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## CANADIAN BROADCAST STANDARDS COUNCIL

### NATIONAL SPECIALTY SERVICES PANEL

#### The Comedy Network re *South Park*

(CBSC Decision 09/10-1432 & -1562)

Decided October 5, 2010

R. Cohen (Chair), J. Medline (Vice Chair, Industry), H. Pawley (Vice Chair, Public),  
J. Page, C. Sephton, L. Todd

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### THE FACTS

*South Park* is an animated comedy program for adults that centres on the lives of three elementary school children named Stan Marsh, Kyle Broflovski and Eric Cartman, who live in the fictional town of South Park, Colorado. The series, which began in 1997, is widely known for its irreverent, dark and surreal humour that lampoons a range of topics, particularly those reflecting American culture, religion and celebrities.

The Comedy Network aired the challenged episodes of the program at 5:30 pm Eastern time (the dates and details are given just below). The CBSC received two complaints, each about a different episode. Both episodes were preceded by the following viewer advisory in audio and video format, which was rebroadcast coming out of every commercial break:

This program deals with mature humour and contains material and language that some parents may find unsuitable for younger audiences. Viewer discretion is strongly advised.

A second, half-joking viewer advisory in video only (inserted as a part of the program by the producers rather than the broadcaster) was also displayed at the beginning of both episodes:

All characters and events in this show – even those based on real people – are entirely fictional. All celebrity voices are impersonated ... poorly. The following program contains coarse language and due to its content should not be viewed by anyone.

### Complaint about “Go God Go XII” Episode

The first challenged episode aired on March 30, 2010 and was entitled “Go God Go XII”. A 14+ classification icon was displayed at the beginning of the episode for 15 seconds. This episode was the second in a two-part storyline that originally aired in 2006. Cartman was anxiously awaiting the release of the Nintendo Wii video game system and decided to freeze himself in ice so the wait would not seem so long. By accident, he did not thaw out until 500 years into the future. He was extremely disappointed that he did not get to play the Wii in 2006 and went on a mission in search of the by-then-antiquated gaming system. He found one, but was unable to hook it up to his futuristic television set. Cartman then saw a television commercial for a toy called the Crank Prank Time Phone which allowed the user to telephone people in the past. Cartman obtained one so that he could telephone his past self to warn him not to freeze himself.

Meanwhile in this futuristic world, three factions were at war: the United Atheist Alliance, the Unified Atheist League, and the Allied Atheist Alliance, the last of which was composed of talking otters riding ostriches. The futuristic characters referred to Cartman as “Time Child” because he had travelled forward in time. The three groups were at war because they had different answers to what they called “The Great Question”, which Cartman eventually learned was “What should atheists call themselves?”

The context left the sense that the words “shit” and “fuck” (and variations thereof) were bleeped out, but other coarse expressions were unedited throughout the episode, including “suck my balls”, “you have to be a dick”, “stupid assholes”, “dumb ass”, “asshole, you can go [bleep] yourself!” and “fat ass”. At one point, Cartman telephoned his friend Kyle from the future with the time phone. Kyle, though, did not believe that Cartman was telephoning him from the future and the two boys had the following exchange:

Kyle: Suck my balls, fat ass.

Cartman: I will, I will suck your balls, Kyle. Just stop me from freezing myself and I will get down on my knees and I will suck your balls. I’ll suck ’em dry, Kyle.

Towards the end of the episode, Future Cartman was frustrated that neither his past self nor his friends would listen to him. A futuristic robot cat told Cartman that he knew “the wife of the smartest man in all of history.” When Cartman asked “Who?”, the robot cat said “Garrison”. Cartman responded “Garrison? But he’s an asshole.” Cartman

telephoned Garrison anyway. There was then a scene of the outside of Garrison's house in which there was the sound of the telephone ringing. The viewer then saw the head and naked torso of a grey-haired man (whose name was later revealed to be Richard). Richard's movements, moans and facial expressions suggested he was having sexual intercourse.

Richard: I'll tell them to call you back. [Richard answers phone & Cartman asks for Mr. Garrison] Mrs. Garrison is the only person here and she's rather tied up at the moment.

The viewer then saw a bald man lying on his stomach wearing lipstick and gold earrings. He was also shirtless with a green blanket covering his lower body.

Cartman: Look, asshole, this is a real emergency! Just pass the phone to whatever Garrison wants to call himself since the sex change operation!

Richard was then shown straddling Garrison, but the private parts of both men were covered by the green blanket.

Richard: Sex change operation!?

Garrison: Oh, oh.

Richard [jumps back from Garrison and covers his crotch with his hands]: You're a man?! [Richard gathers his clothes up off the floor and runs for the door]

Garrison: Not anymore. I've been fixed. Richard, hold on, I can explain.

Richard [standing naked by door, but with a pile of clothes covering his lower body]: Explain?! How could I be so stupid?

Richard was shown leaving by the front door, wearing pants but no shirt.

Garrison [in the doorway wearing a white bathrobe]: Richard, come back. Please! Well, go ahead and leave, you atheist [bleep]. Have fun mocking God in hell! You queer!

It was that scene that concerned the first complainant. He wrote his complaint letter on March 30, objecting to the time at which this scene aired (the full text of this complaint and all correspondence can be found in the Appendix to this decision):

It is inappropriate for human actors or cartoon characters to be depicted having heterosexual or homosexual sex at this time period. That may have been the only small portion of adult content that was in that episode but it should be enough to disqualify it from appearing during family viewing hours.

The Comedy Network replied to that complainant on April 28, thanking the complainant for his feedback and noting that the Comedy Network is a member in good standing of the CBSC. The broadcaster also pointed out that it had aired a viewer advisory during the program and made the following comments about the program:

The decision to air this show in daytime was not undertaken lightly. *South Park* was once quite a provocative series but now its content and subject matter are pretty much on par with other popular animated comedies that deal with mature subject matter, like *Family Guy*, which is routinely aired in daytime. We also noted that very mature oriented live action series like *Two and a Half Men*, *Law and Order: SVU* and *Trailer Park Boys* are now aired in daytime as well.

Additionally, we took time and care to edit the series so that all strong language was eliminated [...].

The sex act mentioned in your complaint was implied and not explicitly shown and was edited for daytime from its original version that only aired post-9:00 pm. We always air *South Park* with an AGVOT rating of 14+. This designation lets parents and viewers know that parental guidance is advised [...].

The complainant was not satisfied with the Comedy Network's "reasons for allowing a sexually explicit act (anal intercourse) to appear prior to the Watershed hour" and he filed his Ruling Request on May 13. He emphasized that the program appeals to both adults and children and disagreed with the broadcaster's characterization of the scene in question:

That is incorrect and sophist [*sic*] reasoning: the two characters are not having implied sexual relations, i.e. behind a curtain or under large blankets; they are each shown naked from the waist down [*sic*, actually "up"], panting, grunting and sweating and the blanket in question is not preventing innocent children from seeing a sex act any more than it would make adults think the act was "simulated", another incorrect term. [The Comedy Network]'s excuse does not hold water.

[...]

The content and writing of *South Park* make it a children's show as much as it is an adult's show.

Moreover, since it is shown BEFORE the Watershed hour, when children may have done their homework, and might be allowed some tv by their parents, it is clear that if you allow this or similar episodes to air that you are complicit in harming this nation's youth as much as the Comedy channel is guilty of filling our moral sewers.

The complainant also sent additional letters to the CBSC reiterating his view that this was inappropriate content for a pre-Watershed broadcast and that the fact that the characters were cartoons rather than human actors was irrelevant.

### Complaint about "Britney's New Look" Episode

The second challenged episode aired on April 22 and was entitled "Britney's New Look". An 18+ classification icon appeared at the beginning of this episode. The context left the sense that the words "prick" and "fuck" were muted throughout the program and no other coarse words were broadcast unedited. This episode had first aired in 2008 and the plot involved the fictional visit of the representation of pop star Britney Spears to the

town of South Park. The boys learned that the Spears character was staying at a local hotel and they went to the hotel in the hopes of getting a photograph of Spears that they could sell for a lot of money. They gained access to Spears' room by telling the security guard that they were Spears' sons. In the satirical sketch, Spears was depressed that the media never leave her alone and, in front of the boys, she took a rifle out from behind her back and put it in her mouth. She cocked the gun. The boys yelled "No!" but she pulled the trigger and there was a flash of blood and fire around her head. The scene then showed a bloody arm lying on the floor beside the rifle and the four boys stared at it in shock for a few seconds. Two of the boys left the room, but Stan and Kyle remained frozen in shock. The security guard came to the doorway and also stood there in shock.

Stan and Kyle then followed Spears to the hospital and learned that she had survived, but, when they went into her room to see her, the viewer saw that only the bottom part of her face remained, surrounded by bloody, jagged tissue. Spears tried to speak, but her words were garbled. Stan and Kyle were startled by her appearance, but they apologized for making her want to kill herself. That scene was followed by a television "news update" on Spears' condition in which the reporter stated:

You won't believe what Britney's done now. The troubled pop star has just been spotted with a crazy no-top-part-of-my-head look. This video was taken just hours ago as Britney was wheeled into the hospital for some reason. And if we zoom in on the footage, right, right here, you can definitely also see a boob job scar.

The Spears character went about the rest of the episode in this virtually headless state, recording a song and performing at the MTV Awards, where her headless corpse was basically manipulated by her back-up dancers. Everyone commented on her weight gain and lack of intelligence. No one seemed concerned that she only had the lower part of her face, except Kyle and Stan, who tried to help her flee to the North Pole. Spears' escape attempt was unsuccessful, however, and she, Kyle and Stan ended up in a field where a crowd had gathered to watch Spears die, including Kyle's own parents. The situation was explained to the boys by various members of the crowd:

Bob Summers: Hello, I'm Bob Summers. Is today the day?

Kyle: What is going on? Why do you want Britney Spears to die?

Summers: Well, nobody wants her to die, little boy. We all simply *need* her to. Do you understand?

Kyle: No!

Man in uniform: Look, kid, throughout history people have found it necessary to engage in ... human sacrifice.

Summers: In ancient times, humans would commonly pick one lovely girl and adorn her with jewels, treat her like a goddess and then watch her die.

Man #1: We Americans like to think we're more civilized now. But the truth is our lust for torture and death is no different than it was in gladiator times.

Man #2: Only difference is that now Americans like to watch people put to death through magazines and photographs.

Old man: It's a damn shame too. Old ways were better. Used to be, we just picked someone by lottery and then stoned 'em to death.

Woman: No, the American people don't want to stone people to death anymore. Best to let the sacrifice kill itself.

Kyle: You mean everyone in the country wants Britney Spears to kill herself?

Man #3: Britney was chosen a long time ago to be built up and adored and then sacrificed. For harvest.

[...]

Kyle: Mom! Dad! They're going to kill her! They're going to, wait. What are you doing here?

Kyle's Dad: It's all of America, Kyle. We're all a part of this together.

Kyle: You know about all this?

Stan: Kyle, what the [muted word] is going on now?

Kyle: She's been built up to be sacrificed, Stan!

Stan: Sacrificed?! For what?!

Stan's Dad [emerges from crowd]: For harvest, Stanley. The same reason human beings have always done it.

Old man: Sacrifice and March corn have plenty starch.

Kyle: Corn harvest.

Stan's Dad: We hadn't told you about it, Stanley, because we, we like to wait until kids are a little older to talk to them about things like condoms and ritualistic human sacrifice for harvest.

Stan: All right, enough already! This has all gone on long enough.

Manager: The kid is right. This has gone on too long.

NASCAR driver: Yeah, she was supposed to have killed herself a long time ago.

Man #4: And harvest is coming soon.

Summers: All right, folks, let's finish this quickly.

Everyone in the crowd took out a camera and began taking photos of Spears as they moved in closer to her. Only garbled sounds came out of Spears's mouth as she moved around to fend off the people. She ended up on the ground, first on her hands and knees and then lying down, shaking what remained of her head and raising her arms up to shield herself. She stopped moving and a doctor pronounced her dead. The crowd dissipated as Kyle and Stan remained staring at Spears' body.

A viewer submitted a complaint on April 22, noting this episode in particular, but also expressing general concerns about the Comedy Network's decision to air this program at 5:30 pm:

I noticed a few months ago that the show *South Park* is being broadcasted [sic] at 5:30 pm during weekdays on the Comedy Network. Isn't this show rated for adults only? What's next, pornography at 6:00 pm? I have nothing against that show, it's just the time slot that bothers me. I don't understand that no one ever noticed that before. Today, the show portrayed graphically a woman committing suicide with a shotgun, then walking around, missing the whole upper part of her head. I hope you will act in this matter.

The Comedy Network responded to this complainant on May 18. The broadcaster's letter contained information similar to that sent to the first complainant, noting that it rates *South Park* 14+ and broadcasts a viewer advisory. Specifically about the "Britney's New Look" episode, the station stated:

The violent act mentioned in your complaint was intended as a social commentary about the way celebrities are treated in our society and Britney Spears specifically. Its humour is both irreverent and sophisticated but at times it is also base and crass and the scenes in question are typical of the series. Comedy is a subjective medium. For a broadcaster, presenting comedy comes with the inherent risk that some of our viewers simply won't appreciate it. With a series like *South Park*, which employs a juvenile type of humour, that risk increases and we are very sorry that there were elements to it that offended you.

The complainant filed his Ruling Request on June 15 with the comment, "They are basically saying that, since other violent, tasteless programming is being broadcasted [sic] during daytime, well, that means that they should do it too."

## THE DECISION

The National Specialty Services Panel has examined the complaints under the following provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* and *Violence Code*:

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

- 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

- a) at the beginning of, and after every commercial break during the first hour of programming telecast in late viewing hours which contains such material which is intended for adult audiences, or
- 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.

Suggested language for suitable viewer advisories is outlined in Appendix A [of this Code]. The suggestions are meant as possible illustrations; broadcasters are encouraged to adopt wording which is likeliest to provide viewers with the most relevant and useful information regarding the programming to which it applies.

### *CAB Violence Code, Article 3.0 – 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.

### *CAB Violence Code, Article 5.0 – 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.

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.

5.3 Suggested language for suitable viewer advisories is outlined in Appendix A [of this Code].

The Panel Adjudicators read all of the correspondence and viewed the two challenged broadcasts. The Panel concludes that the Comedy Network breached Clauses 10 and 11 of the *CAB Code of Ethics* and Articles 3.0 and 5.0 of the *CAB Violence Code*.



## **The Nature of *South Park***

The Panel is entirely conscious of, and respects, the validity and relevance of the social commentary that the series generally represents. The current decision is rendered with that in mind, and with the specific relevance of that principle to the two challenged episodes, but the issues for the Panel relate to *other* matters, focussing principally on the method and scheduling of the expression of that social satirical sentiment.

## **Sexually Explicit Content**

CBSC Panels have, on many occasions, had to deal with the nature of telecast sexual matter. The fundamental issue is always whether the challenged content rises to the level of “sexually explicit material intended exclusively for adult audiences.” Generally speaking, the CBSC has determined that sexually *suggestive* material, mild references to sex or sexuality and the reference to, or description of, private body parts, as well as sexual innuendo can be broadcast at any time of day. On the other hand, actual images of sexual activity or detailed verbal descriptions of sexual acts, as well as extremely strong and consistent “innuendo” should only be broadcast during the Watershed period (from 9:00 pm to 6:00 am).

The Panel notes parenthetically and preliminarily that the fact that the characters were animated rather than human does not change its view of the sexual content of the challenged episodes. See this Panel’s earlier decisions in *Teletoon re Team America: World Police* (CBSC Decision 07/08-1011, August 7, 2008) and *G4 Tech TV re Superjail!* (CBSC Decision 09/10-0078, April 1, 2010).

In the matter at hand, the Panel finds that the 45-second scene is nothing more than suggestive. Very suggestive, indeed, but no more than suggestive. The scene did not show any private body parts at any point and the first twenty seconds were taken up by dialogue between Richard and Cartman in the future before it was even revealed that another person was present. Even at that point, there was not even a second during which the two individuals (Richard and Garrison) were seen in even simulated sexual activity together. Thereafter, there were only nine seconds when Richard and Garrison were seen “separating” and that was primarily made up of embarrassing (to Richard) dialogue. While there was, in other words, a suggestion of what had been going on, it was only that. In the view of the Panel, it barely reached, and certainly did not surpass borderline suggestiveness. It did not fall into the domain of explicit sexual content intended solely for adult audiences. It did not require post-Watershed broadcast.

## Coarse Language

The CBSC has often been called upon to assess challenged uses of coarse or offensive language. In many of those decisions, it has had to deal with the usage of one or another of the instances of the f-word family; Panels have consistently held that such words constitute language intended exclusively for adults, which can only be broadcast after 9:00 pm. The word “fuck”, as well as “shit” and “prick” were bleeped or muted in both of the episodes of *South Park* under consideration here. With respect to other words that could be said to fall into the category of coarse or offensive language, the CBSC has made decisions on a case-by-case basis, taking context, frequency and “broad social norms” into consideration. Words such as “crap”, “ass”, “bitch” and others have been deemed acceptable at any time of day, but the CBSC has expressed concerns about other words, particularly when used repeatedly throughout a program. [See, for example, *Showcase Television re the movie Destiny to Order* (CBSC Decision 00/01-0715, January 16, 2002), in which “fuck”, “fucker”, “I’ll blow your fucking balls off”, “asshole”, “shit”, “son of a bitch”, etc. were used in a *pre-Watershed* time period; *WTN re the movie Wildcats* (CBSC Decision 00/01-0964, January 16, 2002), in which “fuck” and “motherfucker”, “pussy”, “shit” and the phrase “You can’t win a pissing contest against a prick” were aired in a 4:00 pm movie; and *Bravo! re the movie Kitchen Party* (CBSC Decision 03/04-0928, December 15, 2004), in which there were numerous usages of the f-word, as well as other off-colour words such as “cocksucker”, “prick”, “bitches”, “shit” and “asshole” during a 2:00 pm broadcast.]

In the first of the two challenged episodes of *South Park*, each usage of “shit” and examples from the f-word family were bleeped out, but the following examples of coarse language remained: “suck my balls” (five times), “dick”, “stupid assholes” (two times), “dumb ass”, and “asshole” (four times). Even if the Panel might not have sanctioned one or a very small number of instances of some of the foregoing terms, the Panel finds their cumulative usage extremely problematic. Accordingly, it considers that the “Go God Go XII” episode of March 30 required broadcast after the start of the Watershed at 9:00 pm. Its earlier broadcast constitutes a breach of Clause 10(a) of the *CAB Code of Ethics*.

## Violent Content: Pre- or Post-Watershed?

Violence is permitted in programming aired before the Watershed hour of 9:00 pm provided that it is not “violence intended exclusively for adult audiences”. While there is no mathematical formula for making that determination, the CBSC has explained that the levels of gore, blood, injury and method of inflicting injury are important factors, as well as how much of the violent act the viewer actually sees. While most of the television violence with which Panels have been called upon to deal over the years has

involved live action programming, some of the decisions have dealt with violence in animated programming.

In one such case, namely, *CTV re Kevin Spencer* (CBSC Decision 98/99-1173, November 18, 1999), the Prairie Regional Panel dealt with a complaint about an animated series whose titular protagonist is a young boy from a dysfunctional family who is himself a “chain-smoking, alcoholic sociopath”. Like *South Park*, the content of the show is satirical and plays to a considerable extent on irreverent and anti-social themes, which occasionally includes violent matter. Some examples of the violence in the challenged episode were: Kevin’s father beating a man with a stocking stuffed with an ashtray; Kevin kicking his father in the groin; Kevin being beaten by four prison guards; Kevin sticking a fork in his temple; Kevin taking a severed head from a car accident and using it as a pet and then as a bird feeder; a bombing showing bloody body parts strewn all over; and Kevin being sliced into pieces by prison inmates and an especially graphic display of Kevin’s head in a pool of blood. The program aired at midnight, which the Prairie Panel considered appropriate, but it did conclude that some of the foregoing scenes constituted “excessive, graphic and gory depictions of violence” that fell afoul of a Code provision not at issue here.

In *Teletoon re Team America: World Police* (CBSC Decision 07/08-1011, August 7, 2008), this Panel was called upon to deal with a complaint about a televised feature film produced by the creators of *South Park*. The movie, which featured marionette puppets representing humans who were members of a special police force established to combat global terrorism, contained numerous scenes of bloody and gory violence throughout the movie. These included a man being shot in the back of the head for no apparent reason, a man being eaten by a shark, a woman’s face being blown off, and a man being impaled on the spike of a helmet. On the issue of animation and adult content, this Panel said

Even though puppets, not people, were involved, the violence in *Team America* was bloody and gory, the sexuality was explicit, and there were numerous examples of coarse and offensive language. Each of those components would on its own have relegated the animated feature to a post-Watershed broadcast. Consequently, Teletoon was required to broadcast the film after 9:00 pm. That is [...] what it did.

This Panel recently rendered another decision involving animation and adult content, namely, *G4 Tech TV re Superjail!* (CBSC Decision 09/10-0078, April 1, 2010). In one of the episodes considered in that decision, the excessive violence included: the image of an elderly Flower Lady, wrinkled, naked and splayed on the street; a shoe flying into a bystander’s eye causing it to bleed; Jackknife (one of the principal characters) and a dog being run over repeatedly and bleeding in the street; self-inflicted frying pan injuries leading to a bloodied and disfigured face; crushed eyeballs; the broken and separated arm of a female inmate; the severing of both arms on another individual; and so on. While that decision dealt with classification and viewer advisory issues, this Panel

considered the foregoing violent examples to require an 18+, rather than a 14+, rating. In other words, although the challenged episode just noted played after the beginning of the Watershed, thus respecting the scheduling requirements of the *Violence Code*, the Panel considered that the content was exclusively intended for adults, even requiring the highest rating.

Finally, the Panel notes that a much older decision of the Prairie Regional Panel, namely *CICT-TV re South Park* (CBSC Decision 97/98-1214, June 16, 1999), dealt with an episode of *South Park*. While there is not much in that decision (in terms of plot or specific story points) that is pertinent to the matter at hand, the Panel appreciates that the 1999 episode was aired at midnight, and was not targeted at children (and the following general principle enunciated by the Prairie Regional Panel remains germane today):

[T]he Council believes that it must emphasize the fact that *South Park* is decidedly *not children's fare*. It is not represented to be. It carries an explicit disclaimer. It is not aired at an hour when children could be expected to access it.

Applying all of the foregoing principles to the matter at hand, the National Specialty Services Panel concludes that much of the content in the April 22 episode was exceedingly violent. Examples include: the Spears character putting the rifle into her mouth and committing suicide and the constant visuals in various settings of the bottom part of Spears' face/head, surrounded by bloody, jagged tissue. The Panel is entirely conscious of, and respects, the validity and relevance of the social commentary that the episode is making regarding the fascination with celebrity, the thoughtlessness regarding their pursuit, and the potential tragic effects of the harassing of such icons. The Panel's concern is not with that socio-satirical programming purpose; it is rather with the *hour* at which the broadcaster has chosen to convey the message. Each of the four jurisprudential examples cited immediately above dealt with programs broadcast post-Watershed. The Panel considers that the broadcast of the "Britney's New Look" episode at 5:30 pm violated Article 3.0 of the *CAB Violence Code*.

## **Advisories**

The Comedy Network displayed the required viewer advisories in the correct audio and video formats and with the required frequency, that is, at the beginning of each episode and coming out of every commercial break as required by Clause 11 of the *CAB Code of Ethics* and Article 5.0 of the *CAB Violence Code*. The rules relating to viewer advisories, however, require more than conformity with frequency and format provisions. Without respect for the *content* of the advisory, that viewer aid is of little value. After all, the purpose of viewer advisories (and classification icons) is to provide audience members with sufficient knowledge about a program that will enable any

viewer to make an *informed* decision about whether or not to watch it. Nor should this be thought of solely as a tool for parents to regulate suitable viewing for their children; advisories help adults to make suitable choices for their own television watching. As this Panel said of some of the advisories evaluated in *Showcase Television re the movie Rats* (CBSC Decision 99/00-0772, August 23, 2001), they were inadequate because they did not provide “any reasons for which a viewer might choose to exercise discretion.” In another of this Panel’s decisions, namely, *The Comedy Network re an episode of Gutterball Alley* (CBSC Decision 01/02-0450 & -0481, September 13, 2002), an advisory had been used that only advised audiences of “mature subject matter” without alerting them to the coarse language used during the program. This Panel explained the importance of focused, detailed advisories in the following terms:

Viewer advisories differ slightly from classification issues. They are broader and more descriptive [...]. They provide people with more than a single "catch-all" basket category for levels of coarse language, violence, nudity and sexual content. In descriptive words, they advise viewers of the kind of content they can anticipate encountering in a program about to be, or currently being, aired.

The failure in that case to advise viewers of the specific problem they could expect to encounter, namely, coarse language, was in breach of the Code. There have been several other decisions in which CBSC Panels have underscored the requirement for advisories containing *precise and accurate* information about program content. The National Specialty Services Panel concludes, in the matter at hand, that the failure of the advisories to alert viewers to the sexual content (in the case of the March 30 episode) and the violent content (in the case of the April 22 episode) constituted breaches of Clause 11 of the *CAB Code of Ethics* and Article 5 of the *CAB Violence Code* respectively.

### **Classification**

The Vice President of the Comedy Network explained in her letter that “We always air *South Park* with an AGVOT rating of 14+.” The Panel finds that observation a bit curious in light of the fact that the broadcaster applied an 18+ rating to the April 22 (Britney Spears) episode. Moreover, while Panels consistently support broadcasters’ efforts to be of even greater assistance to their audiences than may be required by the codified standards, in this case, it would be inconsistent for any broadcaster to apply an 18+ rating on a program aired prior to the Watershed. In any event, the Panel finds no breach on account of the choice of rating. It merely observes that, for the reasons stated, it seems an odd choice.

## **Broadcaster Responsiveness**

In all CBSC decisions, the Council's Panels assess the broadcaster's responsiveness to the complainants. In the present instance, the Panel finds that the responses of the broadcaster's Vice President focussed on the issues that concerned the complainants. That said, the complainants did not find the responses satisfactory, which is their right and is, after all, the condition precedent to any matter finding its way before an adjudicating Panel. The Panel is satisfied that the Comedy Network has met its membership obligation in these instances.

## **ANNOUNCEMENT OF THE DECISION**

The Comedy Network is required to: 1) announce the 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 *South Park* was broadcast, but not on the same day as the first mandated announcement; 2) within the fourteen days following the broadcasts of the announcements, to provide written confirmation of the airing of the statement to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with a copy of that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by the Comedy Network.

The Canadian Broadcast Standards Council has found that the Comedy Network violated the Canadian Association of Broadcasters' *Code of Ethics* and *Violence Code* in its broadcasts of *South Park* on March 30 and April 22, 2010. The Comedy Network broadcast both episodes at 5:30 pm Eastern time, one of which contained coarse language intended for adult audiences and the other of which contained violence intended for adult audiences. The Comedy Network violated Clause 10 of the *CAB Code of Ethics* and Article 3.0 of the *CAB Violence Code* for broadcasting that content before 9:00 pm. The Comedy Network also failed to mention sexual content and violence in its viewer advisories, thus violating Clause 11 of the *CAB Code of Ethics* and Article 5.0 of the *CAB Violence Code*.

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

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## APPENDIX

### CBSC Decision 09/10-1432 & -1562 The Comedy Network re *South Park*

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#### The Complaint

##### File 09/10-1432

The following complaint was sent to the CRTC on March 30, 2010 and sent to the CBSC in due course:

On March 30, 2010 at 6:50 pm I turned on the Comedy channel to see *South Park* cartoon characters (Mr. Garrison and another male character) having anal sex.

It is inappropriate for human actors or cartoon characters to be depicted having heterosexual or homosexual sex at this time period. That may have been the only small portion of adult content that was in that episode but it should be enough to disqualify it from appearing during family viewing hours.

Was this a programming mistake or is it the policy of the CRTC to allow such content during an early hour?

Lastly, if this particular episode aired with explicit CRTC approval I am going to bring it to the attention of James Moore, our Heritage minister and ask that the CRTC annually review all episodes of this television show.

##### File 09/10-1562

The following complaint was sent directly to the CBSC on April 22, 2010:

Hi. I noticed a few months ago that the show *South Park* is being broadcasted at 5:30 pm during weekdays on The Comedy Network. Isn't this show rated for adults only? What's next, pornography at 6:00 pm? I have nothing against that show, it's just the time slot that bothers me. I don't understand that no one ever noticed that before. Today, the show portrayed graphically a woman committing suicide with a shotgun, then walking around, missing the whole upper part of her head. I hope you will act in this matter.

Thank you for your time.

#### Broadcaster Responses

##### File 09/10-1432

The Comedy Network responded to the complainant on April 28:

The Canadian Broadcast Standards Council (CBSC) has forwarded to us a copy of your electronic correspondence dated March 30<sup>th</sup>, 2010 regarding the program *South Park* which aired on The Comedy Network on March 30<sup>th</sup>, 2010 for our attention and response.

Before I address your specific concern, it should be noted that The Comedy Network follows the Canadian Association of Broadcasters' (CAB) *Code of Ethics, Equitable Portrayal Code*, and *Voluntary Code Regarding Violence in Television Programming*. (If you would like to view the CAB codes, you may do so at [www.cbbsc.ca](http://www.cbbsc.ca)). The Comedy Network is a member in good standing of the Canadian Broadcast Standards Council and follows the Council's standards and guidelines.

First, I'd like to thank you for sending your comments about our airing of *South Park* to the CBSC. For broadcasters, feedback like yours is so important. The decision to air this show in daytime was not undertaken lightly. *South Park* was once quite a provocative series but now its content and subject matter are pretty much on par with other popular animated comedies that deal with mature subject matter, like *Family Guy* which is routinely aired in daytime. We also noted that very mature oriented live action series like *Two and a Half Men*, *Law and Order: SVU* and *Trailer Park Boys* are now aired in daytime as well.

Additionally, we took time and care to edit the series so that all strong language was eliminated and crafted the following viewer advisory to alert parents and viewers like you to content that they might not be comfortable with their children or themselves seeing. It reads as follows:

*This program deals with mature humour and contains material and language that some parents may find unsuitable for younger audiences. Viewer discretion is strongly advised.*

The sex act mentioned in your complaint was implied and not explicitly shown and was edited for daytime from its original version that only aired post-9:00 pm. We always air *South Park* with an AGVOT rating of 14+. This designation lets parents and viewers know that parental guidance is advised because the program could contain:

*[Content that is] suitable for people 14 years of age or older. Those under 14 should view with an adult. Parents cautioned. May contain violence, coarse language and/or sexually suggestive scenes.*

Thank you for taking the time to send us your concerns as it benefits all our viewers.

We hope that we have addressed your concern in regards to this program.

#### File 09/10-1562

The Comedy Network responded to this complainant on May 18:

The Canadian Broadcast Standards Council (CBSC) has forwarded to us a copy of your electronic correspondence dated April 22<sup>nd</sup>, 2010 regarding the program *South Park* which aired on The Comedy Network on April 22<sup>nd</sup>, 2010 for our attention and response.

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*This program deals with mature humour and contains material and language that some parents may find unsuitable for younger audiences. Viewer discretion is strongly advised.*

We always air *South Park* with an AGVOT rating of 14+. This designation lets parents and viewers know that parental guidance is advised of the following violence guidelines:

*While violence could be one of the dominant elements of the storyline, it must be integral to the development of plot or character.*

*Might contain intense scenes of violence.*

The violent act mentioned in your complaint was intended as a social commentary about the way celebrities are treated in our society and Britney Spears specifically. Its humour is both irreverent and sophisticated but at times it is also base and crass and the scenes in question are typical of the series. Comedy is a subjective medium. For a broadcaster, presenting comedy comes with the inherent risk that some of our viewers simply won't appreciate it. With a series like *South Park*, which employs a juvenile type of humour, that risk increases and we are very sorry that there were elements to it that offended you.

Thank you for taking the time to send us your concerns as it benefits all our viewers. We hope that we have addressed your concern in regards to this problem.

## **Additional Correspondence**

### File 09/10-1432

The complainant wrote back directly to the broadcaster on May 8 and did not copy the CBSC. The broadcaster forwarded it to the CBSC asking how to proceed:

Subject: Anal sex is anal sex -- they seemed to be engaged in it, not emulating or aping it

[The Vice President]'s explanation is unsatisfactory on many levels and I wish to have my complaint proceed to the CRTC. That episode may be covered by a blanket warning to parents, but it has been mistakenly included in what is considered normal Canadian cultural mores.

Please advise me of what I should do or if any other communication with your firm is necessary.

Lastly, referencing [The Vice President]'s Herodian hand washing apologia, my disgust is real, not "implied" unlike the sex acts your cartoon depicts. The two characters were depicted having anal sex, whether or not a blanket covered it.

For your sake too, I hope being an apologist for a sophist sits well with you and the evening mirror.

The CBSC told The Comedy Network that it could simply inform the complainant that if he wished to proceed further, he should file his CBSC Ruling Request. The complainant did file that Ruling Request on May 13 with the following explanation:

Dear Canadian Broadcast Standards Council:

The Comedy Channel's given reasons for allowing a sexually explicit act (anal intercourse) to appear prior to the Watershed hour is unsatisfactory as the show has both child and adult viewers.

It has humour that only adults may understand and humour that only immature people and children may relate to, appreciate or enjoy, thus it is a dual market show like *The Simpsons* -- catering to a juvenile and adult market.

[The Comedy Network representative]'s excuse centers on the fact that a very small blanket covers the anus of the character being voluntarily sodomized and thus the act is only "implied" (his term).

That is incorrect and sophist reasoning: the two characters are not having implied sexual relations, i.e. behind a curtain or under large blankets; they are each shown naked from the waist down [*sic*, actually "up"], panting, grunting and sweating and the blanket in question is not preventing innocent children from seeing a sex act any more than it would make adults think the act was "simulated", another incorrect term. [The Comedy Network representative]'s excuse does not hold water.

I am not as stupid as the characters [The Comedy Network representative] defends in the show. I know what I saw and I know that according to the FAQ your own organization provides, it violates what children may be shown before the Watershed hour.

The content and writing of *South Park* make it a children's show as much as it is an adult's show.

Moreover, since it is shown BEFORE the Watershed hour, when children may have done their homework, and might be allowed some tv by their parents, it is clear that if you allow this or similar episodes to air that you are complicit in harming this nation's youth as much as the Comedy channel is guilty of filling our moral sewers.

Sincerely annoyed with Comedy Central and your organization, I'd like to hear some answers and, if it fits your bill as to "acceptable content", I will be lobbying the Heritage minister to change it,

The complainant wrote to the CBSC again on May 14:

I regret to notice that Secretariat is also the name of a dead horse, who I am afraid I am probably merely beating.

Yet this episode is, as the kids say, a "no brainer" -- acts of sodomy or heterosexual sex should not be shown on cartoons marketed to children and adults before the "watershed hour" or that hour has no meaning or import.

I importune your group to make the right decision.

The complainant wrote again on June 4, noting another broadcast date of *South Park* that concerned him:

station: CBSC File 09/10-1432

program: *South Park*

date: May 11, 2010

concern: Broadcaster continues to consider depictions of anal sex at 7 pm to be suitable content.

You have to make a ruling. Whether they are human actors or cartoon characters does not matter. This is unsuitable for television and especially at this time.

The broadcaster's sole excuse that a blanket partially covers their penis and anus is asinine as it is weak.

This is just lax standards.

Based on the wording of that letter, the CBSC Secretariat assumed that the broadcast was a repeat of the same episode mentioned in his original complaint. When The Comedy Network reviewed the episode, however, it determined that it was not the same episode and requested that this new complaint be treated separately, including the requirement that the complainant send a separate Ruling Request once he had received the station's new response dealing with this particular episode. This approach was explained to the complainant in an email from the CBSC of June 16. The complainant wrote the following to the CBSC on June 16:

I am sorry for the confusion [CBSC Communications Coordinator]. All I can say is that I stand by my complaint that it is objectionable material - especially at that time of day.

If the CRTC would not let *Brokeback Mountain* with its depictions of sodomy on air at 7:00 pm, it should not let Comedy Central [*sic*] air the same thing -- whether it is by human actors or drawn cartoon figures.

Thank you for your response.

The Comedy Network sent its second response on July 7, but the complainant never filed his Ruling Request for the May 11 episode.

File 09/10-1562

This complainant filed his Ruling Request on June 15 with the following note:

I strongly disagree with the response by the broadcaster. They are basically saying that, since other violent, tasteless programming is being broadcasted during daytime, well, that means that they should do it too. I think it is stupid to assume that position. I mean, what is next, porno movies at 6 pm?