
**CANADIAN BROADCAST STANDARDS COUNCIL
NATIONAL SPECIALTY SERVICES PANEL**

Showcase Television re *The Cops*

(CBSC Decision 01/02-1076)

Decided February 28, 2003

R. Cohen (Chair), R. Deverell, E. Duffy-MacLean, M. Harris, M. Hogarth
and C. Murray

THE FACTS

At 5:00 pm on May 26, 2002, the specialty service Showcase Television broadcast an episode of *The Cops*, a British dramatic series that follows the professional and personal lives of a group of Stanton police officers. The program depicts the gritty street life which the various characters face on a daily basis. As might be expected in any dramatic attempt to realistically portray police life, coarse language is common in this program. The May 26 episode included 17 instances of the use of the word “fuck” and its derivatives.

While the challenged episode contained very little reference to violence (relative to what one might expect in a police drama), the last scene depicted the results of a stabbing incident involving two women, who were seen sitting on a kitchen floor; one was holding the other hostage with a knife as police officers attempted to defuse the situation. Although only the aftermath of the stabbing scene was evident, the hostage appeared to have a significant abdominal wound. The stand-off, which was marked by tension rather than violence, lasted approximately two and a half minutes; it ended when the female attacker charged at one of the police officers who succeeded in bloodlessly wrestling the knife away from her.

The CBSC received a complaint about the episode on July 3, although the complainant had apparently filled out the complaint form on the CBSC’s website on the same day as the broadcast (May 26). Due to technical problems on the CBSC website, this complaint was never received by the CBSC prior to its

resubmission. In any event, it was of the essence of the complainant's July 3 e-mail that he objected to the broadcast of coarse language in a late afternoon time slot. He also informed the CBSC that there had been no viewer warning during the program (the full text of all correspondence can be found in the Appendix to this decision).

Showcase responded to the complainant on July 18 and acknowledged that the May 26 episode did contain coarse language. The broadcaster also agreed with the complainant that the program should have been accompanied by viewer advisories and that "as a result of your letter, we have added a viewer advisory of coarse language to all episodes of *The Cops*, effective July 7, 2002."

The complainant wrote back to the CBSC on August 26. He acknowledged that Showcase's inclusion of advisories was "a step in the right direction", but that, in his opinion, Showcase was still in violation of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* for broadcasting coarse language before 9:00 pm.

In its letter accompanying the screener tapes requested by the CBSC in order to adjudicate this complaint (actual logger tapes were no longer available in this case due to the website-related loss of the initial timely complaint, which was, as explained above, filed well within the 28 day time limit), Showcase informed the CBSC that the program carries a rating of 14+.

THE DECISION

The National Specialty Services Panel considered the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Voluntary Code Regarding Violence in Television Programming*:

CAB Violence Code, Article 3.1.1 (Program Scheduling):

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.

The National Specialty Services Panel read all of the correspondence and viewed a tape of the challenged episode. The Panel concludes that Showcase is in breach of Article 3.1.1 of the *CAB Violence Code* for broadcasting a program containing an excessive amount of extremely coarse language before 9:00 pm and in breach of Article 5.0 for failing to include viewer advisories to this effect during the May 26 episode.

Scheduling of *The Cops*

Although the complainant cited Clause 10 of the revised *CAB Code of Ethics* (which restricts the scheduling of programming containing unduly coarse language or sexually explicit material to a post-9:00 pm time frame), he was likely not aware that this new provision only came into effect in July of 2002 and applies only to programming aired after August 1 of that year. It does not have a retroactive effect and therefore was not applicable to the May 26, 2002 broadcast of the episode of *The Cops* which is the subject of this decision.

The foregoing being said, the various CBSC Adjudicating Panels have frequently applied the provisions of the *CAB Violence Code* in order to deal with “adult-oriented” programming other than violence. This is simply another such circumstance.

The first time a CBSC Adjudicating Panel was called upon to address the issue of the broadcast of the f-word during daytime hours was in the context of songs played on radio in *CIOX-FM re the songs “Livin’ It Up” by Limp Bizkit and “Outside” by Aaron Lewis and Fred Durst* (CBSC Decision 00/01-0670, June 28, 2001). The two songs contained the words “fuck”, “motherfucker” and variations thereof and were played at 11:31 am, 4:00 pm and 8:31 pm. Observing that research in other English-speaking countries has reported that those words are considered to be some of the most offensive examples of coarse language, the Ontario Regional Panel concluded that the songs, in their unedited versions, were inappropriate for broadcast at times of day when children could reasonably be expected to be listening. That principle has since been applied in other cases involving the f-word in songs [see *CJKR-FM re the song “Highway Girl (Live)” by The Tragically Hip* (CBSC Decision 00/01-0832, January 14, 2002) and *CFNY-FM re the song “Cubically Contained” by The Headstones* (CBSC Decision 01/02-0456, June 7, 2002)].

The foregoing principles have also been applied by this Panel to daytime television programming in its decision *Showcase Television re the movie Destiny to Order* (CBSC Decision 00/01-0715, January 16, 2002). The movie in that case aired at 2:00 pm and contained words such as “fuck”, “fucker”, “shit” and “asshole” throughout its duration. The Panel made the following comment:

[H]ere the Panel is called upon to consider a movie replete with very coarse language, including the use of words or expressions such as “fuck”, “fucker”, “I’ll blow your fucking balls off”, [...] etc. in a pre-Watershed time period. At the same time, the National Specialty Services Panel considers it useful to observe that, were it called upon to characterize the severity and frequency of the coarse words and expressions in *White Men Can’t Jump* and *The Sopranos* [two programs that contained the f-word in a *post*-Watershed context which had been the subject of previous CBSC decisions], it would find that, in both cases, the language would be “intended for adult audiences” and entirely inappropriate for broadcast in a pre-Watershed context. Similarly, in *Destiny to Order* the Panel finds that the coarse language was “intended for adult audiences” and equally inappropriate for broadcast in a pre-Watershed context.

This Panel reached the same conclusion in *WTN re the movie Wildcats* (CBSC Decision 00/01-0964, January 16, 2002). That movie was broadcast at 4:00 pm and contained several instances of coarse language, including “fuck”, and “motherfucker”, among others. The broadcaster muted out the f-word in two instances, but not on four other occasions. The broadcaster was found in breach of Article 3.1.1 for airing the film before the Watershed hour:

While the use of such expressions would present no difficulty post-Watershed, the Panel finds that such words are problematic in their unedited form at a time which was not merely pre-Watershed, but at an early enough hour that children could be expected to be watching television, as in this case of *Wildcats* which was broadcast from 4:00-6:00 pm on a Sunday afternoon.

As in the cases cited above, the Panel notes that 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. That, however, is not the issue here. When dealing with scheduling, the Panel is not called upon to determine whether the coarse language is *gratuitous* (in terms of the *CAB Violence Code*) or *undue* (the test provided in the revised *CAB Code of Ethics*). The National Specialty Services Panel must merely determine whether the inclusion of such coarse language as was found in the challenged episode of *The Cops* was sufficient to cause it to fall into the same category of programming “intended for adult audiences” as the broadcasts of *Destiny to Order* and *Wildcats* noted above. The Panel finds that the numerous instances of the f-word and its derivatives in this dramatic scripted program should not have aired in a pre-Watershed environment. By scheduling this program at 5:00 pm, Showcase is thus in violation of Article 3.1.1 of the *CAB Violence Code*.

Viewer Advisories

Due to the technical problems experienced by the CBSC website complaint form, the CBSC did not receive this complaint until two months after the broadcast date. Since broadcasters are required to retain logger tapes of their programming for only 28 days following a broadcast, the official logger tapes of

this episode had, in the normal course of things, been recycled. Showcase was, however, able to provide a copy of the program. Logger tapes reflect a program as it was actually aired; that is with commercials, promotional material, viewer advisories and other interstitial content. In contrast, “screener tapes” of a program feature a pre-broadcast version of the program alone.

Despite the absence of logger tapes, the Panel is in a position to comment on the issue of viewer advisories in this case, since there is agreement as to the facts of this matter. In his complaint, the viewer clearly stated “There was no viewer warning.” In its response, Showcase then agreed that the program warranted advisories and “as a result of your letter, we have added a viewer advisory of coarse language to all episodes of *The Cops*, effective July 7, 2002.” There is obviously no discrepancy as to the fact that the May 26 episode did not contain any viewer advisories.

The CBSC Panels have stated in the past that the absence of any viewer advisories on programming which contains scenes intended for adult audiences is unequivocally in breach of Article 5.0 of the *CAB Violence Code*. This omission is particularly problematic when a program that should have been aired after 9:00 pm was aired pre-Watershed. This was precisely the case in the aforementioned *Wildcats* decision. The movie, which contained coarse language intended for adult audiences, was broadcast at 4:00 pm without any viewer advisories. The Panel explained the provision regarding viewer advisories in the following terms:

Had the broadcaster aired *Wildcats* in its appropriate time-slot, that is, after 9:00 pm due to the coarse language in the film, it would still have been required to air viewer advisories at the beginning of and during the first hour of the program as outlined in Article 5.1 of the *Violence Code*.

The broadcaster’s failure to provide viewer advisories is, however, further exacerbated by the fact that it aired the film *well before* 9:00 pm. Article 5.2 makes it clear that programming telecast *outside* of late evening hours, which contains scenes not suitable for children, must carry advisories at the beginning of and *during the entire program*. Although the Panel has found WTN in breach of the scheduling provision of the *Violence Code* since it determined that the unedited coarse language amounted to “scenes intended for adult audiences”, at the very least, the broadcaster was obligated to provide viewers with information as to the content of the film being broadcast in such an early time-slot.

As outlined in the *Wildcats* decision, the unedited broadcast of “fuck” and related words requires viewer advisories. Had Showcase included such advisories during *The Cops*, it might have been helpful to viewers to also refer to the one scene depicting the knife wound.

In its response, Showcase indicated its agreement with the complainant that viewer advisories should have been present in the earlier broadcasts of this episode and committed to airing such advisories for all future broadcasts of this program effective immediately. The complainant declared himself satisfied on

this point, stating this to be a “step in the right direction.” Since the action taken by the station in correcting this issue has met the expectations of both the complainant and the CBSC, the Panel sees no reason to oblige Showcase to announce this aspect of the decision on-air.

Broadcaster Responsiveness

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. The Panel finds that Showcase was very responsive to this complainant. By agreeing with him that the episode should have been accompanied by viewer advisories and indicating that future broadcasts of this program would be carrying such advisories effective immediately, they satisfied him that his concerns had been taken seriously. In fact, but for the additional issue regarding the scheduling of the program, Showcase, by responding in such an attentive and pro-active manner, may well have avoided the need for adjudication by a CBSC Panel at all. The Panel commends Showcase for the conciliatory approach taken in its response which demonstrates the effectiveness of the broadcaster-complainant dialogue process. Nothing more is required in this respect in this instance.

ANNOUNCEMENT OF THE DECISION

Showcase is required to: 1) announce this decision, in the following terms, once during prime time within three days following the release of this decision and once within seven days following the release of this decision during the time period in which *The Cops* is broadcast.; 2) within fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the statement to the complainant who filed the Ruling Request; 3) at that time, to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements.

The Canadian Broadcast Standards Council has found that Showcase Television breached the scheduling provision of the Canadian Association of Broadcasters' *Violence Code* in its broadcast of *The Cops* on May 26, 2002. By broadcasting the program, which contained frequent coarse language before the 9:00 pm Watershed hour for programming intended for adult audiences, Showcase has violated Article 3 of the Code.

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

APPENDIX

CBSC File 01/02-1076 Showcase Television re *The Cops*

The Complaint

The following complaint dated July 3, 2002 was sent via e-mail to the CBSC:

To Whom It May Concern,

On May 26, 2002, I e-mailed the Showcase network, complaining about the language of a program entitled "Cops". In this case the program aired on a late Sunday afternoon, or early Sunday evening, I believe from 6:00 to 7:00 p.m., but it may have been from 5:00 to 6:00 p.m. Many characters in the program repeatedly used the F word. I watched through to the end of the next commercial break. There was no viewer warning.

Although I received a confirmation from Showcase that they received my email, they have not responded to my complaint. It has been over a month.

I also filled out one of your complaint forms.

I notice from the *TV Times* that Showcase continues to air this series. I assume that each program contains similar language. While I appreciate that the CBSC has a large volume of complaints with which to deal, the long turn around time on a decision means that the offending network has, in some cases, a year between the airing of a series and having to respond to complaints. By this time the series will have in many cases run its course, and the advertising revenue realized. In the event that they lose, their only penalty is an on air announcement that they have been found guilty of an infraction. In the case of Showcase, which publicizes itself as "Television Without Borders", this "bad boy" image is exactly what they want. Any announcement that you force them to make is not even an apology. In the U.S., the F.C.C. has both the power and the will to collect fines for infractions of the rules, just as all citizens can expect to pay a fine if they were to violate the rules of the road. How did Canadian Broadcasters wrangle the conditions so that their bottom dollar comes before the best interest of the people, which is to have the rules obeyed?

I would appreciate knowing if I can expect a response from Showcase, and I also feel that the issues I have raised should be addressed by the CBSC.

Broadcaster Response

The broadcaster responded to the complainant's e-mail on July 18 with the following:

Showcase appreciates and considers all viewer feedback and we thank you for taking the time to express your opinions and concerns about our programming. I did receive your initial e-mail on May 26, 2002 but when I attempted to reply I found that your e-mail address (a

hotmail account) was not valid and my message was returned to me. As you did not leave your mailing address, I was unable to further investigate your complaint.

Our Programming department has reviewed the episode of *The Cops* which aired on May 26, 2002, at 5 p.m. ET/PT and we acknowledge that it did indeed contain coarse language. Although this particular episode of *The Cops* has aired several times over the last two years with no complaints from viewers, we do agree with the points you have presented in your letter and recognize the need to include a viewer advisory for this series. Showcase is very conscious of the need for viewer advisories and warnings and we take them very seriously.

As a result of your letter, we have added a viewer advisory of coarse language to all episodes of *The Cops*, effective July 7, 2002.

Thank you for drawing our attention to this matter and we apologize if the language offended you. I hope that we have addressed your concerns and that you will continue to watch and enjoy Showcase.

Additional Correspondence

The complainant was unsatisfied with the broadcaster's response and sent the following e-mail dated August 26:

To Whom It May Concern,

Showcase finally replied to my complaint regarding their showing of *The Cops* on May 26, 2002. Their solution to my complaint was to add advisories before the commencement of each program. While this is a step in the right direction, I feel the Showcase [*sic*] is still in violation of your own code of ethics, which states:

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 Voluntary Code Regarding Violence in Television Programming for provisions relating to the scheduling of programming containing depictions of violence.

I mentioned this fact in my original letter to Showcase, but they failed to respond to this aspect of my complaint in their reply.

I still feel that Showcase should not be broadcasting programs containing this type of language at this time of day. They continue to do [so] despite being told that they are in violation of the above mentioned clause in the *Code of Ethics*. I would appreciate a ruling by the CBSC regarding this particular show and all previous and subsequent airings of this program.

The CBSC originally informed the complainant that it could not pursue his complaint because his complaint had been received after the 28-day logger retention period. The complainant responded to that information with the following on August 29:

We are obviously having some communication problems that need to be addressed. I know of no communication that you mention sending me on July 4. To where was it sent? I would appreciate a copy of this letter.

As for any delay in my complaint, I sent the CBSC a complaint via email on the evening of May 26, 2002, only moments after seeing the program. I did this by filling out the form available on your website. I followed this complaint with one to Showcase, also on May 26, 2002, and waited about one month for their reply. I waited this long because I was under the impression that the broadcaster has 21 days in which to respond. After waiting this long, I then emailed the CBSC a second time, notifying you that I had not heard from Showcase. Correct me if I am wrong, but I was also under the impression that Showcase should have kept the tape in question upon receiving my complaint, in the event that the CBSC was needed. This tape should never have been recycled.

I received a letter from the Showcase network regarding my complaint, dated July 18, 2002. In this letter, they specifically mention that their programming department reviewed the program. Furthermore, they admit that "this particular episode of *The Cops* has aired several times over the last two years" Obviously, Showcase has no difficulty obtaining a copy of the program in question since they are rerunning it and were able to review it. I do not, therefore, understand why the CBSC would have any difficulty in obtaining a copy of this tape from Showcase.

Finally, in their letter to me, Showcase admitted that the program contained the coarse language which I indicated in my letters to both Showcase and the CBSC. Such a confession of guilt should be enough for the CBSC to tell Showcase that they need to reschedule the airing of *The Cops* to sometime after the watershed hour of 9:00 P.M.

I respecting [*sic*] await a response.

The CBSC learned that its website complaint form had been experiencing technical problems in May and had not received the complainant's original complaint on May 26. In light of that information, the CBSC agreed to pursue his complaint.

Showcase sent the CBSC the following letter on October 1:

I am enclosing eight screening copies of episode #23 from the series *Cops*. You requested these tapes as a result of a complaint by [Mr. S] about *Cops* which airs Sunday evenings at 5 p.m. This particular episode aired on May 26, 2002.

As you know, because the complaint was received by Showcase on July 4, 2002 (which is after the 28-day retention period for logger tapes), the logger tapes of the above broadcast had already been recycled. As a result, the tapes we are sending will not contain viewer advisories.

Please note that the following viewer advisory plays at the beginning of *Cops* and after each commercial break: "This program contains scenes with coarse language. Viewer discretion is advised." *Cops* has an AGVOT classification rating of 14+.