
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL PANEL**

CIII-TV (Global Television) re an advertisement for the movie *Seed of Chucky*

(CBSC Decision 04/05-0567)

Decided April 19, 2005

R. Stanbury (Chair), M. Ziniak (Vice-Chair), H. Hassan, M. Harris (*ad hoc*),
M. Hogarth (*ad hoc*), M. Oldfield

THE FACTS

CIII-TV (Global Television, Ontario) broadcast a 30-second advertisement for the movie *Seed of Chucky* on Sunday, November 14, 2004 at 5:39 pm, during an episode of the animated program *The Simpsons*. *Seed of Chucky* is one instalment in the series of “Chucky” horror movies about an evil doll that comes to life and goes on murderous rampages.

During the first few seconds of the commercial, the voice-over stated “This holiday season ... he’s making a list ... he’s checking it twice ... and if you’re naughty ... you’re gonna get sliced.” These phrases appeared on the screen in festive red lettering against an animated winter scene with seasonal music playing in the background. The phrases were interspersed with scenes of the outside of a house, a girl eagerly looking into a box while her parents looked on, a close-up of boots walking in the snow and Santa Claus carrying a pack trudging through the snow. Following the “and if you’re naughty” line was a scene of a knife popping out of Santa’s coat or pack. After the “you’re gonna get sliced” line, the festive music ceased and tone of the advertisement changed.

It featured a rapid montage of scary scenes from the movie:

- a close-up of the Chucky doll’s menacing eyes opening suddenly and the sound of the doll cackling
- a close-up of a woman screaming in the shower
- a close-up of an evil-looking female doll’s face

- a woman running and screaming
- Chucky's feet walking across the floor while his shadow on the floor shows him carrying a knife
- a close-up of a man looking scared
- Chucky wielding a weapon
- a man crossing his arms as if to stave something off
- the female doll standing beside a wall as a bloody cleaver comes through it
- a woman lying on the floor about to get up
- eyes of Chucky peering through a slit
- a butcher knife stabbing a half-eaten birthday cake
- Chucky saying "I am Chucky and I dig it!" in a scary voice
- a woman screaming
- a man running and screaming
- a close-up of Chucky's eyes which are now red
- title logo for *Seed of Chucky*
- Chucky holding a blunt instrument saying "That's my boy."
- a shadowy human figure holding a knife standing in a doorway

A viewer sent a letter of complaint to the CRTC on November 15, 2004, which was forwarded to the CBSC in due course:

While watching Global TV (Channel 3 on Rogers Cable Ottawa) on Sunday, November 14, 2004 at about 5:45 pm (during an episode of *The Simpsons*), I was horrified to see an advertisement for the movie *Seed of Chucky* which featured Santa Claus being run through with a very large knife.

The first ten seconds of this advertisement features normal images of Santa Claus which would be quite interesting to viewers of all ages, only to have him suddenly stabbed through the chest.

I cannot believe that such an advertisement would be allowed to run during a time and on a show which is attractive to small children and families.

CIII-TV's Senior Vice President of Television Sales responded to the complainant on December 6 with the following (the full text of all correspondence can be found in the Appendix):

[...]

Let me begin by explaining that under the *Broadcasting Act*, we are required to provide a broad spectrum of entertainment and information programming including commercials for "men, women and children of all ages, interests and tastes." Television programming is required to be diverse and appealing to a wide variety of audiences. Consequently, you can appreciate that what one viewer might consider an interesting program, or commercial for that matter, might lead another to turn the channel.

To provide you with some background information, the advertising industry has a self-regulating organization called Advertising Standards Canada (ASC). The ASC administers a code of standards for all advertising and responds to complaints made by the viewing public.

In addition, the Private Broadcasters in Canada belong to a voluntary, self-regulating committee called Telecaster. This organization ensures that all paid programming, including commercials and long-form commercials usually referred to as infomercials, aired in Canada comply with our advertising industry guidelines, as determined by the ASC as well as the Canadian Association of Broadcasters Guidelines and *Code of Ethics*.

The process for clearing commercials involves the screening of visual materials, reviewing of scripts and/or audio components to ensure the advertisement meets advertising and industry guidelines. There are occasions when commercials may contain sensitive, alarming or frightening segments, but gain approval with an advisory or caution that the material may not be appropriate for all time periods and viewing audiences.

With respect to your specific complaint, please note that the commercial for *Seed of Chucky* ran for one week only in November and although it did not have a Post 9:00 pm warning, it did have an "M" rating for mature audience.

It was certainly not our intention to cause offence and I hope this response helps alleviate some of your concerns. Thank you for bringing this matter to our attention, and I hope you will continue to enjoy our programming.

The complainant returned his Ruling Request on December 6, along with the following note:

The broadcaster's response indicates that this commercial was rated "M" (for mature), which is defined by the Television Bureau of Canada (TVB or Telecaster) as "Content of commercial reflects theme suitable for mature audience and may contain scenes of realistic violence, horror, terror or sexual activity."

The only higher warning level is "Adult".

I do not believe it is acceptable for a commercial with this sort of imagery or rating to be broadcast at 5:45 pm on a Sunday, during an episode of *The Simpsons*, which is a show that would be reasonably expected to be watched by children.

In addition, I am surprised that this commercial would not have had a "Post 9PM" warning, although I understand that this is not up to the broadcaster.

The fact that this commercial was removed from broadcast (as indicated in separate communications from [a representative] of Global TV Toronto) and would not be re-aired prior to 9:00 pm if it was re-aired at all indicates to me that the broadcaster was not comfortable with their original decision to air this material. This is not reflected in their official response to my complaint.

I would expect an acknowledgement by Global TV that commercials with a "M" or mature rating are not appropriate for programming that is routinely watched by a family audience (like *The Simpsons*), whether or not it has a "Post 9pm warning".

Again, I have no complaint in general with the airing of mature material, my complaint was specifically directed at the time during which it was aired (5:45 pm on Sunday) and the show during which it was aired (*The Simpsons*).

THE DECISION

The Ontario Regional Panel examined the complaint under Article 3.3 of the Canadian Association of Broadcasters' (CAB) *Voluntary Code regarding Violence in Television Programming*, which reads as follows:

Advertisements which contain scenes of violence intended for adult audiences, such as those for theatrically presented feature films, shall not be telecast before 9 pm.

The Panel concludes that CIII-TV breached the foregoing Code provision since the commercial for the feature film *Seed of Chucky* contained scenes of violence intended for adult audiences.

Scenes of Violence “Intended for Adult Audiences”

The various CBSC Adjudicating Panels have frequently been called upon to determine the type and level of television violence that will fall into the category of “intended for adult audiences”. The Panels have recognized that there is no mathematical, scientific or cut-and-dried formula for making such a determination. In a previous decision, however, namely, *CKCO-TV re Kazan* (CBSC Decision 96/97-0226, February 20, 1998), the CBSC did note that it would “consider that the presence of the combined elements of fear, suspense, gore and explicitness may help characterize programming containing scenes of violence as *adult*.” The CBSC Panels have subsequently applied those principles to television advertisements.

For example, in *TQS re Scheduling of Advertisements and Promos* (CBSC Decision 98/99-0212, June 23, 1999), the Quebec Regional Panel dealt with the broadcast of advertisements and a program promotional spot which appeared during early morning children’s shows. The advertisement for *Virus* included scenes from the movie which depicted explosions and various acts of destruction of property, people being pursued by a monster, a man pointing a gun, people screaming and a scary-looking cyborg. The promotional spot for *Rob Roy* showed a man pierced by an arrow, a man punching another in the face and a close-up of a gunshot. The Panel concluded that both of the segments contained scenes intended for an exclusively adult audience and should not have been broadcast prior to the Watershed hour of 9:00 pm.

Then, in *CKY-TV re Promos for The Sopranos and City Hall* (CBSC Decision 00/01-0071, August 20, 2001), the Prairie Regional Panel dealt with two

promotional spots, one for a dramatic series and the other for the television broadcast of a feature film. The promo for *The Sopranos* highlighted several scenes from the dramatic mobster series, in one of which Tony Soprano repeatedly punched a man, and in another of which a person was executed by gunshot. The promo for *City Hall* showed a man about to be shot, a gun wrapped in a newspaper and an obscured dead body floating in a lake or river. The two promos were shown during the commercial breaks in a program that aired between 8:00 pm and 9:00 pm. The Panel concluded that the promo for *The Sopranos* contained scenes of violence intended for adult audiences and was thus in breach of the *CAB Violence Code* for its appearance before 9:00 pm. With respect to the promo for *City Hall*, the Panel concluded that it did not contain scenes of violence intended for adult audiences and thus scheduling was not an issue.

A third case involving a scary advertisement was *CKCK-TV re Promos for the Sopranos and an Advertisement for the Watcher* (CBSC Decision 00/01-0058, August 20, 2001). The station aired promotional spots for the two series during the 7:00 pm broadcast of a game show. The 30-second promo for *The Sopranos* contained scenes of a man being punched, another man being shot and another of Tony Soprano carrying a woman clad only in underwear. The Prairie Regional Panel determined that the violence constituted scenes intended for adult audiences and thus should not have been shown prior to 9:00 pm. The 15-second advertisement for *The Watcher* marketed the movie as “one of the scariest movies you’ll see this year” and contained brief scenes of one woman screaming and another woman being yanked from under a car about to be strangled. The Panel found that this movie trailer “contained no actual violence and very little material that could remotely be described as frightening [...]” It was thus not in breach of Article 3.3.

In the promo for *Seed of Chucky*, all of the elements anticipated in the *Kazan* decision were present, namely, “fear, suspense, gore and explicitness.” It should be noted that, on the issue of explicitness, neither the knife nor the cleaver was seen penetrating any victim; however, the creators of the commercial achieved the sense that that had either happened or was on the verge of happening by the adroit use of a series of very quick cuts. Moreover, the words “You’re gonna get sliced” reinforced the visual message of the promo. The Panel considers that the commercial message was oriented toward an adult audience and ought to have been limited to a post-9:00 pm broadcast slot. While the Panel recognizes that *The Simpsons* is not a made-for-children program, it is a series that is readily viewable by families and the positioning of this promotional message in that program was in breach of Article 3.3 of the *CAB Violence Code*.

The Role of Telecaster

It should also be noted that the fact that Telecaster may have reviewed and cleared the spot for broadcast does not alleviate the responsibility of the broadcaster for airing the commercial at the hour it chose. This is the position of this Panel taken as long ago as *CFTO-TV and CFMT-TV re "Walk to Work" Commercial* (CBSC Decision 93/94-0015, June 22, 1994), in which the position was put in the following terms:

With respect to the advertising issue, it should be noted that the Council was not of the view that acceptance or pre-clearance by the Telecaster Committee of Canada of the commercial constituted a defence to an alleged breach of Clause 8 of the *CAB Code of Ethics*.

Then, in *CKCK-TV re an advertisement for "The Wolf" radio station* (CBSC Decision 02/03-0609, -0641 and -0753, December 15, 2003), the Prairie Regional Panel said:

The Telecaster Committee of Canada (now known as the Telecaster Services of TVB) plays a very special and significant role for broadcasters in attempting to uniformize the standards. The Committee is a voluntary, self-governing, commercial, clearance committee. Its staff reviews each advertising message or announcement submitted to it to ensure that it complies with the published Telecaster Committee Guidelines. That being said, the Telecaster staff is not empowered to administer non-Telecaster codes, regulations or guidelines although it may make reference to the voluntary industry codes regarding violence, gender portrayal and broadcast ethics in its pre-clearance determinations.

Ultimately, it is the ASC that will make the decisions that relate to the Codes it administers and the CBSC that will make the comparable determinations regarding its Codes. It follows that Telecaster pre-clearance is not, in other words, a defence available to a broadcaster in circumstances where a commercial it runs may be in violation of one of the private broadcaster Codes. See also the decisions of the Ontario Regional Panel in *CFTO-TV and CFMT-TV re "Walk to Work" Commercials* (CBSC Decision 93/94-0015, June 22, 1994) and *CITY-TV re Video Store Commercial* (CBSC Decision 94/95-0143, March 26, 1996), in which the Panel explained:

The Council recognizes that the Telecaster Committee, founded by broadcasters, has a valuable pragmatic or functional role to play in the pre-clearance of television commercials. The Council is, however, equally aware that the Committee is not recognized by the CRTC as a regulatory body and that an approval from the Telecaster Committee does not absolve the broadcaster of responsibility for any content it airs.

In sum, despite the useful role that Telecaster plays in assisting broadcasters in making decisions regarding advertising and promos, it is the broadcaster that makes the ultimate decision and bears the sole responsibility for the scheduling issue. In the present matter, for the reasons given above, CIII-TV breached

Article 3.3 of the *CAB Violence Code*, despite the role played by Telecaster in the process.

Broadcaster Responsiveness

The CBSC Panels adjudicating complaint files always take the time to consider the responsiveness of the broadcaster. They do so for more than one reason. First, it is undeniably an obligation on the part of the Council's broadcaster members to respond to complainants pursuant to the *CBSC Manual*. Second, though, such responses are an acknowledgment of those who have taken the time to commit their complaints to written form. There is, or ought to be, a balance between the written expression of concern on the part of the complainant and the focus, pertinence and thoughtfulness of the broadcaster's response. In the present file, the broadcaster's reply, while appearing to rely on Telecaster and the process, did canvass matters that related to the broadcasters' system for dealing with advertising and promotions. It was informative and, although it did not satisfy the complainant, it was sufficiently responsive to satisfy the broadcaster's CBSC membership obligations.

ANNOUNCEMENT OF THE DECISION

CIII-TV 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 the advertisement for the film *Seed of Chucky* was broadcast; 2) within the 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; and 3) at that time, to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by CIII-TV.

The Canadian Broadcast Standards Council has found that CIII-TV has violated the provision of the Canadian Association of Broadcasters' *Voluntary Code regarding Violence in Television Programming* which requires that broadcasters refrain from airing advertisements that contain scenes intended for adult audiences before 9:00 pm. By broadcasting an advertisement during a 5:30 pm program for the feature film *Seed of Chucky*, which contained frightening scenes of threatened violence which were intended for adult audiences, CIII-TV breached Article 3.3 of the *CAB Violence Code*.

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

APPENDIX

CBSC Decision 04/05-0567

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The Complaint

The following complaint of November 15, 2004 was sent to the CRTC and forwarded to the CBSC in due course:

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The first ten seconds of this advertisement features normal images of Santa Claus which would be quite interesting to viewers of all ages, only to have him suddenly stabbed through the chest.

I cannot believe that such an advertisement would be allowed to run during a time and on a show which is attractive to small children and families.

Broadcaster Response

CIII-TV's Senior Vice President of Television Sales responded to the complainant on December 6 with the following:

Your letter of November 15, 2004, regarding the airing of a commercial for *Seed of Chucky* has been passed to me for response.

Let me begin by explaining that under the *Broadcasting Act*, we are required to provide a broad spectrum of entertainment and information programming including commercials for "men, women and children of all ages, interests and tastes." Television programming is required to be diverse and appealing to a wide variety of audiences. Consequently, you can appreciate that what one viewer might consider an interesting program, or commercial for that matter, might lead another to turn the channel.

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Additional Correspondence

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