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

Bravo! re the movie *Kitchen Party*

(CBSC Decision 03/04-0928)

Decided December 15, 2004

R. Cohen (Chair), H. Pawley (Vice-Chair), R. Cugini, M. Harris and M. Hogarth

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## **THE FACTS**

The theatrical feature film *Kitchen Party* aired on the specialty service Bravo! on December 9, 2003 at 2:00 pm. The movie is about a group of teenagers who come together for a house-party and find themselves confined to the kitchen since they fear disturbing the excessively well-manicured living room carpet. Elsewhere, the parents of the young people have their own dinner party, which turns into a dysfunctional event exposing obsessive trends and family secrets. While there are discussions of sexual matters amongst the teenagers, the movie does not contain any explicit sexual scenes; however, there is considerable coarse language. The f-word and its derivatives are used many times, as are other off-colour words such as “cocksucker”, “prick”, “bitches”, “shit”, and “asshole”.

A viewer sent a letter dated December 10, 2003 to the CBSC. It included references to other programming content relating to other broadcasters, which are not pertinent to this decision. The full text of those parts of this letter that are pertinent to the feature film *Kitchen Party* as well as all other correspondence are included in the Appendix.

Bravo has erred in airing the film “Kitchen Party” at 2:00 PM (Dec. 9, 2003). The word ‘fuck’ was broadcast at least one hundred times as well as at least one use of the word “cocksucker” during this film’s airing. This is an inappropriate time of day for an unedited airing of this film.

Due to an administrative error on the part of the CBSC Secretariat, the customary request to the broadcaster to retain the logger tape of the program

was not requested within the 28-day period, after which it was recycled by Bravo!, which was, in any event, fully prepared to furnish the CBSC with a dub of the screener tape from which the broadcast was built. Bravo! also responded to the complainant on March 16, in part as follows:

Your complaint relates to nature of the language contained in the film. Normally, when a film of this nature airs during the day, a day version is broadcast. Unfortunately, due to an error, a day version of this film did not play on this occasion.

We thank you for bringing this to our attention.

To complicate matters still further, Bravo!'s response, which had been sent to the complainant by both the broadcaster and the CBSC, was returned undelivered. On May 4, the CBSC Executive Director had a telephone conversation with the complainant during which she read him the broadcaster's response. In that conversation, the complainant indicated his wish to pursue the complaint.

## **THE DECISION**

The National Specialty Services Panel considered the complaint under the following provision of the Canadian Association of Broadcasters (CAB) *Code of Ethics*.

### *CAB Code of Ethics*, Clause 10 - Television Broadcasting (Scheduling)

Programming which contains sexually explicit material or coarse or offensive language intended for adult audiences shall not be telecast before the late viewing period, defined as 9 pm to 6 am. Broadcasters shall refer to the *Voluntary Code Regarding Violence in Television Programming* for provisions relating to the scheduling of programming containing depictions of violence.

Recognizing that there are older children watching television after 9 pm, broadcasters shall adhere to the provisions of Clause 11 below (viewer advisories), enabling viewers to make an informed decision as to the suitability of the programming for themselves and their family members.

In order to provide viewers with the benefit of Canadian program classification and viewer advisories not available on foreign distant signals, broadcasters which have CRTC-permitted substitution rights over programming which is imported into their markets before the late viewing period, may employ substitution, notwithstanding Clause 10(a).

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 Clause 10(c).

(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.)

The National Specialty Services Panel Adjudicators viewed a tape of the film in question and reviewed all of the correspondence. For the reasons provided at greater length below, the Panel considers that the broadcast of the challenged film breached Clause 10 of the *CAB Code of Ethics*.

### **The Effect of the Screener Tape**

While this Panel has previously dealt with the issue of the adequacy of screener tapes (versus logger tapes) in both *Bravo! re the documentary film Give Me Your Soul* (CBSC Decision 00/01-1021, January 16, 2002) and *Bravo! re the film The House of the Spirits* (CBSC Decision 00/01-0738, January 16, 2002), the present matter is one in which the absence of logger tapes was due entirely to the CBSC. In the circumstances, the willingness of the broadcaster to supply a screener tape to rectify the CBSC Secretariat's error was a positive, helpful gesture, on the basis of which the Specialty Services Panel was able to proceed with this adjudication.

### **The Effect of the Coarse Language**

It has been the established policy of the CBSC Panels called upon to deal with the f-word that programming including such language is intended exclusively for adult audiences. Thus, in *WTN re the movie Wildcats* (CBSC Decision 00/01-0964, January 16, 2002), where the movie contained very coarse language, such as "fuck", "motherfucker", "pussy" and "shit", and was broadcast at 4:00 pm, this Panel concluded that the afternoon broadcast was in breach of the Code. While the broadcaster had muted out the words "fuck" and "motherfucker" in some instances, it had not done so in others. The National Specialty Services Panel found that the unedited instances of the coarse language constituted "scenes intended for adult audiences":

In such circumstances, WTN had two options: either edit all instances of these words or air the film post-Watershed in the originating time zone. On the basis of the broadcaster's letter and the five instances in which such coarse words were muted, it appeared that the broadcaster had selected the first option. It is not clear, in the circumstances, why the broadcaster had muted out "fuck" and "motherfucker" in some instances but left them in on five other occasions. Whether a purposeful choice or an inadvertence, their inclusion in a film aired prior to the Watershed constitutes a breach of Clause 3.1.1 of the *Violence Code*. [At the time of this decision, the *CAB Code of Ethics* did not include Clause 10, which was introduced mid-2002.]

The Panel also finds some discomfort with some of the other expletives in the film, such as "pussy", "shit" and the phrase "You can't win a pissing contest against a prick." While the use of such expressions would present no difficulty post-Watershed, the Panel finds that such words are problematic in their unedited form at a time which was not merely pre-Watershed, but at an early

enough hour that children could be expected to be watching television, as in this case of *Wildcats* which was broadcast from 4:00-6:00 pm on a Sunday afternoon.

Similarly, in *Showcase Television re the movie Frankie Starlight* (CBSC Decision 02/03-0682, January 30, 2004), the movie played at 1:00 pm, and included the word “fucking” numerous times. This Panel decided that the broadcast was inappropriately scheduled and thus in breach of Clause 10 of the *CAB Code of Ethics*. Noting that “there is a line of CBSC jurisprudence that establishes the principle that the use of coarse, not mild, swearing renders a program appropriate for viewing by adult audiences only”, the Panel stated:

The bottom line is that the film ought to have been broadcast after 9:00 pm (or the words muted or deleted from the broadcast in a pre-Watershed environment). It was not and this constitutes a breach of the provisions of Clause 10 of the *CAB Code of Ethics*.

Finally, for these purposes, in *Showcase Television re the movie Muriel's Wedding* (CBSC Decision 02/03-0882, January 30, 2004), this Panel found the broadcaster in breach of Clause 10 for including the use of the f-word and its derivatives in a 1:00 pm afternoon movie. In the Panel’s view, “the choice for the broadcaster is either to air the programming integrally after 9:00 pm or [...] to mute, bleep or delete it, if the film is to show prior to the Watershed.”

There is no question but that the broadcaster has breached Clause 10 of the *CAB Code of Ethics* in broadcasting *Kitchen Party* prior to the Watershed.

### **Broadcaster Responsiveness**

The requirement that a broadcaster be responsive to the letter of complaint sent by a member of the public is considered by the Adjudicating Panels to be a significant part of the membership requirements of the CBSC. Such responsiveness is an essential part of the dialogue by which the CBSC considers that matters that trouble members of the public sufficiently to compel them to write are often successfully resolved. When accomplished in thorough and sensitive ways, such correspondence is also a way of letting the public know that broadcasters care about their audience’s concerns. The letter from the Director of Programming acknowledged Bravo!’s scheduling error and, while brief, has fulfilled the broadcaster’s obligations in this regard in this instance.

### **ANNOUNCEMENT OF THE DECISION**

Bravo! 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 within seven days following the release of this decision during the time period in which *Kitchen Party* was broadcast; 2) within fourteen days following

the broadcast of the announcements, to provide written confirmation of the airing of the statement to the complainant who filed the Ruling Request; 3) at that time, to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements.

The Canadian Broadcast Standards Council has found that Bravo! breached the scheduling provisions of the Canadian Association of Broadcasters' *Code of Ethics* in its broadcast of the feature film *Kitchen Party* on December 9, 2003. By broadcasting the film, which contained frequent instances of coarse language before the 9:00 pm Watershed hour for programming intended for adult audiences, Bravo! has violated Clause 10 of the Code.

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

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**APPENDIX**  
**To**  
***Bravo! re the movie Kitchen Party* (CBSC Decision 03/04-0928, December 15, 2004)**

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**I. The Complaint**

The following complaint dated December 10, 2003 was sent to CBSC:

To whom it may concern,

I wish to submit complaints about the recent television broadcasts described below.

[...]

Bravo has erred in airing the film "Kitchen Party" at 2:00 PM (Dec. 9, 2003). The word 'fuck' was broadcast at least one hundred times as well as at least one use of the word "cocksucker" during this film's airing. This is an inappropriate time of day for an unedited airing of this film.

Thank you for your consideration.

**II. Broadcaster Response**

The broadcaster responded to the complainant's letter on March 16, 2004, with the following:

Dear Mr. C,

Re: CBSC File Number C03/04-0928

I am responding to your letter to the CBSC about our airing of the film "Kitchen party" on Bravo! on December 9, 2003.

Your complaint relates to nature of the language contained in the film. Normally, when a film of this nature airs during the day, a day version is broadcast. Unfortunately, due to an error, a day version of this film did not play on this occasion.

We thank you for bringing this to our attention.

We apologize for any embarrassment or discomfort the broadcast may have caused.