
**CANADIAN BROADCAST STANDARDS COUNCIL
NATIONAL CONVENTIONAL TELEVISION PANEL**

Global re an advertisement for the movie *SkinWalkers*

(CBSC Decision 06/07-1352)

Decided November 29, 2007

R. Cohen (Chair), J. Macdonald (Vice-Chair, Industry), T. Rajan (Vice-Chair, Public), M. Hogarth, B. Culbert, P. Hebden

THE FACTS

On July 26, 2007, during the reality program *Big Brother 8*, Global twice aired a 15-second advertisement for the feature film *SkinWalkers*, a horror movie about werewolves that was theatrically released in August 2007. The commercial, which aired once at 8:16 pm and again at 8:37 pm, included the following narration over an audio track of scary sounds:

There is a gene that separates man from animal. Some are born without it.
SkinWalkers. Starts Friday, August 10th.

The visual component of the commercial was a rapid series of very brief clips from the movie. These included a shot of biological cells dividing, four quick flashes of different werewolves, a close-up of an eyeball changing colour, a woman with fangs who roared at the camera, a cut to werewolf eyes, as well as shots of men and women holding semi-automatic weapons leaping away from an exploding gas station.

The actual feature film *SkinWalkers* was rated 14A in Ontario, Alberta and Manitoba, and 13+ in Québec. It was rated PG-13 by the Motion Picture Association of America. The program during which the advertisement for the film aired, namely, *Big Brother*, was rated PG under the Canadian television broadcasters' system.

The CBSC received a complaint about the advertisement for *SkinWalkers* on July 26. The complainant described her concerns as follows:

I was very offended by the offensive commercials that are aired by Global TV during the show *Big Brother*. Many young Canadian children are watching the show well before the "watershed" hour yet commercials that are highly violent and intended solely for adult audiences, are being aired. I know that broadcasters are prohibited from airing programming which "contains gratuitous violence" and commercials should be included in this as well. My children were absolutely terrified after watching a commercial for the movie *Skinwalkers* that aired twice during the *Big Brother* show. I believe that the CBSC should have higher standards for what is aired during the watershed hour.

Global responded to the complainant on August 21 with the following (the full text of all correspondence can be found in the Appendix):

Let me begin by explaining that under the *Broadcasting Act*, we are required to provide a broad spectrum of entertainment and information programming including commercials for "men, women and children of all ages, interests and tastes." Television programming is required to be diverse and appealing to a wide variety of audiences. Consequently, you can appreciate that what one viewer might consider an interesting program, or commercial for that matter, might lead another to turn the channel.

To provide you with some background information, the advertising industry has a self-regulating organization called Advertising Standards Canada (ASC). The ASC administers a code of standards for all advertising and responds to complaints made by the viewing public.

In addition, the Private Broadcasters in Canada belong to a voluntary, self-regulating committee called Telecaster. This organization ensures that all paid programming, including commercials and long-form commercials usually referred to as infomercials, aired in Canada comply with our advertising industry guidelines, as determined by the ASC as well as the Canadian Association of Broadcasters Guidelines and *Code of Ethics*.

The process for clearing commercials involves the screening of visual materials, reviewing scripts and/or audio components to ensure the advertisement meets advertising and industry guidelines. There are occasions when commercials may contain sensitive, alarming or frightening segments, but gain approval with an advisory or caution or are given a "Mature", "Mature Post 9 pm" or "Mature Post 11 pm" rating.

With respect to your specific complaint, the ad in question has been given a "Mature" rating without a scheduling restriction. As a result, scheduling is left to the discretion of the broadcaster.

We also take into consideration during which program the ad is scheduled for broadcast. In this instance, the ad for *SkinWalkers* was aired during *Big Brother 8* which is rated PG (Parental Guidance) and is not considered children's programming.

The content of advertisements broadcast during a particular program need not match the exact level rating of that program. Provided that the ad does not contain material that is considered for "adults only", it may be broadcast before 9 pm.

As a result of the above, the ad in question can be broadcast during *Big Brother*.

It was certainly not our intention to cause offence and I hope this response helps alleviate some of your concerns. Thank you for bringing this matter to our attention, and I hope you will continue to enjoy our programming.

The complainant submitted her Ruling Request on August 21 with additional comments:

I received a very patronizing letter from Global TV suggesting that since *Big Brother* was not considered "children's programming" and that the ASC cleared the commercial for broadcast, they did not see anything wrong with airing the commercial before the watershed hour. I can tell you that if it is acceptable for commercials promoting movies that depict werewolves [*sic*] that "feed on human flesh and thirst for the taste of human blood" is not considered material for adults only, then I don't know what is. These violent and disgusting commercials must not be allowed to air before the watershed hour. If the standards in this country suggest that commercials like this are allowed to air before 9 pm then the rules MUST be changed.

THE DECISION

The National Conventional Television Panel examined the complaint under the Article 3.3 of the Canadian Association of Broadcasters (CAB) *Violence Code* which reads as follows:

Scheduling

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.

The Panel Adjudicators read all of the correspondence and reviewed the challenged program. The Panel concludes that the broadcaster did not violate the aforementioned Code provision.

Scenes of Violence in Advertisements

The general issue of scheduling is defined in Article 3.0 of the *CAB Violence Code*, which establishes 9:00 pm as the "Watershed" hour before which no violent content intended for adult audiences can be broadcast. Under that rubric, Article 3.1.1 sets the rule for programs, and Article 3.3 sets the Watershed for advertisements. The latter clause specifically anticipates that advertisements for theatrically presented films, such as *SkinWalkers*, may raise a scheduling issue. And then, as in any case where it is called upon to determine the appropriate time slot for any broadcast content, the CBSC must decide whether the *SkinWalkers* advertisement constitutes material "intended for adult audiences."

The CBSC has dealt with complaints about commercials for feature films in the past. For example, in *CKCK-TV re Promos for The Sopranos and an Advertisements for The Watcher* (CBSC Decision 00/01-0058, August 20, 2001), the station broadcast a 15-second commercial for the film *The Watcher* during a 7:00 pm broadcast of the game show *Who Wants to Be A Millionaire?*. The movie was marketed as “one of the scariest movies you’ll see this year” and the promo included a close-up of one woman screaming for her life, another frightened being yanked from under a car (apparently about to be strangled by a man with a rope), as well as a distant (background) struggle between silhouetted figures. In that case, the Prairie Regional Panel observed that the movie trailer “contained no actual violence and very little material that could remotely be described as frightening [...]” and concluded that the trailer was permitted to be broadcast before 9:00 pm.

In contrast, in *CIII-TV (Global Television) re an advertisement for the movie Seed of Chucky* (CBSC Decision 04/05-0567, April 19, 2005), the Ontario Regional Panel concluded that a 30-second commercial for the horror movie *Seed of Chucky* was inappropriately aired at 5:39 pm during an episode of *The Simpsons*. That commercial began with a scene of Santa Claus trudging through the snow, followed by a knife slashing through his pack and a series of scary scenes from the movie, such as close-ups of the faces of evil-looking dolls, Chucky wielding a knife and a butcher knife stabbing a birthday cake. The Panel found a violation of Article 3.3:

In the promo for *Seed of Chucky*, all of the elements anticipated in the *Kazan* decision were present, namely, “fear, suspense, gore and explicitness.” It should be noted that, on the issue of explicitness, neither the knife nor the cleaver was seen penetrating any victim; however, the creators of the commercial achieved the sense that that had either happened or was on the verge of happening by the adroit use of a series of very quick cuts. Moreover, the words “You’re gonna get sliced” reinforced the visual message of the promo. The Panel considers that the commercial message was oriented toward an adult audience and ought to have been limited to a post-9:00 pm broadcast slot. While the Panel recognizes that *The Simpsons* is not a made-for-children program, it is a series that is readily viewable by families and the positioning of this promotional message in that program was in breach of Article 3.3 of the *CAB Violence Code*.

In the case of the advertisement for *SkinWalkers*, the National Conventional Television Panel finds that the content did not reach the level of explicitness found in the *Seed of Chucky* commercial. While certain of the images were somewhat startling, such as those of the werewolf eyes and fangs, they did not depict any scenes of actual violence. Moreover, given that the entire commercial lasted only 15 seconds, the images were too fleeting to become problematically violent. Had the commercial been longer and showed more graphic details of the werewolves’ activities, this Panel might have concluded otherwise.

It should also be noted that the commercial aired during the program *Big Brother*, a program which not infrequently deals with mature themes and is not in any way targeted to children. The episode of that program was rated PG under the Canadian

broadcasters' classification system. Although advertisements are not required to be rated under that system, the CBSC has explained that the theoretical "rating" of a commercial need not match precisely the rating of the program during which it is broadcast. The CBSC explained this position in the *CKCK-TV* decision mentioned above:

Promotional spots are simply not classified, whether they refer to theatrical films or television programs, both of which may themselves be classified, whether in cinemas or according to the television classification system. The private broadcasters' system simply divides *all* dramatic broadcast matter into two categories, that which is intended for adults and that which is not. The first category of material must be shown after the Watershed and the second category may be shown before 9 p.m.

Leaving aside the fact that promotional spots for a film or program do not require classification, it must be understood that any kind of assessment or evaluation of a promotional spot would depend solely on the *content of the material used in that promo*. It would thus be unrelated to the content of the material contained in the film or program for which the promo has been produced. In other words, the rating for the *actual program* does not necessarily transfer to the promotional spot for that program.

It should also be borne in mind that the broadcaster has the right to promote any program to the diverse audience watching the station at any time during the day, provided that the content of the promotional spot does not cross the line of containing content intended for an adult audience. Knowing that there may be viewers from across the age and taste continuum, it is, after all, eminently fair that they be appealed to at any pre-Watershed time of day when they might be watching *provided that the content of the promotional spot will not offend those other viewers who may be watching at the same time*.

Theatrically released films in Canada are rated by provincial film boards, which use a different classification scale from television broadcasters. That being said, the provincial boards' ratings for the theatrical movie *SkinWalkers* ranged from a relatively innocuous 13+ to 14A (innocuous, that is, in terms of its adult-ness, to coin a word). Scenes from the feature film were then distilled into a rapid-fire, 15-second commercial. Given that the movie itself did not contain material deemed to be intended exclusively for adults, it is not likely that the commercial for the movie would fall into that category. The Panel concludes that Global did not violate Article 3.3 in this broadcast of the trailer for *SkinWalkers*.

Approval by Telecaster

The Panel considers it important to comment on Global's explanation that the advertisement had been cleared by Telecaster and given a "Mature" designation, particularly because the complainant raised the matter in her reply of August 21. Telecaster is a self-regulatory organization established to pre-clear commercials. It is separate from the CBSC and is not recognized by the CRTC as a regulatory body. The guidelines and designations it uses for commercials do not coincide with those administered by the CBSC. As the CBSC explained in the aforementioned *Seed of*

Chucky decision, approval by Telecaster does not absolve the broadcaster from making appropriate scheduling choices:

It should also be noted that the fact that Telecaster may have reviewed and cleared the spot for broadcast does not alleviate the responsibility of the broadcaster for airing the commercial at the hour it chose. [...] In sum, despite the useful role that Telecaster plays in assisting broadcasters in making decisions regarding advertising and promos, it is the broadcaster that makes the ultimate decision and bears the sole responsibility for the scheduling issue.

Consequently, although, in the case of the *SkinWalkers* trailer, the time slot was not problematic, the CBSC reminds broadcasters to use discretion when applying Telecaster pronouncements to its scheduling decisions. It is essential to ensure that CBSC Codes are also complied with.

Broadcaster Responsiveness

It is a fundamental step in the CBSC's process that broadcasters respond to complaints about their programming. While not required to agree with a complainant, broadcasters are expected to respond in a timely and thoughtful manner to those audience members who have taken the time to express their concerns. In this case, Global provided a substantive letter which outlined its rationale for choosing to broadcast the challenged advertisement. Global has met its obligations in terms of responsiveness and nothing further is required in this regard on this occasion.

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.

APPENDIX

CBSC Decision 06/07-1352 Global re an advertisement for the movie *SkinWalkers*

The Complaint

The following complaint of July 26, 2007 was submitted via the CBSC's web form:

station: Global

program: Commercial during the show *Big Brother 8*

date: July 26th, 2007

time: 8:39 pm

concern: I was very offended by the offensive commercials that are aired by Global TV during the show *Big Brother*. Many young Canadian children are watching the show well before the "watershed" hour yet commercials that are highly violent and intended solely for adult audiences, are being aired. I know that broadcasters are prohibited from airing programming which "contains gratuitous violence" and commercials should be included in this as well. My children were absolutely terrified after watching a commercial for the movie *Skinwalkers* that aired twice during the *Big Brother* show. I believe that the CBSC should have higher standards for what is aired during the watershed hour.

Broadcaster's Response

The station responded on August 21 with the following:

This email is in response to yours concerning an ad for the film *SkinWalkers* that aired during an episode of *Big Brother* on July 26.

Let me begin by explaining that under the *Broadcasting Act*, we are required to provide a broad spectrum of entertainment and information programming including commercials for "men, women and children of all ages, interests and tastes." Television programming is required to be diverse and appealing to a wide variety of audiences. Consequently, you can appreciate that what one viewer might consider an interesting program, or commercial for that matter, might lead another to turn the channel.

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As a result of the above, the ad in question can be broadcast during *Big Brother*.

It was certainly not our intention to cause offence and I hope this response helps alleviate some of your concerns. Thank you for bringing this matter to our attention, and I hope you will continue to enjoy our programming.

Additional Correspondence

On August 21, the complainant submitted her Ruling Request with the following note:

I received a very patronizing letter from Global TV suggesting that since *Big Brother* was not considered "children's programming" and that the ASC cleared the commercial for broadcast, they did not see anything wrong with airing the commercial before the watershed hour. I can tell you that if it is acceptable for commercials promoting movies that depict werewolves [*sic*] that "feed on human flesh and thirst for the taste of human blood" is not considered material for adults only, then I don't know what is. These violent and disgusting commercials must not be allowed to air before the watershed hour. If the standards in this country suggest that commercials like this are allowed to air before 9 pm then the rules MUST be changed.