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

CTV re the Green Day performance during Live 8

(CBSC Decision 04/05-1753)

Decided January 20, 2006

R. Cohen (Chair), S. Gouin (Vice-Chair, Industry), M. Hogarth, J. MacDonald,  
C. Murray

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**THE FACTS**

On July 2, 2005, CTV provided live coverage of the international simultaneous concert special known as “Live 8”, the goal of which was to raise awareness about poverty in developing countries, particularly in Africa, and to continue the efforts that had begun with a similar concert event called “Live Aid” held in 1985. Live 8 aimed to send an anti-poverty message to the leaders of the G-8 nations. Day-long concerts were held in nine cities around the world.

CTV’s coverage of the event showcased various musical acts performing at each of the nine venues. Coverage began at 8:00 am Atlantic Time (the complainants’ time zone). One of the CTV hosts, Seamus O’Regan, introduced the event with the following comments:

Seventeen hours of rock ‘n’ roll television. What’s going to happen? Who knows. Throw out the rule book. We have. Whatever the websites say, pay no attention. There’s [*sic*] going to be lots of surprises all day long and we’re going to bring it all to you.

There were no viewer advisories at the beginning of the broadcast, nor were there any coming out of any of the commercial breaks leading up to the performance by American pop-punk band Green Day which concerned the complainants.

Green Day’s performance was broadcast from 12:18 to 12:23 pm Atlantic time. They performed at the Berlin venue, playing their song entitled “American Idiot”.

The lyrics to the song contain one instance of the phrase “mind fuck”, which was not edited by CTV. In addition, at one point during the song, lead singer Billie Joe Armstrong addressed the crowd. He said

All right Live 8 Deutschland! Are you ready? I want you to sing so loud that everybody hears you all over the fuckin’ world, all right?

On July 2, the CBSC received a complaint about the broadcast of the f-word during the Green Day performance. The viewers explained their concerns in the following terms:

We are writing to express a complaint in relation to CTV’s broadcast (via local affiliate CKCW) of the Live 8 concerts on Saturday, July 02, 2005. While CTV’s participation in the coverage of this event is commendable, their diligence in the adherence to broadcasting standards was lacking.

At approximately 12:20 pm ADT, a performance by Green Day contained a spoken statement containing profane language unexpected at this time of day. Quite audibly, the lead singer of the band encouraged the crowd to “sing so loud they here [sic] you all over the f\*\*\*ing world” (paraphrase). This type of language is obviously inappropriate for a(n) early/midday broadcast on a Saturday.

Whereas this was a live event, it should have been, in our opinion, reasonably foreseeable that there may be inappropriate language during a performance and that a digital delay would have been appropriate. The nature of this broadcast lends itself to family viewing as there is a wide variety of artists involved and the social impact of the concert is enormous in magnitude. As parents, and we are undoubtedly not alone, we are disappointed in CTV’s conduct.

Both the Canadian Association of Broadcasters’ *Code of Ethics* (Clause 10(a), and Clause 11(b)) as well as the CRTC’s *Television Broadcasting Regulations* Section 5(1)(c) speak to programming of this nature and were ignored.

CTV’s behaviour at best was shortsighted and at worst irresponsible. We look forward to hearing your comments on this matter.

CTV responded to the complainants on July 13 with the following:

The Canadian Broadcast Standards Council has forwarded your letter regarding the Live 8 concert to our attention. We have reviewed the tapes of the broadcast and would like to apologize to you for any offense you took from the language used by Green Day in their introduction. Live 8 was the largest single day live broadcast that has been done in Canada. CTV undertook this project with less than 2 weeks to plan and prepare. It encompassed 18 hours of programming incorporating performances from numerous concerts from around the world. Preparations to put this event to air went around the clock for the entire time leading up to air. This is a very tight preparation time for the magnitude of this production and we were not able to put all of the technical procedures into place that we would have given more lead time.

Even so we accept that it was not proper for this type of language to go to air at this time of the day. It is never our intention to breach the CBSC codes on

language and we will be reviewing our procedures to do everything in our power to avoid a repeat occurrence.

The complainants were not satisfied with CTV's explanation and submitted their Ruling Request on July 24 with the following note:

We have received CTV's response regarding our complaint. We have taken almost the full two weeks allowed to consider it and have decided that we are not satisfied by [the Senior Vice-President]'s response.

CTV is a national broadcaster. As such, they have access to broad resources that would not be available to smaller broadcasters. The network frequently produces live television broadcasts and, we would expect, they frequently employ the technology that would have prevented the subject of our complaint.

It does not seem reasonable to suggest that time did not permit for the use of this equipment. Admittedly, we do not know how this equipment works, but if it is already a part of their master control system, is it not simply something that can be turned on when needed? At least it should be something easily hooked up if it is used as frequently as we would expect it to be.

Finally, even if this equipment does require some planning, its use should have been forefront so as to adhere to the Council's codes. Regulatory adherence should be paramount even if it must come at the expense of some of the glitter that took precedence over it.

Admittedly, as parents, a concert series is worrisome, but not having seen the requisite warnings suggesting that content may have been inappropriate, we felt safe assuming that precautions had been taken on the part of the network to prevent the broadcast of such content.

It seems too easy for CTV to say "we will be reviewing our procedures." What does this mean exactly and when will this happen? We feel that [the Senior Vice President] committed more time to defending the network's actions than considering a plan of action. These are the factors that have led us to request a ruling from the Council.

## THE DECISION

The National Conventional Television Panel examined 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.

### *CAB Code of Ethics*, Clause 11 – 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.

The National Conventional Television Panel reviewed all of the correspondence and viewed a tape of the Green Day performance. The Panel concludes that the broadcast was in breach of both of the aforementioned Code provisions.

### **Coarse Language**

The issue of the use of coarse language is not new. The principle adopted by CBSC Panels has been that the use of the f-word before the Watershed hour (9:00 pm-6:00 am) constitutes a violation of Clause 10(a) of the *CAB Code of Ethics* (or, before the revision of that Code, Article 3.1.1 of the *CAB Violence Code*). See, for example, the following CBSC decisions: *Showcase Television re the movie Destiny to Order* (CBSC Decision 00/01-0715, January 16, 2002), *WTN re the movie Wildcats* (CBSC Decision 00/01-0964, January 16, 2002), *Showcase Television re The Cops* (CBSC Decision 01/02-1076, February 28, 2003), *Showcase Television re the movie Frankie Starlight* (CBSC Decision 02/03-0682, January 30, 2004), *Showcase Television re the movie Muriel's Wedding* (CBSC Decision 02/03-0882, January 30, 2004), *Bravo! re the movie Perfect Timing* (CBSC Decision 03/04-1719, December 15, 2004), *Bravo! re the movie Kitchen Party* (CBSC Decision 03/04-0928, December 15, 2004), *Bravo! re the movie Ordinary People* (CBSC Decision 03/04-1187, December 15, 2004), *Bravo! re the film RKO 281* (CBSC Decision 04/05-0584, July 20, 2005), among others.

The matter at hand may, however, bear more similarity to the circumstances encountered in *CTV re a segment featuring Eminem at the Junos* (CBSC Decision 02/03-1130, January 30, 2004), which was a live show in which the singer Eminem used the f-word. This Panel found the broadcaster at fault, among other reasons, because the Eminem segment was pre-recorded and could have been bleeped. It did, however, anticipate that “the foregoing principle may not be applicable to an apparently live broadcast.” It is not, however, the view of the National Conventional Television Panel that the present matter is that exception. Far from it. The broadcaster was participating in an event with a

large number of rock bands, punk bands, rap artists and other musical acts from around the world. The Panel considers that it would have been disingenuous on the part of CTV *not* to anticipate that there might be coarse language by one or another of the divergent mix of performing artists. Even Seamus O'Regan, CTV's own host, anticipated on-the-edge, if not over the edge, possibilities:

What's going to happen? Who knows. Throw out the rule book. We have.

CTV's responsibility was not to throw out the rule book. It was to plan for the avoidance of the occurrences already anticipated. It could have done so. It chose not to. The eventuality became a reality. The broadcast of the coarse language intended for adult audiences in the early afternoon constituted a breach of Clause 10(a) of the *CAB Code of Ethics*.

### **Viewer Advisories**

The rule in Clause 11 related to advisories, cited above, is unequivocal. It is the circumstances that are unusual. Where "programming telecast outside of late viewing hours [...] contains [...] material which is not suitable for children," which would include coarse or offensive language, viewer advisories must be included at the start of the program and following *every* commercial break during the *entire* broadcast. As noted, the circumstances are unusual in that CTV could not know for a certainty that such coarse language would be included in the broadcast, whereas, in the case of a normal pre-recorded broadcast (or partially pre-recorded broadcast, such as the Junos), that information would be known.

In the present instance, however, the Panel considers that CTV had sufficient reason to anticipate that *some* "untoward" event would occur. Moreover, it declared that anticipation at the start of the show. It was, of course, *possible* that nothing of the sort might occur, in which case the advisories would have proved unnecessary, particularly coming out of every commercial break over the course of an unusually long program; however, CTV put itself in a catch-22 situation. Having multiple advisories for a non-event might have been annoying to viewers; however, by choosing *not* to put a delay mechanism in place, CTV invited the likelihood that there would be a Code-offending component of the broadcast, which it would then have no way of stopping. It was, in that sense, the author of its own potential misfortune. Ironically, had the offending language been edited out, there would be no requirement for the advisories discussed in this section; however, the unnecessary eventuality having come to pass, CTV does in the end also find itself in breach of its obligation to include viewer advisories in accordance with the terms of Clause 11(b) of the *CAB Code of Ethics*.

## **Broadcaster Responsiveness**

The requirement that a broadcaster be responsive to a 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 means of letting the public know that broadcasters care about their audience's concerns. In the present case, the Senior Vice President's letter, which included an acknowledgment that the offending language ought not to have aired and a commitment to put procedures in place to avoid a similar occurrence, constituted a fulfilment of the broadcaster's membership obligation of responsiveness on this occasion.

## **ANNOUNCEMENT OF THE DECISION**

CTV is required to: 1) announce the decision across the CTV network, 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 Live 8 Green Day performance 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 complainants who filed the Ruling Request; and 3) at that time, to provide the CBSC with a copy of that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by CTV.

The Canadian Broadcast Standards Council has found that CTV breached provisions of the Canadian Association of Broadcasters' *Code of Ethics* in its broadcast of the Live 8 special on July 2, 2005. In their early afternoon performance, the band Green Day used coarse or offensive language intended for adult audiences, which CTV failed to edit out. By broadcasting such language during its daytime coverage of the international musical event, CTV breached Clause 10 of the *CAB Code of Ethics*. By failing to include viewer advisories at the beginning of, and during, the broadcast warning viewers of the possibility of coarse or offensive language, CTV also breached Clause 11 of the Code.

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