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

CTV re a segment featuring Eminem at the Junos

(CBSC Decision 02/03-1130)

Decided January 30, 2004

R. Cohen (Chair), S. Gouin (Vice Chair, Industry), H. Pawley (Vice Chair, Public),  
P. Hebden, M. Hogarth, M. Harris, P. O'Neill

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**THE FACTS**

In 2003, CTV aired the Canadian music awards known as the Junos on April 6, beginning at 8:00 pm. The show ran for nearly two hours. During the broadcast, American rap artist Eminem was awarded "International Album of the Year". Since it was known by CTV that Eminem would not be present at the awards gala to accept the industry recognition, the broadcaster had arranged that a message from him to the audience would be videotaped and played. In his message, which was aired at 9:18 pm, the artist stated:

Canada. International Album of the Year. Thank you so much. I am sorry I couldn't be there right now, but, as you can see, I'm hard at work in the studio picking my fucking ass. I hope to see you soon. Thank you very much.

A single viewer advisory was aired during the course of the broadcast, at 8:08 pm, which stated:

Tonight's live presentation may contain language some viewers find offensive.  
Viewer discretion is advised.

This advisory had not been provided either at the beginning of the program at 8:00 pm, nor coming out of any other commercial break throughout the broadcast of the gala.

A viewer sent the following e-mail to the CRTC the following day. It was forwarded to the CBSC in the normal course (the full texts of that e-mail and all other correspondence are reproduced in the Appendix hereto):

CTV air of Sunday April 6 Juno's with Eminem acceptance message is totally uncalled for. My children simply wanted to watch Avril and ended up listening to that. If anyone is "picking their fucking ass" it is the people at CTV.

The Senior Vice President, Comedy and Variety Programming, responded on April 29. He said, in part:

Your correspondence sets out your concerns as to the appropriateness and context of the language used at the awards. The Junos is a live music show intended for an adult audience. In producing the Junos, we had to take into account that musicians tend to express their opinions, not only in their music, but also in their manner and words. Because we were aware of the potential for strong language, we felt it important to air an advisory at the top of the show. We also aired Eminem's acceptance of his award after 9 p.m., the industry's watershed hour for adult content. We did not feel it appropriate to script or censor the acceptance of Eminem or any other artist.

We do regret that your children heard language that you did not want them to hear, but hope that we have explained the context.

On May 1, the complainant responded directly to the CTV Vice President, sending a copy of his correspondence to the CBSC. He said, in part:

Well, thank you for reply, but it is unacceptable for you to take the position that there was a "potential for strong language". There was no potential for Eminem, you knew exactly what he had to say as it was a recorded message. Airing it was to establish a shock marketing strategy for your own profit. Then try to hide behind the excuse of "artists expressing their opinions", [...] There should be some form of punishment that CTV has to bear for calculating and airing negligently extreme profanity that steps out over the line in this matter and in this event's "context", regardless of airing any advisory. Airing the advisory does not waive your negligence. And with regard to the so-called "industry watershed time of after 9:00pm" is another lame excuse to protect this conduct as you knew full well as to what the diverse Canadian audience would be for this show, including age groups. I could argue that 7:30am is after 9:00pm as well.

## **THE DECISION**

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

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

- (b) Recognizing that there are older children watching television after 9 pm, broadcasters shall adhere to the provisions of Clause 11 below (viewer advisories), enabling viewers to make an informed decision as to the suitability of the programming for themselves and their family members.

### *CAB Code of Ethics*, Clause 11 - Television Broadcasting (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. 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.

### **Some Preliminary Issues**

The Panel is concerned by aspects of the CTV response. Among other things, it does not accept that the Junos is a live music event that is “intended for an adult audience,” the implication in that phrase being that it is intended *exclusively* for an adult audience. It goes without saying that adults would be among the audience, but the reliance by the Senior Vice President on the adult make-up of the program’s viewers is misleading. If there is a *single* awards show in Canada that would be likely to attract a youthful audience (among, for example, the Genies, the Geminis, the Junos, etc.), the Junos is it. And the panning of the attending audience during the show confirms the sense that the show seems not to be targeted exclusively at an adult demographic.

Second, for purposes of the complaint registered in this case, CTV’s reliance on the “live” nature of the event is not really pertinent. To all intents and purposes, the relevant part of the show was distinctly *not* live. It was pre-recorded.

Third, the broadcaster had a clear and easy opportunity to either do a second take of the message or, if that had not been possible, it could simply have

bleeped or muted the offending word. To suggest (as the CTV letter did) that it did not wish to script or censor the artist's words avoids meeting the issue head-on. Apart from the general silliness of the reason for his non-presence at the Awards, Eminem was providing the network and the audience with nothing material or important in his message. Moreover, the word "fucking" was utterly gratuitous and, if intellectual nihilism or simplistic "this-is-who-I-am, I'm Eminem" crudeness was the message, it could as easily have been achieved with, say, "as you can see, I'm hard at work in the studio picking my [bleep] ass". This usage had none of the weight or merit, or, consequently, contextual justification of the usage of a derivative of the f-word in *W Network re My Feminism* (CBSC Decision 01/02-1120, February 28, 2003).

### **Scheduling and Viewer Advisories**

Beginning then with the substantive issue relating to the broadcast's time slot, namely from 8 to 10:15 pm, the CBSC has previously established a principle applicable to a broadcast that begins prior to the Watershed and carries over into the post-Watershed period. In *Bravo! re the film The House of the Spirits* (CBSC Decision 00/01-0738, January 16, 2002), the broadcast of the two-hour film began at 8:30 pm. In that case, the National Specialty Services Panel considered whether the broadcaster would be "protected" by the Watershed principle if the scenes that might be considered to be exclusively adult-oriented only fell after the 9:00 pm limit. It concluded that

this was not the intention of the codifiers and that the adoption of such a principle would create a serious blurring of the Watershed, which would be in the interests of neither the public nor the broadcasters. The codifiers chose a precise hour in the evening which seemed reasonable to the purpose. It was, so to speak, midway through the evening. It was, for most families, a time when parents would likely be home and the family dinner concluded. It was an hour that could even be reasonably understood to permit some family viewing time. It constituted a divide, providing some time before the late evening news when parents might be able to see programming of a more adult nature without compromising their appropriate-for-the-family viewing time.

In such circumstances, the Panel considers that it would not be consistent with the foregoing intentions to permit a program containing adult material at any time in its broadcast to slide over the line, thus blurring that defined limit. Broadcasters have worked hard to inure audiences to appreciate the fact that programming broadcast after 9:00 may include material appropriate for adult audiences while that aired prior to that hour will not contain such content. It has indeed been beneficial for broadcasters to have a sense that they could be free to schedule material after 9:00 pm that was intended for a very significant part of their audience. Correspondingly, parents have become entitled to develop a sense of security regarding what they and their families may tune in before that hour. Once they have made their viewing choices on the assumption that the broadcaster's pre-Watershed programming is free of adult matter, the Panel considers that parents are entitled to maintain their confidence in the program they have selected without being shocked by an about-face in the content part way through that broadcast.

While the Panel considers that there may be circumstances in which the foregoing principle may not be applicable to an apparently live broadcast, that is not the case with respect to the Junos show under consideration. Because the challenged item was pre-recorded, there was no element of surprise for the broadcaster. The Junos began a full hour before the Watershed and parents were entitled to expect that the *entire* program would be free of material about which they could be expected to have some concern. It was not, and the broadcaster *knew* that this would be the case. The attempt to “alert” viewers of the coming strong profanity did not reflect any serious effort. Running no advisory at the start of the show and but a single viewer advisory at 8:08 pm (while Eminem’s offending comment was made at 9:18 pm) was as close to *no* notice as CTV could have come. The broadcaster had a choice. It could have excised the offending word, which has consistently been held by CBSC Panels to constitute exclusively adult programming, or it could have broadcast the Junos after the 9:00 pm Watershed. By doing neither, it has breached the scheduling provisions of Clause 10 of the *CAB Code of Ethics*. By failing to include the requisite viewer advisories, it has also breached Clause 11 of that Code.

### **Broadcaster Responsiveness**

The requirement that a broadcaster be responsive to the letter of complaint sent by a member of the public is considered by the Adjudicating Panels to be a significant part of the membership requirements of the CBSC. Such responsiveness is an essential part of the dialogue by which the CBSC considers that matters that trouble members of the public sufficiently to compel them to write are often successfully resolved. When accomplished in thorough and sensitive ways, such correspondence is also a way of letting the public know that broadcasters care about their audience’s concerns. In the present case, the Senior Vice President’s letter was barely satisfactory as a response to the complainant’s concerns.

### **ANNOUNCEMENT OF THE DECISION**

CTV 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 Juno Awards were 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 CTV breached the scheduling and viewer advisory provisions of the Canadian Association of Broadcasters' *Code of Ethics* in its broadcast of the 2003 Juno Awards on April 6, 2003. As a part of that show, CTV broadcast a brief pre-recorded interview with Eminem, who was receiving an international award. As a part of that interview, the rap singer used coarse language. By not bleeping or muting the offending word, CTV breached the provisions of Clause 10 of the Code. Moreover, since CTV knew that the rap singer would use coarse language, it was obliged to alert viewers to that fact by providing viewer advisories at the start of the show and following each commercial break. By failing to supply those advisories, CTV has also violated the provisions of Clause 11 of the Code.

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

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**Appendix**  
**to**  
***CTV re a segment featuring Eminem at the Junos***  
**(CBSC Decision 02/03-1130, January 30, 2004)**

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## **I. THE COMPLAINT**

The following complaint dated April 7, 2003 was sent to the CRTC and forwarded to the CBSC in due course:

CTV air of Sunday April 6 Juno's with Eminem acceptance message is totally uncalled for. My children simply wanted to watch Avril and ended up listening to that. If anyone is "picking their fucking ass" it is the people at CTV.

## **II. THE BROADCASTER'S RESPONSE**

The broadcaster responded to the complainant's letter on April 29, 2003 with the following:

Dear ...:

The Canadian Broadcast Standards Council has forwarded to us a copy of your electronic correspondence dated April 7, 2003 concerning a segment featuring Eminem during the Juno Awards which aired on the CTV Television Network on April 6, 2003.

Your correspondence sets out your concerns as to the appropriateness and context of the language used at the awards. The Junos is a live music show intended for an adult audience. In producing the Junos, we had to take into account that musicians tend to express their opinions, not only in their music, but also in their manner and words. Because we were aware of the potential for strong language, we felt it important to air an advisory at the top of the show. We also aired Eminem's acceptance of his award after 9 p.m., the industry's watershed hour for adult content. We did not feel it appropriate to script or censor the acceptance of Eminem or any other artist.

We do regret that your children heard language that you did not want them to hear, but hope that we have explained the context.

Please be assured that it is not our intention to offend our viewers, and we thank you for taking the time to write to express your concerns.

Yours very truly,

...  
Senior Vice President  
Comedy & Variety Programming

## **III. ADDITIONAL CORRESPONDENCE**

The complainant wrote back to CTV on May 1, 2003 and copied the CBSC:

Dear ...

Well, thank you for reply, but it is unacceptable for you to take the position that there was a "potential for strong language". There was no potential for Eminem, you knew exactly what

he had to say as it was a recorded message. Airing it was to establish a shock marketing strategy for your own profit. Then try to hide behind the excuse of "artists expressing their opinions", next you'll be justifying the airing of child pornography pictures/videos as an expression of the artist as well. It's a slippery slope CTV has invested in with Eminem, I thought you had more class than that but obviously not. There should be some form of punishment that CTV has to bear for calculating and airing negligently extreme profanity that steps out over the line in this matter and in this events "context", regardless of airing any advisory. Airing the advisory does not waive your negligence. And with regard to the so-called "industry watershed time of after 9:00pm" is another lame excuse to protect this conduct as you knew full well as to what the diverse Canadian audience would be for this show, including age groups. I could argue that 7:30am is after 9:00pm as well.