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**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL COUNCIL**

The Comedy Network re *Dream On* (*Martin Tupper in "Magnum Farce"*)

(CBSC Decision 97/98-1181)

Decided February 3, 1999

A. MacKay (Chair), R. Stanbury (Vice-Chair), R. Cohen (*ad hoc*), P. Fockler,  
M. Hogarth and M. Ziniak

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## **THE FACTS**

*Dream On* is a half-hour situation comedy which is more risqué than most conventional network television fare. It airs most weeknights at 9:30 p.m. on The Comedy Network. The episode which aired on May 12, 1998, was titled "Martin Tupper in Magnum Farce", after the main protagonist of *Dream On*, publishing house editor Martin Tupper. In the episode in question, one of Martin's authors seeks revenge on her husband for having had an affair by having sex with Martin and this sets off a chain reaction of "revenge by sex".

As might be expected by the nature of the storyline, the episode was replete with sexual content. The sexually suggestive and/or explicit scenes involve Martin and his girlfriend, then the author and Martin, then Martin's girlfriend and the author's husband. The scenes included some nudity: partial frontal views which showed a woman's breasts and a full side view of a naked woman.

As with previous episodes of *Dream On* reviewed by the Council, the Council notes that a viewer advisory preceded the episode in question. The advisory stated "The following program may contain material that some viewers may find offensive." The episode was also rated "18+" and an on-screen icon to that effect appeared at the beginning of the episode.

## **The Letter of Complaint**

On May 28, a viewer wrote to the Secretary General of the CRTC stating that:

Last evening on The Comedy Network, at 9:30pm, there was a show on called *Dream On*. Not being familiar with this program I watched to see what it was about. Within 1 minute of viewing the man and woman on the screen were undressed, completely and the woman was sitting on top of the man's hips having sexual intercourse! I was so shocked I turned to another station and tried to collect myself, but decided to turn back to see just how far and how long this would go on. When I turned back the woman was full frontal close-up nude, getting dressed. Again shocked I turned away but getting angry now turned back to see what else they had to offer. Now there are more people on the screen and they are all using the f--- word back and forth. Well I had certainly seen and heard enough by this time and shut it off. I was so upset I could hardly sleep. It is unbelievable that shows like this are even broadcast on Canada's cable TV, but at the very least they should be on after midnight when most unsuspecting morally conscious people and innocent children are more apt to be in bed. I control the TV programs my children watch but there certainly could be an occasion when they are still up at 9:30 at night. Certainly my 13 year old who lives alone with his Dad, has a TV in his room and I know he watches The Comedy Network at times and it makes me absolutely sick to my stomach that he may have watched that show last night. There are lots of kids out there that are in the same situation. The Networks and the CRTC have to be more responsible. The kids that are out there that don't have parents making sure that what they are watching on TV is not harmful are being damaged even more by television!

I hope that this will be looked after quickly. I have already spoke to The Comedy Network and their initial response was that 9:30 is an adult time slot and they don't consider that show to have been x-rated material. I am hoping my letter will convince them they are wrong.

I also hope that the CRTC can do something about preventing any other shows that might have this sort of content from being aired (such as some things on the Teletoon Network but at least they were on at a much later hour). What about having a rating on the screen the whole time the show is on if it is a restricted subject matter. Why are these sorts of shows on mainstream cable TV anyway? But certainly no show, with content even near what *Dream On* contains should be on before midnight if at all but certainly not 9:30pm!

In the normal course, this complaint was forwarded by the CRTC to the CBSC to be dealt with in accordance with the Council's customary procedures.

### **The Broadcaster's Response**

The Vice President of Programming at The Comedy Network replied to the complainant on June 5, in the following terms:

We have received your letter of May 13, together with a copy of your letter of the same date to the Canadian Radio-television and Telecommunications Commission (CRTC) and the Canadian Broadcast Standards Council (CBSC) regarding the program "Dream On" which aired on The Comedy Network on May 12, 1998.

From the beginning, The Comedy Network has set out to present a program schedule that is adult, irreverent and alternative to much of the mainstream comedy that is available on conventional broadcasters. As a consequence, our programming tends to be more risqué and controversial.

As you may be aware, 9:00pm is generally accepted as the watershed in prime time where adult material appears. After 9:00pm, broadcasters may present programming which portrays

adult situations and explicit language. Such programming usually includes an advisory at the beginning of the show which alerts audiences to material which may be offensive to some viewers. Such is the case with this program.

In addition, all Canadian broadcasters have adopted a comprehensive classification system to provide guidance to audiences regarding program content on such matters as violence, language, nudity, sexuality and/or mature themes. All of our programs utilize this ratings system and specifically, after 9pm, a number of shows use the "18+" icon which advises viewers that the program may contain graphic language and element intended for adult audiences. The "18+" icon was used on this program, in addition to our program disclaimer and voice-over advisory at the top of the show.

Further, The Comedy Network provides two separate program feeds of our schedule - one Eastern Time and one Pacific - in consideration of the various time zones across Canada and the program context being transmitted.

Nevertheless, the opinions of our viewers are of concern to us. We compile viewer feedback and consider trends and suggestions. We are interested in understanding what our audience likes and dislikes. We make our programming choices or adjustments with this knowledge in mind.

With regard to your specific concern, I regret that the program offended you. Reactions to comedic material are subjective and what one person finds offensive, others do not.

In conclusion, I again regret that the program offended you, but I hope that you may find entertainment value in some of the other programs in our telecast schedule.

The complainant was unsatisfied with the broadcaster's response and requested, on June 16, that the CBSC refer the matter to the appropriate Regional Council for adjudication. With her request, the complainant added a brief note addressed to the CBSC which further explained her position.

Thank you for your swift response to my complaint. In this day and age of 'anything goes' there certainly must be a lot of letters you are receiving bemoaning our country's moral decay.

I would just like to add along with the ruling request that this particular show *Dream On* is in no way normal 'adult' viewing. I reiterate the one show I saw was what I would consider to be x-rated and has no place on television before 11:00pm. I also would like the Council to consider having a viewer advisory visible on the screen for the entire program for people who have tuned in after the beginning of the show. I hope that you will consider my recommendation so that people are not exposed to something that they do not want to see.

I am sure that once you view this particular show I am bringing your attention to, you will agree that it is unsuitable in that time slot and I thank you in advance for your very careful attention in this matter. I will look forward to hearing back from you.

## THE DECISION

The CBSC's Ontario Regional Council considered the complaint under the *Sex-Role Portrayal Code* and the *Violence Code*. The relevant clauses of those Codes read as follows:

### *Sex-Role Portrayal Code*, Clause 4 (Exploitation)

Television and radio programming shall refrain from the exploitation of women, men and children. Negative or degrading comments on the role and nature of women, men or children in society shall be avoided. Modes of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex. The sexualization of children through dress or behaviour is not acceptable.

Guidance: "Sex-ploitation" through dress is one area in which the sexes have traditionally differed, with more women portrayed in scant clothing and alluring postures.

### *Violence Code*, Clause 3 (Scheduling)

#### 3.1 Programming

- 3.1.1 Programming which contains scenes of violence intended for adult audiences shall not be telecast before the late evening viewing period, defined as 9 pm to 6 am.
- 3.1.2 Accepting that there are older children watching television after 9 pm, broadcasters shall adhere to the provisions of article 5.1 below (viewer advisories), enabling parents to make an informed decision as to the suitability of the programming for their family members.
- 3.1.3 In order to provide viewers with the benefit of Canadian program classification and viewer advisories not available on foreign distant signals, broadcasters who have CRTC-permitted substitution rights over programming which is imported into their markets before the late evening viewing period, may employ substitution, notwithstanding article 3.1.1.
- 3.1.4 Broadcasters shall exercise discretion in employing substitution in accordance with article 3.1.3 and shall at no time avail themselves of substitution rights over programming which contains gratuitous violence in any form or which sanctions, promotes or glamorizes violence.
- 3.1.5 Broadcasters shall take special precautions to advise viewers of the content of programming intended for adult audiences which is telecast before 9 pm in accordance with article 3.1.3.

(Note: To accommodate the reality of time zone differences, and Canadian distant signal importation, these guidelines shall be applied to the time zone in which the signal originates.)

- 3.2 Promotional material which contains scenes of violence intended for adult audiences shall not be telecast before 9 pm.

- 3.3 Advertisements which contain scenes of violence intended for adult audiences, such as those for theatrically presented feature films, shall not be telecast before 9 pm.

#### *Violence Code, Clause 4 (Classification)*

Canadian broadcasters are in the process of co-operatively developing with other segments of the industry, a viewer-friendly classification system, which will provide guidelines on content and the intended audience for programming.

Once complete, the classification system shall complement this Voluntary Code. As it is recognized that a classification system will have a bearing on program scheduling, the provisions of article 3.0 above shall be reviewed at that time.

#### *Violence Code, Clause 5 (Viewer Advisories)*

- 5.1 To assist consumers in making their viewing choices, broadcasters shall provide a viewer advisory, at the beginning of, and during the first hour of programming telecast in late evening hours which contains scenes of violence intended for adult audiences.

The Regional Council members viewed a tape of the program in question and reviewed all of the correspondence. The Council considers that the program in question does not violate any of the Code provisions mentioned above.

### **The Content of the Program**

The Council notes that it has previously dealt with the “mature” content of another episode of *Dream On* in The Comedy Network re *Dream On* (CBSC Decision 97/98-0571, July 28, 1998). In that case, the complaint, similarly to this one, dealt with sexually explicit content. While the scenes in *this* episode are somewhat more graphic than those dealt with in the previous decision, the Council finds that the rationale underlying *that* decision also applies in this case. Accordingly, the Council considers it appropriate to quote at length from that decision:

The Ontario Regional Council recognizes that *Dream On* is a comedy intended for adult audiences. By broadcasting the show in a 9:30 p.m. time slot, it is clear that the program is not marketed to children. This is a reason for the creation of the watershed hour in the first place, namely, the differentiation of programming which *precedes* the 9:00 p.m. watershed hour from that which *follows* the watershed. After 42 years of Canadian experience with the watershed (which has become used by broadcasters as the border between programming destined for the family and programming intended for adults, even beyond the originally intended concern for programming containing violent material suitable for adult audiences), members of the public have had much opportunity to become familiar with the heads-up provided by the arrival of 9:00 p.m. That being said, the Council understands that some children may, despite reasonable efforts by concerned parents, tune in to the show, whether advertently or inadvertently. This does not mean, however, that no programming considered inappropriate for children can be broadcast because of that risk. It is one of the costs associated with the rapid advance of the communications industry, whether on television, via

the Internet or otherwise. The major steps taken by broadcasters to put systems in place to assist with parental vigilance, such as the broadcast Codes, the watershed, the classification system, on-screen icons, viewer advisories and the coming V-chip technology, set Canada far ahead of most Western countries in this area.

On the other hand, the Council must take into account the apparently (in this case) countervailing requirement laid down in the fundamental legislative expression of the will of the Parliament of Canada, namely, the *Broadcasting Act*. As stated in *CIII-TV (Global Television) re Before It's Too Late* (CBSC Decision 95/96-0172, October 21, 1996),

Canadian broadcasters are *required* to offer a diversity of programming to meet the needs and desires of all Canadian men, women and children. The *Broadcasting Act* provides that, as part of the broadcasting policy for Canada

(i) the programming provided by the Canadian broadcasting system should

(i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes.

The Council notes that specialty programming services play an important role, service by service, in the provision of diverse programming to Canadian audiences.

A similar point was made by the Quebec Regional Council in *CFJP-TV (TQS) re Été sensuel* (CBSC Decision 95/96-0233, August 14, 1998). In that decision which dealt with an erotic film aired under TQS's late-night series titled *Bleu Nuit*, the Quebec Regional Council confirmed Canadian private broadcasters' right to cater to the tastes of *some* members of its audience with programming which might be offensive to others.

The Quebec Regional Council takes no issue with the assertion by the complainant that the film in question is an erotic film. ... If there is no breach of a Code (or, of course, the *Broadcasting Act* or Regulations or other laws of the land), the broadcaster is *entitled* to put the film on its airwaves. In a world which has become increasingly oriented toward niche broadcasting, any station or network appreciates that its choices will never appeal to *everyone*. This does not mean that such choices should not be made but only that, in making such choices, the broadcaster knows that only some, but not all, of the public will be pleased. It goes without saying that the broadcaster hopes always to make the correct choices but, where no Code is breached, the viewer is always free to go elsewhere. That is, in the end, the viewer's only option and it is, from society's perspective, a fair option, provided that society's codified values have not been breached.

The Council has no hesitation in concluding that such programming as *Dream On* has a place on Canadian television. In this case, the Ontario Regional Council does not consider that any provisions of the Codes administered by the CBSC has been breached by the Comedy Network, and, accordingly, is of the view that the broadcaster did not err in broadcasting the episodes of *Dream On* in question.

The Ontario Regional Council does not consider that it is necessary to add to its comments in the earlier decision on the same subject since there is nothing so different in the sexual situations depicted in this episode of the series that would justify further explanation.

### **Broadcaster Responsiveness**

In addition to assessing the relevance of the Codes to the complaint, the CBSC always assesses the *responsiveness* of the broadcaster to the substance of the complaint. In this case, the Council considers that the broadcaster's response addressed fully and fairly all the issues raised by the complainant. Consequently, the broadcaster has not breached the Council's standard of responsiveness. Nothing more is required.

*This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.*