
**CANADIAN BROADCAST STANDARDS COUNCIL
ATLANTIC REGIONAL COUNCIL**

CIHF-TV (MITV) re an Episode of "The X-Files"

(CBSC Decision 96/97-0043)

Decided February 14, 1997

P. Schurman (Chair), R. Cohen (*ad hoc*), K. MacAulay, C. McDade*,
Z. Rideout, C. Thomas

(*Since Ms. McDade's station was directly involved, she abstained from consideration of this matter)

THE FACTS

On October 11, 1996, CIHF-TV (MITV) (Halifax) aired the episode of *X-Files* entitled "Home".

A viewer was perturbed by the program and sent the following letter of complaint to the CBSC on October 28, 1996. She put her concerns in the following terms:

I am so angry and offended that I hardly know where to start. This show was extremely violent, sadistic and unacceptable for public viewing.

There was bludgeoning - an axe through a man's throat, another person impaled on a spear.

I was stunned and horrified when it became perfectly clear that three (3) men were having sex with their LIMBLESS MOTHER. They kept her strapped to a piece of wood under the bed.

We all know that the X-Files is aimed at children. The creator, Chris Carter, has made this clear in media interviews. Our children have a right to drink clean water and they also have a right to be free from this toxic media which pumps violence, sadism, senseless brutality

and incest into their living rooms.

The Broadcaster's Response

The broadcaster replied on November 14. Her letter read, in pertinent part:

In the case of this episode, our interpretation is that the implied acts of violence were integral to the plot, and were in no way gratuitous. In fact, the viewer did not actually see the clubs striking the sheriff and his wife, nor did they see the axe go through a man's throat. The person killed by a "spear" in his back, was again, not seen on-camera. The acts were implied through plot development, camera angles, editing, lighting and special effects techniques.

It is our opinion that the scenes did not sanction, promote or glamorize violence.

As to your statement that *The X-Files* is aimed at children, it would be difficult to accurately state what Chris Carter's intent is. We are aware of many articles where it is clear that the target audience is adults. For us to speculate on his audience target is simply that, speculation.

The Code states that there is a "watershed" hour of 9:00 pm. MITV clearly meets the objectives of the Code by its broadcast of *The X-Files* at 10:00 pm. *The X-Files*, when it airs on MITV, is in a simulcast position, which means it is being aired at the same time on a distant signal (i.e. a US Network station). In other words, this signal would be carried into our market whether or not MITV had purchased the series.

You state in your letter that "enough is enough!" As broadcasters, we must listen to each person's interpretations of what the "limit" is, since the limit is something each person interprets subjectively, based on their personal background, experiences and values. Broadcasters are given the task of providing a broad spectrum of entertainment for a wide variety of audience.

It is important that the producers are made aware of the opinions of the viewers; the end-users of the programs they create. We will be forwarding your letter to Twentieth Century Fox Television, along with a copy of this letter.

THE DECISION

The CBSC's Atlantic Regional Council considered the complaint under the *Voluntary Code regarding Violence in Television Programming* of the Canadian Association of Broadcasters (CAB).

Articles 1, 3 and 5 of the *Violence Code* read as follows:

Article 1.0 (Content), *Voluntary Code regarding Violence in Television Programming*

1.1 Canadian broadcasters shall not air programming which:

- contains gratuitous violence in any form*
- sanctions, promotes or glamorizes violence

(*"Gratuitous" means material which does not play an integral role in developing the plot, character or theme of the material as a whole).

Article 3.0 (Scheduling), *Voluntary Code regarding Violence in Television 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.

3.1.2 Accepting that there are older children watching television after 9 pm, broadcasters shall adhere to the provisions of article 5.1 below (viewer advisories), enabling parents to make an informed decision as to the suitability of the programming for their family members.

Article 5.0 (Viewer Advisories), *Voluntary Code regarding Violence in Television Programming*

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 Suggested language for suitable viewer advisories is outlined in *Appendix A*.

The Regional Council members viewed a tape of the episode of the program in question and reviewed all of the correspondence. The Regional Council considers that the episode of *The X-Files* which they watched does not breach the provisions

of the *Violence Code*; however, the Council does find the station in breach of the Code with respect to its obligation to provide advisories for viewers. The reasons for the Council's decision follow.

The Content of the Program

The members of the Atlantic Regional Council consider that certain scenes in the program were graphic and occasionally left a gory record of what had occurred off-camera. It was the contention of MITV's Program Director that "The acts [of violence] were implied through plot development, camera angles, editing, lighting and special effects techniques." While the Atlantic Regional Council does not expect that the Program Manager was, by putting the matter that way, implying that the program was not violent because the acts did not take place *on camera*, it considers that it is appropriate to clarify this issue. It is the Council's view that scenes which do not depict violent *actions* may, nonetheless, constitute "violence" within the meaning of the *Violence Code*. As the Atlantic Regional Council determined in *CIHF-TV (MITV) re an Episode of "Millennium"* (CBSC Decision 96/97-0044, February 14, 1997),

the scenes complained of do not generally show the occurrence of violent acts as much as they do the *results* of the violent acts and, at that, the violence is not overplayed. There is also violent *imagery* and effective editing which give rise to fear, if not terror, on the part of the viewer. These are a part of a genre which is aimed at adult audiences but which does not *per se* fall afoul of the interdiction against gratuitous violence.

The extent to which the scenes show violent acts rather than consequences of acts, or are graphic rather than subtle, may help to determine whether or not they are *gratuitous* in their presentation. They will not, however, escape that characterization solely because they are traces of off-screen occurrences.

As the Ontario Regional Council first decided in *CITY-TV re Silence of the Lambs* (CBSC Decision 94/95-0120, August 18, 1995), for violence to be gratuitous, it must be unnecessary, that is, not integral to the development of "the plot, character or theme of the material as a whole."

Gratuitous violence is defined by the Code as being "material which does not play an integral role in developing the plot, character or theme of the material as a whole." Where, in other words, a program includes scenes of violence which are unnecessary to the progress of the story, which do not drive the plot forward, which play no role in the development or definition of the characters and are clearly serving a

sensationalistic purpose, that program will be seen to contain gratuitous violence.

...

The foregoing descriptions will always need to be measured against the content of a challenged program and the Council expects that these general terms will only come to be fully understood when sufficient examples will have been considered.

In both *Silence of the Lambs* and *Millennium*, the programs involved "a psychopathic serial killer and the attempts to put an end to his homicidal activities" and, in both cases, the Regional Councils decided that the violence was integral to the themes involved. In this matter, the episode dealt with the theme of genetics, and the program "genre" was science fiction/suspense. In this context, the subject matter and scenes were relevant and appropriate to the program. While the violence in the program clearly constitutes "scenes of violence intended for adult audiences", the Regional Council concludes that it was not gratuitous. Furthermore, CIHF-TV aired the program at 10:00 p.m., well after the watershed hour; consequently, the Regional Council members agree that the program was scheduled appropriately.

Non-Violent Subject Matter and the Watershed Hour

In both *CIHF-TV (MITV) re an Episode of "Millennium"* (CBSC Decision 96/97-0044, February 14, 1997) and *TQS re Quand l'amour est gai* (CBSC Decision 94/95-0204, December 6, 1995), there were components to the program which were erotic, in the one case, and mature subject matter in the other. In the latter decision, the Quebec Regional Council stated:

While the Violence Code refers to "scenes of *violence* intended for adult audiences", CBSC Regional Councils have recognized that, generally speaking, the 9 p.m. watershed hour established in the Code is often used by broadcasters as a watershed for other types of programming, beyond that which could be considered "violent".

Similarly, in *CITY-TV re Ed the Sock* (CBSC Decision 9495-0100, August 23, 1995), the Ontario Regional Council delved into the issue of other types of adult programming in the following terms:

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.

As to the complainant's contention that *The X-Files* is a program "aimed at children" by its creator, the Council has strong doubts. Quite apart from the fact that there is no "evidence" or information for it to consider which would substantiate this contention, the Council has no difficulty in concluding that a program "aimed at children" would not be aired at 10:00 p.m. If that were the programmer's goal, he or she would be far off the mark. This is not to say that there may not be children watching at any given hour of the day but only that the program is not *aimed* at children and that is the point at issue.

Some General Observations Regarding the Violence Code

While the CBSC acknowledges that the program contains scenes of violence intended for adult audiences, it must re-affirm principles which it has stated in other decisions.

The goal of the *Violence Code*, which came into effect on January 1, 1994, was to balance the conflict between freedom of expression and the desire to protect children, primarily, and adults, secondarily, largely by the provision of information which would enable adults to make informed viewing decisions for themselves and their families. If freedom of expression were the *sole* principle governing broadcast content in Canada, Canadian audiences could expect to see far more violent programming than is currently accessible over Canadian programming licensees. Because of the *Violence Code*, that freedom of expression is *not* untrammelled. It is subject to a series of the most stringent rules regarding programming directed at children, rules at least as precise and restrictive as *any* adopted by any of the major Western democracies and *far more* protective of our children than anything provided by our powerful neighbour to the South.

Furthermore, for the benefit of adults, the Code provides that there may not be any gratuitous violence aired. There is also the reference in the Code to an anticipated Classification System, which is in the process of being finalized, and, on the level of the provision of information, the Code requires the more detailed information contained in the viewer advisories mandated by Article 5.

All in all, the Council considers that more than adequate measures exist for the curtailment of violent programming in Canada despite the concomitant restrictions on freedom of expression. Thereafter, it must be acknowledged that programming which meets the tests may be aired by Canada's television licensees and those persons who wish to watch those programs are free to do so, despite the fact that such programs will not be suitable for others in society. Those persons are equally free *not* to watch but, unless and until there is a policy change which would further curtail that freedom, the *Violence Code* permits programming in Canada to contain violent elements provided it conforms to those rules.

The Use of Viewer Advisories

As described above, the Canadian rules require, as a part of the entitlement to air programming containing scenes of violence, the use of advisories which permit viewers to make informed viewing choices. In *CTV re Complex of Fear* (CBSC Decision 94/95-0022, August 18, 1995), the Ontario Regional Council referred to the "Background" section of the *Violence Code*, which states that "creative freedom carries with it the responsibility of ensuring ... that viewers have adequate information about program content to make informed viewing choices based on their personal tastes and standards." In that case, as in this, there were scenes of violence intended for adult audiences. Moreover, CTV had neglected to provide advisories for the viewers of that movie of the week and this was also true in the case of this episode of *The X-Files*. This constitutes a breach of Article 5.1 of the *Violence Code*.

As a point of guidance in this area, the Council believes it useful to note that Appendix A to the *Violence Code* contains a number of suggested viewer advisories. While these are provided as a guide to the possible wording appropriate to each situation and "[e]ach broadcaster is encouraged to develop and implement advisories which are suitable for its market and which will ensure that its programming is broadcast to a suitable audience", the Council notes that CIHF-TV (MITV) might usefully have employed the following language:

The following program contains mature subject matter and scenes of violence intended for adult audiences. Viewer discretion is advised.

The Broadcaster's Response

In addition to assessing the relevance of the Codes to the complaint, the CBSC always assesses the *responsiveness* of the broadcaster to the substance of the complaint. In this case, the Program Manager responded in detail and carefully to each of the points raised by the complainant, thereby fulfilling the station's

obligations to the public. Nothing more is expected or required of the broadcaster in this regard.

Content of Broadcaster Announcement of the Decision

The broadcaster is required to announce the decision, in the following terms, during prime time within thirty days of the publication of this decision and to confirm to the Secretariat of the CBSC and to the complainant that it has done so:

The Canadian Broadcast Standards Council has found that MITV breached the requirement concerning the use of viewer advisories in the industry's *Violence Code*. The Council found that an episode of *The X-Files*, which aired on October 11, 1996, should have been preceded by a viewer advisory indicating that the film contained scenes of violence intended for mature audiences. Similar advisories should have been provided during the commercial breaks.

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