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**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL COUNCIL**

CITY-TV re “Ed the Sock” Promotional Spots

(CBSC Decision 94/95-0100)

Decided August 23, 1995

M. Barrie (Chair), P. Fockler, T. Gupta, A. MacKay, R. Stanbury

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**THE FACTS**

During its broadcast of the feature film, “Star Trek Voyager”, on January 16, 1995, CITY-TV (Toronto) included three promotional spots for a program entitled, “Ed’s Night Party”. The five-second spots featured a puppet, Ed the Sock, commenting on the film aired that evening. In the first spot, the sock puppet said,

When I made this outfit I didn’t realize I wouldn’t be able to reach my communicator pin unless I got really excited.

The on-screen message accompanying the promotional spot read “Ed’s Night Party debuts February 10.”

In the second spot, the character said, to background theme music of the “Star Trek” series,

A recent survey proved that Trekkies enjoy a very full and active sex life. They’d enjoy it even more if they had a partner.

In the third spot, the character said,

Anybody know where they keep the beer on this ship? Anybody? Anybody know where the commissary is? Hello!

The Canadian Broadcast Standards Council (CBSC) received a complaint, dated January 27, 1995, regarding the spots. According to the viewer,

City TV has been promoting a new programme starring Ed the Sock, and showcased at least two promotional advertisements during the premiere movie, Star Trek - Voyager. In one ad, Ed the Sock, a cigar-chomping sock puppet dressed in a Star Trek uniform announces, “Star Trek fans have great sex lives; too bad they have no

partners.” In another, the sock which has no arms complains that the only way he can scratch an itch is if he gets excited.

I contacted City TV by telephone to complain about these spots, and the woman who responded suggested she “had no problem” with the ads.

I have been informed that the Code of Ethics for Advertising suggests that advertisements must be in “good taste” and shall not offend public standards. The promotional spots for Ed the Sock were clear references to masturbation and erections. These advertisements occurred during an extremely well-advertised premiere showing of an adventure show popular with young people.

It is my opinion that these promotional spots were in very poor taste and well exceeded the guidelines for offending public standards.

The CBSC referred the complaint to CITY-TV for response. On March 8, 1995, CITY-TV's Director, Communication and Promotion, replied,

Citytv is committed to responsible programming. Not only do we adhere to the Canadian Association of Broadcasters Codes, we follow our own in-house Policies and Guidelines that were carefully created to ensure the highest standards are met with respect to the production, scheduling, promotion and telecast of our programming.

The 5 second promotional spots in question were produced to air only during the January 16th telecast of Star Trek - Voyager as both shows target the same adult male demographic. As the show aired on a school night, we expected few children to be watching. Our viewer research shows that the audience for this show was overwhelmingly adult.

Ed, the sock puppet who is the star of the show, is a surly outspoken character in the tradition of “Archie Bunker”. The spots reflect the show's humour, which may be sophomoric and not to everyone's taste, but certainly not offensive or beyond community standards. In fact, we had over 1.2 million viewers that evening and yours was the only complaint.

I have brought your letter to the Internal Screening Committee which deals with viewer complaints and problematic program material. Our Committee reviewed the spots and felt though they were “silly”, they were not offensive and that the humour used was subtle enough that only mature viewers would understand it.

I am sorry ... that you found the spots offensive. However, it is important to remember that many cartoons and comedy shows over the years have depicted a brand of humour that does not have cross-generational appeal. This we believe is one of those cases.

The viewer was unsatisfied with this response and wrote back to the CBSC on March 15, 1995. In her second letter, she observed that

... Citytv states that many television programs depict a “brand of humour that does not have cross-generational appeal.” I concur, and for that reason there are many shows we choose not to view because we do find the humour and the situations crude. However, this is not the specific concern about which I have a complaint. This issue is choice. As a family we avoid what we feel are less tasteful programs. On January 16, 1995, we gathered as a family to view a new program based on an original series which has been considered tame, and has long been popular with young people. While viewing this program on Citytv, we were subjected to commercials which we feel were not in keeping with the “general” viewer appeal (age

ten and up) of the program .... In short, we had little choice about viewing the commercials which we found offensive during *Star Trek - Voyager* -- they occurred quickly, and within the confines of a program which is watched by many generations.

.... I believe my primary point is simple. In our society, Citytv (and any station or advertiser) is free to create what some would term as offensive commercials and insert them during programs reflective of the tone of the commercials; however, I feel stations are not free to insert commercials of this kind during programs which have cross-generational attraction. I do not choose to view crude programming, so why should crude commercials be imposed upon me during programs with general viewer appeal.

The complaint was referred to the CBSC Ontario Regional Council for adjudication. The Regional Council considered the complaint on August 23, 1995.

## **THE DECISION**

The Regional Council considered the complaint under clause 8 (Advertising) of the Canadian Association of Broadcasters' (CAB) *Code of Ethics*. The clause reads, in pertinent part, as follows:

Recognizing the service that commercial sponsors render to listeners and viewers in making known to them the goods and services available in their communities and realizing that the story of such goods and services goes into the intimacy of the home, it shall be the responsibility of member stations and their sales representatives to work with advertisers and agencies in improving the technique of telling the advertising story so that these shall be in good taste, simple, truthful and believable, and shall not offend what is generally accepted as the prevailing standard of good taste.

The Regional Council members reviewed all the documentation relating to the complaint and viewed an air-check tape of *Star Trek - Voyager*, which included the "Ed the Sock" promotional material, and was time-coded.

### **The Advertising Issue**

The first issue for the Council to consider related to the nature of the material complained of and the CBSC's authority to consider it. They considered that, while the material in question promoted a program aired by CITY-TV and was not "sold" or bartered to a third party advertiser, it could nonetheless be considered as advertising, as that term is understood by the broadcasting industry. In this interpretation, the Regional Council relied, among other things, on the CRTC's *Television Broadcasting Regulations, 1987*, which, in section 2, define "advertising material" as "any commercial message, public service announcement and programming that promotes a station, network or program."

The next question for the Regional Council to consider was whether dealing with advertising issues fell within the CBSC's mandate. Generally, the CBSC refers all complaints dealing with advertising matters to the Canadian Advertising Foundation, which is charged with the administration of a number of codes which are

advertising-related. The CBSC does, however, deal with complaints of a local nature. It was clear that these program promos were limited to CITY-TV and the Council consequently determined that it was within its mandate to adjudicate the complaint concerning “Ed the Sock.” In this determination, the Council was supported by its earlier decision in *CFTO-TV and CFMT-TV re “Walk to Work” Commercial* (CBSC Decision 93/94-0015, June 22, 1994), in which it stated,

While it is generally true that the CBSC does not deal with advertising-related complaints, this is a question of *practice* rather than mandate. In the first place, broadcasters are as responsible for the advertising content which they transmit as they are for the dramatic, journalistic, and other content on their airwaves. Second, as stated immediately above, the CAB *Code of Ethics* contains a provision dealing in express terms with advertising content. Although not relevant to this case, it might be noted that the *Voluntary Code Regarding Violence in Television Programming* also provides an advertising-related mandate to the CBSC in Clause 3.3.

## **The Content Issue**

With regard to the content of the “Ed the Sock” advertisement, although the Regional Council members readily understood the serious concerns of the complainant, they unanimously agreed that there had been no breach of the CAB *Code of Ethics*. Their reasons for this decision follow.

The CBSC began its consideration of this complaint, as it generally does, with the proposition that broadcasters benefit from the application of the principle of freedom of expression to what they transmit, as do those who watch or listen to those transmissions. There are, however, limitations on the exercise of that freedom by broadcasters and the CBSC believes that Canada’s private broadcasters have generally been extremely receptive to the definition of those limitations as enunciated by the Council. It is known and expected that the CBSC is *extremely* cautious about the application of the principle of good taste as a restriction of that fundamental freedom.

While the complainant was extremely articulate in the enunciation of her apprehensions, the Council did not consider that the concerns outweighed the freedom at stake.

First, the members noted that the first of the promotional statements, which was probably the most “on the edge” of the three, aired at 8:28 p.m., namely, just thirty minutes before the watershed hour. The second promo aired nine minutes later and the third at 9:26 p.m.

Since this is the Council’s first decision dealing in any significant way with the “watershed” hour, it is worth noting what it is and what purpose it serves. In its literal sense, it, of course, denotes the line separating waters flowing into different rivers or river basins. Popularly, the term has been applied to threshold issues but the literal meaning of the word gives the best visual sense of programming falling on one side or the other of a defined line, in this case a time line. Programming seen as suitable for children and families falls on the early side of the line; programming

targeted primarily for adults falls on the late side of the line. It should be noted that the definition of that time line varies from country to country, from 8:30 p.m. in New Zealand to 10:30 p.m. in France. (Great Britain, Finland, South Africa and Australia all share the Canadian choice of 9:00 p.m. as the watershed.)

In Canada, the watershed was developed as a principal component of the 1993 *Violence Code*, establishing the hour *before which* no violent programming intended for adult audiences would be shown. Despite the establishment of the watershed for *that* purpose, the Council has reason to believe that broadcasters regularly consider this hour as a rough threshold for *other* types of adult programming. There is, in fact, no formal restriction on the timing of broadcasting of slightly “racy” material but the earliest of the promos under consideration here could not be said to have been run in a time slot which was *primarily a young* children’s slot or even at a time when one would have expected significant numbers of young children to be watching television at all. The broadcaster’s research showed “that the audience for this show was overwhelmingly adult.” The Council did not agree with the complainant’s contention that the program audience could be expected to have “‘general’ viewer appeal (age ten and up).” Had the broadcaster desired or expected that result, the show would have been aired at an earlier hour.

Second, the members felt that the humour in the advertisements was directed to the audience which the broadcaster had expected would see the program, namely, adults. Furthermore, it was expressed at a level that would primarily, if not only, have been understood by adult viewers. In this sense, the Regional Council believed that the humour would not have offended younger viewers. It did not use offensive language, and was neither graphic nor vile. At *most*, it could have been described as suggestive.

While clearly the advertisements were not humorous to the complainant, they did not contravene the Council’s assessment of prevailing standards of good taste. They referred again to what they had said in the *CFTO-TV and CFMT-TV re “Walk to Work” Commercial* decision:

After viewing a tape of the [“Walk to Work”] commercial and reviewing the relevant correspondence, the members present unanimously agreed that the commercial in question did not offend prevailing standards of good taste. At its worst interpretation, the commercial represented an attempt at humor that might not be universally considered humorous by a viewing audience. ... It was, if anything, tongue-in-cheek, a double-entendre... While it is evident that the Council’s mandate did not include any evaluation of the success of the humor, the Council clearly felt that the visual pun did not breach any “prevailing standard of good taste”.

This is not to say that the complainant was incorrect in her belief that, once she chose to watch the program, she had little choice but to watch the advertisements which were a part of that program. It is true of virtually every program that the exercise of the major choice (*i.e.*, the decision to watch the program itself) results in the imposition of the components which accompany it, such as the commercials but, unless that advertising amounts to such a breach of prevailing standards of good taste as to merit interference with the principle of freedom of speech, the CBCSC will

be unwilling to intervene negatively. For reasons explained above, this was not such a case.

### **Broadcaster responsiveness**

The Regional Council members unanimously agreed that CITY-TV had complied with the CBSC's standards regarding broadcaster responsiveness. The response provided by CITY-TV had been of a thoughtful and collaborative nature, and had addressed the substance of the complainant's concerns.

*This decision is a public document upon its release by the CBSC and may be reported, announced or read by the station against which the complaint had originally been made. In the case of a favourable decision, however the station is under no obligation to announce the result.*