directly to the President of CBC and, through the President, to the Corporation's Board of Directors.

| Mandate

The Ombudsman acts as an appeal authority for complainants who are dissatisfied with responses from CBC information or program management.

The Ombudsman generally intervenes only when a correspondent deems a response from a representative of the Corporation unsatisfactory and so informs the Office of the Ombudsman. However, the Ombudsman may also intervene when the Corporation fails to respond to a complaint within a reasonable time.

The Ombudsman determines whether the journalistic process or the broadcast involved in the complaint did, in fact, violate the Corporation's Journalistic Standards and Practices. The gathering of facts is a non-judicial process and the Ombudsman does not examine the civil liability of the Corporation or its journalists. The Ombudsman informs the complainant and the staff and management concerned of the review's findings and posts such findings on the Ombudsman's website.

As necessary, the Ombudsman identifies major public concerns as gleaned from complaints received by the Office and advises CBC management and journalists accordingly. The Ombudsman and CBC management may agree that the Ombudsman undertake periodic studies on overall coverage of specific issues when it is felt there may be a problem and will advise CBC management and journalists of the results of such studies.

The Ombudsman establishes a central registry of complaints and comments regarding information content, and alerts journalists and managers on a regular basis to issues that are causing public concern.

The Ombudsman prepares and presents an annual report to the President and the Board of Directors of the Corporation summarizing how complaints were dealt with and reviewing the main issues handled by the Office of the Ombudsman in the previous year. The report includes mention of the actions, if any, taken by management as a result of the Ombudsman's findings, provided such disclosure does not contravene applicable laws, regulations or collective agreements. The annual report, or a summary thereof, is made public.

The Office of the Ombudsman reports annually on how each media component has met the CBC standard of service for the expeditious handling of complaints.

| Compliance

The Office of the Ombudsman is responsible for evaluating compliance with the Journalistic Standards and Practices in all content under its jurisdiction. It can be assisted in this role by independent advice panels.

Panel members are chosen by the Ombudsman. Their mandate is to assess content over a period of time, or the overall coverage of a particular issue by many programs, and report their findings to the Ombudsman. The Ombudsman will advise CBC management and journalists of these findings.

The evaluation measures performance in respecting the fundamental principles of CBC journalism.

All employees of CBC News, as well as the content they create, and employees of Local Services, Radio Talk information programming, or any service involved in the creation of news, current affairs and public affairs content must respect all of the principles of the Journalistic Standards and Practices namely:

- o **Accuracy, fairness, balance, impartiality and integrity.**

With the exception of fiction and comedy, content produced by other employees which touches on politics, social issues, economics, cultural issues, scientific issues or sports – particularly if the issues are controversial – must respect the following principles :

- o **Accuracy, fairness and balance.**

User-generated content, when incorporated into information programming, must conform with the principles of the Journalistic Standards and Practices.

Moreover, in an election or referendum period, the Journalistic Standards and Practices applies to all content related to the campaign, parties or candidates that is broadcast and published by the CBC, regardless of the department concerned.

The JSP applies to all news, current affairs and public affairs content commissioned by CBC and produced by third parties.

The Office reports bi-annually.

| **Jurisdiction**

The jurisdiction of the Office of the Ombudsman covers all content, produced for radio, television or the internet (including social media used by CBC) that falls within the scope of the Journalistic Standards and Practices.

Complaints beyond the Ombudsman's mandate should be addressed directly to the programs concerned, or [Audience Relations](#).

| Appointment

When filling the Ombudsman's position, the CBC openly seeks candidates from outside as well as inside the Corporation.

After appropriate consultation, the President and CEO establish a selection committee of four. Two members, including the committee chair, must be from the public. People currently employed by the Corporation or employed by the Corporation within the previous three years will be excluded from nomination as public members. The other committee members are chosen, one among CBC management, the other among its working journalists. Members representing the Corporation and journalists jointly select the committee chair among the two representatives of the public.

The selection committee examines applications and selects a candidate to be recommended for appointment by the President and CEO.

The Ombudsman appointment is for a term of five years. This term may be extended for no more than five additional years. The Ombudsman's contract cannot be terminated except for gross misconduct or in instances where the Ombudsman's actions have been found to be inconsistent with the Corporation's Code of Conduct Policy 2.2.21.

The outgoing Ombudsman may not occupy any other position at the CBC for a period of two years following the end of his/her term but can, at the discretion of the incoming Ombudsman, be contracted to work for the Office of the Ombudsman.

Office of the Ombudsman



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