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**CANADIAN BROADCAST STANDARDS COUNCIL  
NATIONAL SPECIALTY SERVICES PANEL**

Showcase Television re the movie *Police 10-07*

(CBSC Decision 00/01-0613)

Decided January 16, 2002

R. Cohen (Chair), P. O'Neill (Vice Chair), S. Crawford (Vice Chair),  
H. Pawley, E. Duffy-MacLean

Since R. Cugini, who customarily sits on this Panel, is employed by the corporate group that also owns the broadcaster in question, she did not participate in the resolution of this matter.

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**THE FACTS**

The feature film crime drama *Police 10-07* aired on the specialty service Showcase on January 14, 2001 from 7:00 pm to 9:00 pm EST. The movie follows the Montréal police squad in its investigation of the serial killing of homosexual men by a method known as auto-erotic strangulation. It contains some threatening scenes, some scenes involving violent activity and other scenes showing the results of off-screen violence.

The program carried a classification rating of 14+ and was preceded by a viewer advisory in both audio and visual form: "The following program contains scenes of violence and coarse language. Viewer discretion is advised." Viewer advisories did not appear again until the end of the two final commercial breaks. On those occasions, the advisory was only in audio form: "*The Showcase Revue* continues. Viewer discretion is advised."

The CBSC received a complaint dated January 21. While the complainant did not know the title of the program, she provided the following information (the full text of the letter can be found in the Appendix):

This is the first complaint letter I have written so you know that I'm really upset.

On Sunday January 14<sup>th</sup>, between 6 and 8:30 P.M., I saw something on T.V. that caused me to almost throw up on my living room floor. I was switching channels to find something to

watch. I saw a young man enter a living room, and a minute later commit suicide in a very graphic way. I had stopped on the Showcase channel. This scene was totally unexpected.

Why are suicides allowed on the T.V. at this very early time? And all kinds of other garbage. People don't want to see this stuff, or children see it [*sic*]. Put it on after midnight, if at all.

I contacted Roger's cable & complained. I tried several times to get someone at the Showcase station to complain to; but was unable to. (Makes me think they get a lot of unhappy viewers phoning.)

A representative of the broadcaster responded to the complainant's letter on March 6 in the following terms (she did not identify the specific program):

We are in receipt of your letter to the CRTC, which was forwarded to us by the Canadian Broadcast Standards Council. We regret that you are offended by our programming that you viewed between the hours of 6 p.m. and 8:30 p.m. on January 14. We are unable to identify which program you were watching but would like to take this opportunity to explain a little bit about Showcase and its programming policy.

Showcase is a Canadian specialty channel owned and operated by Alliance Atlantis Communications Inc. in Toronto. Showcase has been on the air since 1994 and ranks as the third most-watched specialty channel in Canada. Showcase's programming mandate is to offer an alternative to other broadcasters' offerings. One way that we have achieved this distinction is to broadcast high-quality, international drama series and world-class films in our late night movie timeslot *The Showcase Revue*.

While Showcase is proud to broadcast a wide range of films, it is our policy to carefully consider each film that is aired on the network. Before we decide to broadcast a film, our Programming Department screens it to ensure that it is suitable for broadcast. The determination of suitability includes ensuring that the broadcast would not contravene applicable broadcast laws and industry codes including, but not limited to, the Canadian Association of Broadcasters (CAB) Code of Ethics, the CAB "Sex-Role Portrayal Code for Television and Radio Programming", and the "Voluntary Code Regarding Violence in Television Programming."

In order to assist our viewers in making their viewing choices, we run a viewer advisory before our films and after each commercial break indicating whether they contain scenes of violence, nudity and/or coarse language. In addition, Showcase complies with the new program classification system developed by the Action Group on Violence on Television to give Canadian parents the most advanced control system in the world. This six-level rating system is used to classify any levels of violence, language or sex/nudity in all drama, feature film and children's programming broadcast in Canada.

We are also concerned with the content of shows broadcast during hours when children may be watching. Once we have decided to broadcast a program, our Programming Department schedules it at the most suitable time. For example, we air series and films that contain scenes of violence or have content intended for adult audiences after 9 p.m.. according to these codes.

It is certainly not our intention to offend our viewers but to introduce them to the wealth of unique, high-quality drama from Canada and around the world. Not all shows will suit all tastes, but we have tried to construct the Showcase schedule to deliver something for everyone.

Thank you for taking the time to voice your opinion. We do appreciate feedback and hope that this letter has addressed your concerns.

The CBSC received the complainant's Ruling Request and attached letter on March 15:

I was not satisfied with Alliance Atlantis' reply. They state they were "unable to identify which program I was watching" between 6 pm and 8:30 pm on Jan 14/01. I was very clear in my time and in the graphic detail I noted in my letter. They were, however, able to note that they felt they were not in violation of the "Voluntary Code Regarding Violence in Television Programming." I hope this is not the case as the violence I saw was very obvious and disturbing to me as an adult.

One other thing bothered me in their reply. They state "We are also concerned with the shows broadcast during hours when children may be watching and "air series and films that contain scenes of violence or have content intended for adult audiences after 9 pm according to these codes." What I viewed was an obvious omission on their part.

I hope this explains why I am continuing with this complaint.

## THE DECISION

The National Specialty Services Panel Adjudicators considered the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Violence Code*:

### Article 1.0 (Content)

1.1 Canadian broadcasters shall not air programming which:

- ! contains gratuitous violence in any form\*
- ! sanctions, promotes or glamorizes violence

(\*"Gratuitous" means material which does not play an integral role in developing the plot, character or theme of the material as a whole).

### Article 3 (Scheduling)

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.

### Article 4 (Classification System)

14+

#### Descriptive

This programming, while intended for a general audience, may not be suitable for younger children (under the age of 8). Parents/guardians should be aware that there might be content elements which some could consider inappropriate for unsupervised viewing by children in the 8-13 age range.

Programming within this classification might address controversial themes or issues. Cognizant that pre-teens and early teens could be part of this viewing group, particular care must be taken not to encourage imitational behaviour, and consequences of violent actions shall not be minimized.

#### Violence Guidelines

- < any depiction of conflict and/or aggression will be limited and moderate; it might include physical, fantasy, or supernatural violence.
- < any such depictions should not be pervasive, and must be justified within the context of theme, storyline or character development.

#### Other Content Guidelines

- Language: might contain infrequent and mild profanity  
might contain mildly suggestive language
- Sex/Nudity: could possibly contain brief scenes of nudity  
might have limited and discreet sexual references or content when appropriate to the storyline or theme

### Article 5 (Viewer Advisories)

- 5.2 Broadcasters shall provide a viewer advisory at the beginning of, and during programming telecast outside of late evening hours, which contains scenes of violence not suitable for children.

The Adjudicators viewed a tape of the broadcast in question and reviewed all of the correspondence. The National Specialty Services Panel determined that the film neither contained gratuitous violence nor promoted, sanctioned or glamorized violence. While it did not find that the program contained scenes intended exclusively for adult audiences, the Panel did consider that certain scenes were unsuitable for children. Although it follows that the broadcaster was not required to air the program after 9:00 pm, Showcase was subject to the strict advisory provision set out in Article 5.2 of the *CAB Violence Code*. The Panel also determined that the film was appropriately rated as 14+.

### **Gratuitous Violence**

The CBSC has occasionally reviewed the question of gratuitous violence in the course of its decisions but has only once determined that a film (*Strange Days*) broadcast by a member was thus afflicted. In a prior decision, namely *CITY-TV re Silence of the Lambs* (CBSC Decision 94/95-0120, August 18, 1995), the Ontario Regional Panel reviewed the criteria applicable in the resolution of such matters and provided what remains the definitive understanding of the term:

Gratuitous violence is defined by the Code as being “material which does not play an integral role in developing the plot, character or theme of the material as a whole.” Where, in other words, a program includes scenes of violence which are unnecessary to the progress of the story, which do not drive the plot forward, which play no role in the development or definition

of the characters and are clearly serving a sensationalistic purpose, that program will be seen to contain gratuitous violence.

Then, applying these principles in *CHCH-TV re the movie Strange Days* (CBSC Decision 98/99-0043 and 0075, February 3, 1999), the Ontario Panel explained:

Accepting that the Code has set limits on the depiction of violence which can be included in the televised version of a feature film, where use of the public airwaves is in question, the Council must decide what these limits are from case to case. In applying the foregoing principles to the televised version of *Strange Days*, the Council acknowledges that much of the considerable violence in the film is ambient, providing the evidence of the decaying and violent city of Los Angeles at the projected turning of the millennium. Some of that violence, particularly the not infrequent fights involving Lenny Nero, the film's Playback peddler hero, is rather tongue-in-cheek. The one scene, though, which has most troubled the Council is the gruesome strangulation and rape of a woman which, in its length and graphic presentation, exceeded *in the television context* what may have been necessary to advance the plot. Whether the scene should have been as long (or longer) in the theatrical version is not at issue. For the television version, measured against industry Codes, it is the view of the Council that it could have been edited without sacrificing any artistic integrity, and ought to have been edited in order to be long enough to make its point but not so long as to amount to violence for violence's sake.

It concluded that the violence was gratuitous (and was exacerbated by the perpetuation of the link between women as victims of violence and women in a sexual context).

In the matter at hand, the program's plot involves the investigation of a series of murders of homosexual men. Some of the murders involve unconventional methods, such as asphyxiation with a plastic bag and aerosol can. While the Panel expressed concern about children viewing such scenes, it determined that they were integral to the development of the plot and did not amount to violence for violence's sake, which removes them from consideration as *gratuitous* violence.

It should also be noted that the CBSC has previously ruled that the depiction of a crime does not necessarily promote or glamorize the act. In *CTV re Complex of Fear* (CBSC Decision 94/95-0022, August 18, 1995), the Ontario Regional Panel dealt with a movie that told the apparently true story of a series of rapes in an apartment complex:

The Regional Council noted four rape scenes in the film. While any scene depicting rape is necessarily awful, the members remarked that no scene lasted more than several seconds, none depicted the actual rape, and none glamourized the rape. In fact, scenes following the rapes depicted the *consequences* of the rape: the shock and despair of the victims as they related the event to the police; the occasional refusal of police to accept the characterization of the event as a rape; victims' self-doubt as to blame for the occurrence; the imputed role of previous victim behaviour as a contributing factor; and so on.

In no way did these scenes encourage or glorify violence against women. While the film dealt with a form of crime that is defined by violence against women, the film itself did not depict gratuitous, or unnecessary, violence against women. In other words, the Council affirmed that a film *about* rape does not necessarily *condone* rape.

Likewise, although some of the crimes in *Police 10-07* are disturbing in their conception and realization, their presence in the movie does not in and of itself amount to the promotion of such acts.

The Panel also noted that in many instances, viewers saw the crime scenes only *after* the murder had been committed. Even if one can readily acknowledge that images of dead bodies are unpleasant (and viewers inevitably assume what went before), one cannot conclude that such scenes themselves *depict* violence. In *CIHF-TV re an episode of Millennium* (CBSC Decision 96/97-0044, February 14, 1997), the Atlantic Regional Panel dealt with a drama about a serial killer. The Panel made the following comments:

[T]he scenes complained of do not generally show the occurrence of violent acts as much as they do the *results* of the violent acts and, at that, the violence is not overplayed. There is also violent *imagery* and effective editing which give rise to fear, if not terror, on the part of the viewer. These are a part of a genre which is aimed at adult audiences but which does not *per se* fall afoul of the interdiction against gratuitous violence.

*Police 10-07* can be characterized in much the same way. The film's theme and brief scenes of violence and its effects are disturbing, but highly relevant to the plot and thus not gratuitous.

### **Scenes of Violence Intended for Adult Audiences**

The Panel concluded that the film contained mature themes; however, it did not consider that the scenes of violence and its effects were sufficiently numerous or graphic to require that the film *only* be broadcast after 9:00 pm. As the Ontario Regional Panel stated in *CFMT-TV re an episode of The Simpsons* (CBSC Decision 94/95-0082, August 18, 1995), in dealing with the Watershed hour,

There has been a tendency, since the introduction of the 9:00 pm watershed hour for everyone to treat that moment as the Great Divide. The community has tended to consider that *all* post-watershed programming falls into the "adults only" category and that *all* pre-watershed programming falls into the "suitable for *everyone*, including *young* children" category. Neither generalization is wholly accurate.

The watershed hour is *only* the hour before which no programming containing scenes of violence intended for adult audiences may be shown.

[...]

This practice ought not to lead the Canadian public to conclude that *any* programming aired before 9 pm is, *by that fact alone*, suitable for *all* members of their families, whatever their age. That would be true of programming intended for young children (below 12 years of age), which airs in a different time slot, but material broadcast in the early evening falls within "the rich broadcasting fare" mentioned above and should be vetted by parents as to its suitability in *their* homes.

The Ontario Regional Panel also dealt with whether a broadcast contained scenes of violence “intended for adult audiences” in *CKCO-TV re Kazan* (CBSC Decision 96/97-0226, February 20, 1998). The decision concerned a Sunday matinée movie which told the story of Kazan, a canine, part dog/part wolf, whose challenge was to decide whether he belonged in the wilderness or in the company of humans. The movie included scenes depicting the strangulation of a man, as well as the beating, shooting and near drowning of Kazan. The Council found that none of these scenes of violence could be described as “intended for adult audiences”.

The Council does not consider that the scenes of violence contained in *Kazan* are of such a nature as to be intended for adult audiences only, although they contain more violent elements than do the scenes contained in *Before It's Too Late* and in the episode of *Matrix* considered by the Council. While it is difficult to propose any cut-and-dried formula to apply in coming to any such conclusion, the Council does consider that the presence of the combined elements of fear, suspense, gore and explicitness may help characterize programming containing scenes of violence as *adult*. The Council notes that the scenes of violence in the movie *Kazan* were short and often obscured to limit their scariness. The Council finds that, overall, the movie was very tame; in the Council's view, the few scenes of violence do not negate this characterization. Given the viewer advisories which preceded the broadcast of the movie and were repeated during the first commercial break, the Council is comfortable with CKCO-TV's scheduling of the movie *Kazan* at 1 p.m.

The National Specialty Services Panel concludes that the content and themes found in *Police 10-07* are not suitable for young children; however, it must not be forgotten that not *all* broadcasting fare airing before 9:00 pm is appropriate for *all* audience age groups.

The Panel is also of the view that *Police 10-07* was appropriately rated as 14+. As indicated above, the 14+ category allows for mature themes and societal issues; violence as a dominant element of the storyline; and scenes of intense violence. The description of this category clearly cautions parents to exercise discretion in permitting viewing by young people without adult supervision.

## **Viewer Advisories**

The viewer advisory requirements for broadcasters in dealing with pre-Watershed and post-Watershed programming differ. In the case of programming intended for adults (and airing in its post-9:00 pm time slot), viewer advisories must be broadcast at the start of the show and coming out of each commercial break for the first hour of the broadcast. Where a program is appropriately scheduled for pre-Watershed airing but the violent material in it can be understood as inappropriate for children, the broadcaster must include viewer advisories at the start of the film and coming out of *every* commercial break. As the Quebec Regional Panel concluded in *TQS re the movie L'inconnu (Never Talk to Strangers)* (CBSC Decision 98/99-0176, June 23, 1999), the broadcaster's provision of viewer advisories was inadequate (the movie had aired at 7:30 pm):

Given that the movie was broadcast outside of late evening hours, it is subject to the requirements of Clause 5.2 of the *Violence Code* which states that “broadcasters shall provide a viewer advisory *at the beginning of, and during* programming telecast outside of late evening hours, which contains scenes of violence not suitable for children [Emphasis added]”. To fully appreciate the meaning of the emphasized words, one must consider the requirement of Clause 5.1, which requires the viewer advisories be provided “at the beginning of, and during the first hour of programming telecast in late evening hours [i.e. post-watershed]” which contains elements of violence intended for adult audiences. In the Council’s view, the effect of these provisions is that the broadcaster must provide viewer advisories during the full length of a pre-watershed program which contains violent scenes “not suitable for children.” If the codifiers had intended that advisories be limited to “the first hour” of programming requiring advisories at all, they would have chosen parallel language for the two sub-clauses.

[...]

The Council finds that, by providing only a late second chance for viewers to receive important information concerning the program they might have been considering watching, TQS failed to meet the requirements of Clause 5.2 of the *Violence Code*.

In the matter at hand, by airing the program at 7:00 pm, the broadcaster was subject to much stricter viewer advisory requirements than had it chosen to air the program at or after 9:00 pm. The failure of the broadcaster to provide an advisory after the one at the beginning of the program constituted a breach of Article 5.2 of the *CAB Violence Code*. The provision of oral-only viewer advisories towards the end of the film’s second hour seems almost to have been an afterthought and was clearly inadequate in terms of the Code requirements. Apart from anything else, the inadequacy of the gesture is exacerbated by the fact that the film was nearing its conclusion and that many of the most disturbing scenes appeared well before these advisories.

## **BROADCASTER RESPONSIVENESS**

Broadcaster responsiveness is always an issue measured in CBSC adjudications. The CBSC considers that the dialogue between broadcasters and complainants is an extremely positive component of the self-regulatory process, to the point that it is in fact a membership responsibility of all CBSC broadcaster members. In the matter at hand, the Panel is of the view that the broadcaster did not take the steps it could *easily* have taken to remedy the situation at the start of the dialogue and, by doing so, could possibly have avoided a Ruling Request and the need for this adjudication in the first place.

Despite the fact that the complainant had narrowed down the possible program to a two and a half hour period on the date in question, in its letter to the complainant, Showcase explained that it was unable to identify which program contained the scenes that the complainant found offensive. It is the experience of the CBSC that broadcasters occasionally look at (in the case of television) or listen to (in the case of radio) potential programs over a period even as long as a couple of days to pin down a challenged broadcast. In this case, the Panel is disappointed that Showcase was not initially prepared

to take this step where the uncertain period was only a couple of hours long. Indeed, a subsequent telephone conversation between the CBSC's Executive Director and Showcase revealed that the broadcaster was unwilling to make the effort to locate the precise program. In the end, it was the CBSC that took the extended logger tape in order to review it for purposes of determining exactly which show was at issue. The Panel finds that, in this case, the broadcaster should have been more proactive in determining which program was at issue in the complainant's letter. The National Specialty Services Panel thus considers that Showcase did not adhere to the standard of responsiveness expected of all CBSC members. Moreover, the Panel is not prepared to find that the identification of a film as having begun at a point within a two and a half hour period was insufficiently specific not to be able to begin the CBSC's complaint process.

### **CONTENT OF THE ANNOUNCEMENT OF THE DECISION**

Showcase is required to: 1) announce this decision, in the following terms, once during prime time within three days following the release of this decision and once more within seven days following the release of this decision during the time period in which the movie *Police 10-07* had been broadcast; 2) within fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the announcements to the complainant who filed the Ruling Request; and 3) to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by Showcase.

The Canadian Broadcast Standards Council has found that Showcase Television breached the viewer advisory provision of the Canadian Association of Broadcasters' *Violence Code* in its broadcast of the movie *Police 10-07* on January 14, 2001. By failing to provide viewer advisories coming out of each commercial break during the entire broadcast of a film which contained scenes of violence not suitable for children and which was broadcast *outside* of late evening hours, Showcase breached Article 5.2 of that Code. The Council also found that Showcase breached one of its responsibilities of membership in the Canadian Broadcast Standards Council by not responding adequately to the viewer's complaint.

*This decision is a public document upon its release by the Canadian Broadcast Standards Council.*

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## APPENDIX

### Complaint File 00/01-0613 Showcase re the movie *Police 10-07*

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#### I. The Complaint

The following complaint dated January 21, 2001 was sent to the CRTC and forwarded to the CBSC in due course:

This is the first complaint letter I have written so you know that I'm really upset.

On Sunday January 14<sup>th</sup>, between 6 and 8:30 P.M., I saw something on T.V. that caused me to almost throw up on my living room floor. I was switching channels to find something to watch. I saw a young man enter a living room, and a minute later commit suicide in a very graphic way. I had stopped on the SHOWCASE channel. This scene was totally unexpected.

Why are suicides allowed on the T.V. at this very early time? And all kinds of other garbage. People don't want to see this stuff, or children see it. Put it on after midnight, if at all.

I contacted Roger's cable & complained. I tried several times to get someone at the SHOWCASE station to complain to; but was unable to. (Makes me think they get a lot of unhappy viewers phoning).

I hope you people at the C.R.T.C. can do something about this.

#### II. Broadcaster Response

The broadcaster responded with the following letter dated March 6, 2001:

We are in receipt of your letter to the CRTC, which was forwarded to us by the Canadian Broadcast Standards Council. We regret that you are offended by our programming that you viewed between the hours of 6 p.m. and 8:30 p.m. on January 14. We are unable to identify which program you were watching but would like to take this opportunity to explain a little bit about Showcase and its programming policy.

Showcase is a Canadian specialty channel owned and operated by Alliance Atlantis Communications Inc. in Toronto. Showcase has been on the air since 1994 and ranks as the third most-watched specialty channel in Canada. Showcase's programming mandate is to offer an alternative to other broadcasters' offerings. One way that we have achieved this distinction is to broadcast high-quality, international drama series and world-class films in our late night movie timeslot *The Showcase Revue*.

While Showcase is proud to broadcast a wide range of films, it is our policy to carefully consider each film that is aired on the network. Before we decide to broadcast a film, our Programming Department screens it to ensure that it is suitable for broadcast. The determination of suitability includes ensuring that the broadcast would not contravene applicable broadcast laws and industry codes including, but not limited to, the Canadian Association of Broadcasters (CAB) Code of Ethics, the CAB "Sex-Role Portrayal Code for

Television and Radio Programming”, and the “Voluntary Code Regarding Violence in Television Programming.”

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We are also concerned with the content of shows broadcast during hours when children may be watching. Once we have decided to broadcast a program, our Programming Department schedules it at the most suitable time. For example, we air series and films that contain scenes of violence or have content intended for adult audiences after 9 p.m.. according to these codes.

It is certainly not our intention to offend our viewers but to introduce them to the wealth of unique, high-quality drama from Canada and around the world. Not all shows will suit all tastes, but we have tried to construct the Showcase schedule to deliver something for everyone.

Thank you for taking the time to voice your opinion. We do appreciate feedback and hope that this letter has addressed your concerns.

### **III. Additional Correspondence**

The complainant sent the following letter along with her Ruling Request dated February 23, 2001:

I was not satisfied with Alliance Atlantis’ reply. They state they were “unable to identify which program I was watching” between 6 P.M. and 8:30 P.M. on Jan 14/01. I was very clear in my time and in the graphic detail I noted in my letter. They were however; able to note that they felt they were not in violation of the “Voluntary Code Regarding Violence in Television Programming.” I hope this is not the case as the violence I saw was very obvious and disturbing to me as an adult.

One other thing bothered me in their reply. They state “We are also concerned with the shows broadcast during hours when children may be watching” and “air series and films that contain scenes of violence or have content intended for adult audiences after 9. P.M. according to these codes.” What I viewed was an obvious omission on their part.

I hope this explains why I am continuing with this complaint.