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

**CTV re an interview on *Question Period* (Bill C-10)**

(CBSC Decision 07/08-1703)

Decided October 22, 2008

R. Cohen (Chair), A. Cardozo, J. Macdonald, P. O'Neill, G. Phelan (*ad hoc*), T.-M. Tatto

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**THE FACTS**

*Question Period* is a public affairs program dealing with political issues that airs Sundays at noon on CTV. On the June 1, 2008 episode, host Jane Taber interviewed the co-writer and director of the Canadian feature film *Young People Fucking* on the subject of Bill C-10. Bill C-10 was proposed federal government legislation that, if adopted, would have allowed the government to deny tax credits to cultural products that were deemed to be contrary to the public interest. The proposal of the bill elicited considerable controversy, particularly within the arts community. Those opposed to it accused the government of attempting to impose censorship.

There were no viewer advisories before the broadcast. Despite the title of the film, the f-word was not spoken at any time during the interview; in fact, during the introduction to the interview, Taber stated that the movie's title was "so explicit I can't even say it on TV." She referred to it as "Young People Making Love" (a transcript of the full interview is available in Appendix A). CTV did, however, put the caption "Martin Gero, Director 'Young People Fucking'" (with the film's title spelled out in full) periodically at the bottom of the screen to identify the interviewee.

It was that aspect of the broadcast that concerned a viewer who filed a complaint on June 2. She wrote simply that she was "very disgusted with them printing the full name of the movie they were discussing with the movie's director."

CTV responded to the complainant on June 27 as follows (the full text of all correspondence can be found in Appendix B):

The title of the movie that you objected to was the subject of much controversy and received wide coverage on television, radio and print. CTV's *Question Period* is a national political affairs show that deals with a broad range of topical subjects. *Question Period* invited the director of the film on the show to debate the movie and the title that had been raised in Parliament and in the national media.

It would have been impossible to discuss the film without displaying the contentious title, although no one spoke the words that offended you.

We believe CTV acted responsibly and professionally in accordance with its mandate as a broadcaster. According to the *CAB Code of Ethics*, "it is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of the broadcast publisher". Likewise, the RTNDA Code recognizes the "responsibility of broadcast journalists to promote and to protect the freedom to report independently about matters of public interest and to present a wide range of expressions, opinions and ideas."

[...]

The complainant filed her Ruling Request on August 19 along with a note explaining that she was dissatisfied with the broadcaster's explanation for broadcasting the offensive word in written form.

## THE DECISION

The National Conventional Television Panel examined the complaint under the following provisions of the Canadian Association of Broadcasters' (*CAB Code of Ethics*):

### *CAB Code of Ethics*, Clause 10 – Television Broadcasting

a) 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 *CAB Violence Code* for provisions relating to the scheduling of programming containing depictions of violence.

### *CAB Code of Ethics*, Clause 11 – Viewer Advisories

To assist consumers in making their viewing choices, when programming includes mature subject matter or scenes with nudity, sexually explicit material, coarse or offensive language, or other material susceptible of offending viewers, broadcasters shall provide a viewer advisory

[...]

b) at the beginning of, and after every commercial break during programming telecast outside of late viewing hours which contains such material which is not suitable for children.

The Panel Adjudicators reviewed all the correspondence and watched the challenged program. The Panel concludes that the broadcast did not violate either of the foregoing clauses.

### **The Use of the F-word on Television**

While the issue of the broadcast of the f-word on television has arisen frequently, those usages have all been oral. This is the first occasion on which the CBSC has been called upon to rule on the presence of the f-word uniquely in written form. The question for this Panel is to determine whether that constitutes an exception to the CBSC's basic rules relating to the broadcast of the group of words that CBSC Panels have long ruled constitute "coarse language intended exclusively for adult audiences."

In general, the CBSC has applied the following principles: the f-word (and its derivatives), even if offensive to some (or many), can be aired on television during the Watershed period (between 9:00 pm and 6:00 am) with appropriate advisories; however, outside of the Watershed, those who might be offended are entitled to a "safe haven", that is, a period when they can expect that they need not be vigilant in order to avoid encountering such language.

The Panel sees no need to review the many CBSC precedents in detail here, but the reader may find it useful to know that these include *Showcase Television re the movie Destiny to Order* (CBSC Decision 00/01-0715, January 16, 2002), *WTN re the movie Wildcats* (CBSC Decision 00/01-0964, January 16, 2002), *Showcase Television re the movie Frankie Starlight* (CBSC Decision 02/03-0682, January 30, 2004), *Showcase Television re the movie Muriel's Wedding* (CBSC Decision 02/03-0882, January 30, 2004), *CTV re a segment featuring Eminem at the Junos* (CBSC Decision 02/03-1130, January 30, 2004), *Bravo! re the movie Perfect Timing* (CBSC Decision 03/04-1719, December 15, 2004), *Bravo! re the movie Kitchen Party* (CBSC Decision 03/04-0928, December 15, 2004), *Bravo! re the film RKO 281* (CBSC Decision 04/05-0584, July 20, 2005), *CTV re the Green Day performance during Live 8* (CBSC Decision 04/05-1753, January 20, 2006), as well as numerous radio decisions. Even where "the use of coarse language may well be relevant, in this case constituting an accurate representation of how urban police officers and the individuals with whom they interact would speak," as in *Showcase Television re The Cops* (CBSC Decision 01/02-1076, February 28, 2003), the Specialty Services Panel found the use of the f-word in breach of the Code. And even where, as in *Bravo! re the movie Ordinary People* (CBSC Decision 03/04-1187, December 15, 2004), the Panel understood the dramatic contextual justification for the word, it concluded that the inclusion of the f-word pre-Watershed constituted a breach of Clause 10.

There have been two exceptions to the foregoing principles. In the first, *W Network re My Feminism* (CBSC Decision 01/02-1120, February 28, 2003), the National Specialty Services Panel examined a complaint about a television documentary on the subject of feminism in which one of the interviewees used the f-word to express her views about the Catholic Church. The program aired at 7:00 pm without any viewer advisories. The documentary included interviews with prominent feminists who provided their opinions on a variety of topics, including pornography, marriage and divorce, cultural differences, religion and politics. In the segment dealing with religion, one interviewee complained that the Irish Catholic Church kept women in subordinate positions and that she could not believe in a religion "which can mind-fuck to that kind of extent." For the reasons elaborated in the following excerpt from the decision, the Specialty Services Panel found no breach of Clause 10.

The question for the Panel in the matter at hand is whether the use of derivatives of the f-word ought to be dealt with as in the previously cited matters or not. Its answer is that documentary films are, as a general rule, of a different genre. *My Feminism*, which is a current-affairs essay documentary, is a serious, strong and credible point-of-view film. Such an interview-based documentary is not, by its nature, scripted. Without diminishing in any way the contributory role of behind-the-camera directing, editing and other creative components, for present purposes it is fair to say that the documentary's success depends on the power, articulation and credibility of its on-camera contributors. In the case of this documentary in particular, it must be appreciated that its subject matter is not merely feminism, it is *my* feminism. The film is not merely dependent on the interviewees, it *is* the interviewees. And their choice of words is *theirs*, not that of a screenwriter looking for a dramatic jolt or an effect. The words spoken represent the reaction of each individual to the questions put to her. The intensity and emotion of each response is reflected in the words used and the tone of their delivery. The seriousness of the broadcast vehicle, the non-gratuitous use of coarse language, its infrequent presence, the contextual relevance and importance of such words, and the likely lack of appeal to a younger audience will all be factors taken into consideration by a CBSC Panel assessing offensive words in a documentary film.

In the context of the program at hand, the challenged term was used by Irish feminist Ailbhe Smith in a very visceral context, namely, to describe her perception of what the combination of the Church and the State had done to place women "in a state of submission, subordination, fear, to restrict and constrict and constrain us in every way that it can possibly think." *That* was the issue for Smith. Establishment gender oppression. She was angry. She was bitter. She used the word as a strong, particular and meaningful verb rather than as a casual, flippant and unnecessary term. It was solitary and emphatic. It underscored her massive discontent at what she had lived in her native land. It arose 43 minutes into the program, after her views on many of the other feminist subjects had been digested and understood by the viewer. Given its context and the likely lack of appeal of *My Feminism* to a younger audience, the Panel does not find that the use of the term in the context of this broadcast exceeds the bounds of acceptability.

The second case involved a French-language radio broadcast in which the host was commenting on people who complain to broadcast regulators just because they heard the f-word. In *CJMF-FM re a commentary on Bouchard en parle* (CBSC Decision 05/06-0326, February 3 2006), broadcast between 6:00 and 9:30 am, host Sylvain

Bouchard made comments about left-wing politics and complained that the left want to [translation] “quash any opposition”. He used the French swear word “tabernac” as an interjection and then went on to discuss freedom of speech. During that part of the program, he expressed his opinion that it was ridiculous to complain to the CRTC about the broadcast of the English swear word “fuck”. Because the host was talking *about* the word rather than *using* it, the Quebec Panel concluded that it did not violate the prohibition against coarse language on radio (Clause 9(c) is the radio equivalent of Clause 10, which deals with coarse language on television).

In the matter at hand, the Panel comes to a different conclusion [from previous decisions] for a very precise and limited reason. Taking into account the criteria discussed above, it finds that the use of the word was in the context of a point being made about coarse language. It was not a usage of coarse language to describe a *different* subject but rather the word itself *was* the subject. In other words, he did not *use* the word; he was speaking *about* the word: “Sending a complaint to the CRTC because you heard the word ‘fuck’ on the air.” In the view of the Panel, it was a rare example of a contextually acceptable usage of the f-word. In the circumstances, its use did not constitute a breach of Clause 9(c) of the *CAB Code of Ethics*.

In the matter at hand, the Panel considers that the decisions in *My Feminism* and *Bouchard en Parle* are directly relevant. The word was not being used as a verb, adjective, adverb or even a reactive interjection. It was, as in the Bouchard decision, the subject of discussion, rather than, in a sense, a participatory term during a discussion. Moreover, it was the *title* of the controversial film being discussed, a cultural or artistic property germane to proposed Government legislation. Although it was central and fundamental to the dialogue during *Question Period*, both the interviewer and the interviewee were thoughtful enough with respect to their audience not to *say* the word itself. Instead, the broadcaster was discreet, relegating the word, in its title context, to printed form. While it did appear periodically, it was no more present than the name of any director and his or her film’s title would have been. Nor should it have been any less present than, say, “Sarah Polley, Director, *Away from Her*”, had she been interviewed by Jane Taber on that occasion. Nor did the broadcaster highlight the printed appearance of the potentially offensive title or draw any attention to it. It was just, in the view of the Panel, there. It was an exceptional, if not a unique, circumstance. Moreover, the broadcaster handled it particularly well, thoughtfully and respectfully. The Panel finds no breach of Clause 10. It does acknowledge that it would have been useful to some viewers, such as the complainant, to have provided an advisory, but the underlying usage was so discreet and reasonable, it finds no breach for the failure to do so.

### **Broadcaster Responsiveness**

In every CBSC decision, the adjudicating Panel assesses the broadcaster’s responsiveness to the complainant. It goes without saying that the broadcaster is not under any obligation to agree with the position taken by the complainant, but every

broadcaster is obliged, by virtue of its membership in the CBSC, to respond to the complainant in a thoughtful, timely and thorough manner. CTV's Ottawa Bureau Chief and Executive Producer of *Question Period* provided a brief but focussed response to the complainant, explaining the network's rationale for inclusion of the title. The complainant was not satisfied by the explanation, as is always the case in matters that are then referred to a CBSC Adjudicating Panel, but the broadcaster's obligation of responsiveness was fully met. Nothing further is required in this respect 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.*

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## APPENDIX A

### CBSC Decision 07/08-1703

#### CTV re an interview on *Question Period* (Bill C-10)

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*Question Period* is a political public affairs program that airs Sundays at noon on CTV. On the June 1, 2008 episode, host Jane Taber interviewed the co-writer and director of the Canadian feature film *Young People Fucking* on the subject of Bill C-10.

The f-word was not spoken at any time during the interview, but the caption “Martin Gero, Director ‘Young People Fucking’” appeared periodically at the bottom of the screen to identify the interviewee. A transcript of the dialogue is as follows:

Taber: Politics and entertainment are colliding around a new controversial Canadian movie with a title so explicit I can’t even say it on TV. But the movie has been attracting a lot of attention especially here in political Ottawa as politicians are debating a bill that would deny tax credits to Canadian movies if those movies were deemed contrary to public policy. To talk about this we’re joined today by Martin Gero and he is the co-writer and director of this new Canadian film, *Young* –

Gero: Yes.

Taber: *Young People* “making love”.

Gero: *Young People* “F”.

Taber: Yeah. Well, we’ll call it that. Now, we wouldn’t be here talking about this if you didn’t have such a clever, provocative title for your movie. How did –

Gero: Well, thank you.

Taber: Okay. How did that come about?

Gero: Um, I’m bad at titles. It was, it’s very kind of utilitarian and functional title [*sic*]. It really describes the film and the tone of the film. You know –

Taber: And the film is about?

Gero: The film is about five couples, uh, over one night and we follow them in kind of six acts through, uh, you know, prelude, foreplay, uh, uh, you know, sex, interlude, orgasm and

then afterglow. And so, and the film, the film to us, we, you know, I'm a big fan of romantic comedies, but for the most part they, they're kind of sexless. They end with a kiss, you know? And for me at least, my experience has been the really interesting stuff happens after. Certainly a lot of the conflict and problems. So we felt like there hadn't been a movie that had dealt with that and, you know?

Taber: And so you just picked a title that totally described exactly what was happening?

Gero: Yeah, as well as the tone. We really wanted to be frank and funny and honest and, uh, and in a language that, you know, my, my generation uses in the, in the bedroom. It's a, you know, certainly the f-word is not a word that, you know, we, we keep to ourselves.

[video clips from the movie of couples talking and kissing]

Taber: [laughs] Now the movie, though, has become even more than that –

Gero: Yeah.

Taber: – as a result of the debate that's happening here over a bill called C-10.

Gero: Mm hm.

Taber: And that, of course, would deny, as I said in the introduction, tax credits –

Gero: Yeah.

Taber: – to Canadian filmmakers based on whether the government –

Gero: Yeah.

Taber: – deemed, uh, it was contrary to public policy.

Gero: Right.

Taber: Is your film in any way pornographic, excessively violent?

Gero: No, absolutely not. And I, I mean, you know, films that are pornographic or excessively violent or hateful towards one group or another can't get, uh, the, uh, tax credit funding. That's, that's a mechanism that's already in place. So this Bill C-10 is kind of fixing



a problem that, that doesn't exist. It's kind of an additional and unnecessary level of bureaucracy to an already pretty complicated film funding system.

Taber: And did your movie receive, uh, these tax credits?

Gero: We did. We received tax credits, yeah.

Taber: How much?

Gero: Uh, it came to about, I think, five to seven per cent of our budget. And what a lot of people don't understand –

Taber: Right. Which would be, which would be, like, in the millions of dollars or something?

Gero: No, no. Goodness, no. Ours, ours is a smaller movie. Our whole budget was a million and a half dollars. You know, a bigger movie, like, say, *The Hulk*, which was shot in Canada, you know, that, they would get substantial millions of dollars in tax credits back. But I think what people don't realize is it's not free money.

Taber: Mm hm.

Gero: It's, uh, you're getting money back towards labour you spent. So, although that the bill, you know, has, kind of, some nefarious creative ramifications as, as far as censorship goes, really the thing that it's attacking is, you know, uh, an incentive to bring a very big industry, the film and television industry, into Canada and keep it here.

Taber: And you wouldn't have been able to make your film without the help of the, the tax credit?

Gero: Absolutely not. I mean, you have to, you know, film financing and television financing is a tricky jigsaw puzzle. You know, you have to get your, it's piece-meal all over the place and every little bit counts. If you were able, if you're only ab-, you know, people say well it's only five to seven per cent of your budget. That's quite a lot, especially, you know, Bill C-10, one of the major problems with the way that it's constructed is that it would revoke the funding after the production as opposed to before. You know, now if you apply and you meet a certain criteria [*sic*], they'll give you the checkmark and they won't give you the money until, you know, of course, you've spent the money on the labour that you're getting the rebate on.

Taber: Right.

Gero: But, um, how film is financed is, is you get all these people to say I'm gonna give you some money once you're finished the film and then you go to a bank and the bank, you know, give you a loan.

Taber: Okay.

Gero: And, uh, you slowly pay that loan bank [sic] as you deliver the film. Um, the problem with this is that if you revoke the tax credit after the fact, banks are not gonna start lending you money against money that you might not get.

Taber: Where, where is, where is the line that's drawn, then? I mean, where do you think there's a line? Or do you think the government should be involved in this in any way at all?

Gero: I absolutely think the government should be involved in it. Uh, I mean, uh, but we have a system in place that works, you know? Uh, there aren't a lot of pornographic films that are getting tax credits. There aren't any. There aren't any violent films that are getting tax credits, you know?

Taber: So why do you think the government's doing this?

Gero: Well, I don't know. I'm not the government. I, uh, --

Taber: Oh, come on. You must have an idea. You're a smart guy.

Gero: Uh, I'm okay-smart.

Taber: Yeah.

Gero: Uh, they, well, I, I mean, you know, I, I think, I think they would like greater control over, over what they deem for "public policy", you know? Not everyone, you know, we're kind of an easy target. We have a swear in the title. You know, it's provocative. And if, for, for the people that haven't seen the film, then, you know, they think well, you know, I don't necessarily want my money going into that. But, but it, what it does is it fogs the issue because it's, it's not about, uh, funding provocative films. What it is is about, you know, um, keeping film in Canada and allowing an industry that employs 127,000 people here.

Taber: And Thursday night, uh, you were very mischievous --

Gero: Yeah.

Taber: -- and you had politicians and senators --

Gero: That's right.

Taber: – come in to see, uh, to see your film. What was, there were no Conservatives, I understand.

[video footage of people at movie theatre, including shots of the movie's poster on which the "UCK" has "fallen" to the bottom and a condom package is in its place.]

Gero: No, no, no, no.

Taber: Okay, what was the reaction in general?

Gero: Um, the reaction was very positive. I mean, it was a strange audience to go into. Again, you know, the one thing that has been lost in all of this controversy is that the film is a lot of fun and is actually one of the more commercial films, uh, that I think Canada has come out with in a long time and is getting, you know, a fairly wide release because of it. Um, it, it was interesting, though, because I think everyone came and, uh, you know, was, was, uh, those first five minutes, you know, were very, like, I don't, okay, what's going on here? But once they realized that the film, really, I mean, it –

Taber: Wasn't really young people ... [laughs]?

Gero: Yeah, well. There is. I'm not gonna lie to you, there's a lot of sex in the movie, but it's, it's nothing that, you know, uh, it would, it doesn't even border on pornography. And so once they kind of realized that, I think people could shut that part of their brain off and they just enjoyed what I think is a really funny and fun film.

Taber: Martin Gero, thanks very much for coming in this afternoon. Your movie comes out June 13<sup>th</sup>.

Gero: June 13<sup>th</sup>, all across Canada.

Taber: There you go.

Gero: Thank you.

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## APPENDIX B

### CBSC Decision 07/08-1703 CTV re an interview on *Question Period* (Bill C-10)

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#### The Complaint

A viewer sent a short complaint to the CRTC on June 2, 2008, which was forwarded to the CBSC:

I watched CTV's *Question Period* on Sunday June 1, 2008. I was very disgusted with them printing the full name of the movie they were discussing with the movie's director.

#### Broadcaster Response

CTV responded on June 27:

The Canadian Broadcast Standards Council has forwarded your correspondence for CTV's reply.

The title of the movie that you objected to was the subject of much controversy and received wide coverage on television, radio and print. CTV's *Question Period* is a national political affairs show that deals with a broad range of topical subjects. *Question Period* invited the director of the film on the show to debate the movie and the title that had been raised in Parliament and in the national media.

It would have been impossible to discuss the film without displaying the contentious title, although no one spoke the words that offended you.

We believe CTV acted responsibly and professionally in accordance with its mandate as a broadcaster. According to the *CAB Code of Ethics*, "it is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of the broadcast publisher". Likewise, the RTNDA Code recognizes the "responsibility of broadcast journalists to promote and to protect the freedom to report independently about matters of public interest and to present a wide range of expressions, opinions and ideas."

CTV is a member in good standing of the CBSC and adheres to its guidelines.

Thank you for taking the time to write with your concerns.

#### Additional Correspondence

The complainant filed her Ruling Request on August 19 with the following note:

*Question Period* was discussing a movie which in my opinion was offensive. I complained to the CRTC who forwarded the complaint to the CBSC and your office forwarded the complaint to CTV. The original complaint was assigned CBSC File C07/08-1703. [The Executive Producer] inadequately (in my opinion) handled my complaint by stating he felt it necessary to print in full the offensive word. I challenged his response and received no answer. I believe I submitted my response to [the Executive Producer] at the end of June or the beginning of July (I kept a copy of the e-mail but have no date). On August 1, 2008 I submitted my questions again to [the Executive Producer] and to date I have not received any response. This matter has not been resolved to my satisfaction therefore I am taking this one step further and reissuing my complaint. I realize the time mentioned to file a complaint has lapsed but I had no proof I responded to [the Executive Producer] at the end of June or beginning of July. I have proof of my resubmission to CTV August 1, 2008 in my attempt to gain a satisfactory response.