
CANADIAN BROADCAST STANDARDS COUNCIL
NATIONAL CONVENTIONAL TELEVISION PANEL

Global re 24 (Season 6, Episode “1:00-2:00 pm”)

(CBSC Decision 06/07-0713)

Decided November 29, 2007

R. Cohen (Chair), J. Macdonald (Vice-Chair, Industry),

T. Rajan (Vice-Chair, Public), B. Culbert, P. Hebden, M. Hogarth

THE FACTS

24 is a dramatic action program whose main character, Jack Bauer, works as a tactical agent for the fictional Counter Terrorism Unit (CTU) of the United States government. Each episode takes place within a single hour of a day, following Bauer as he tries to prevent terrorist activities.

Season 6 of the series began in January 2007. On February 12 from 8:00 to 9:00 pm, Global broadcast the episode which covered CTU's activities from 1:00 to 2:00 pm. Because the American station Fox was broadcasting the episode at the same time, Global availed itself of its simultaneous substitution rights, which as a matter of practice result in television distributors laying the local signal (in this case that of Global) over the American signal on the channel usually occupied by the foreign broadcaster (in this case Fox).

The primary plot of the episode involved Bauer's efforts to thwart the plans of Abu Fayed, who was planning on detonating a series of suitcase nuclear bombs. In order to activate the bombs, Fayed had hired Darren McCarthy to kidnap a CTU agent named Morris O'Brian, who had the necessary computer programming expertise to do the job.

The following viewer advisory appeared in audio and video format at the beginning of the program and coming out of every commercial break:

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

A PG icon appeared at the beginning of the program for 20 seconds.

The episode began in the customary 24 style, with a series of flashbacks to scenes from previous episodes, including conflictual or violent elements, such as: O'Brian sitting in his car, where Fayed collaborator Darren McCarthy shot at him; Jack Bauer grabbing the head of his brother Graem (who was tied to a chair) and shaking it as he screamed, "How do I find McCarthy?!"; Philip (Jack and Graem's father) covering Graem's mouth to suffocate him as Graem struggled fruitlessly to fight back, incapacitated because he was still tied to the chair.

The "1:00-2:00 pm" episode also contained a number of scenes of aggression and violence, which occurred from four minutes into the episode. In one such scene, McCarthy's accomplice Rita drove while he sat in the passenger seat aiming a gun at Agent O'Brian, who was sitting in the back. She drove erratically in order to evade Bauer, who was tracking them in a helicopter, and then, after switching getaway vehicles, reversed places with McCarthy, who was now in the driver's seat of a truck while Rita held the gun. Suddenly, while McCarthy was adjusting the vehicle's GPS system, Rita shot him. Blood splattered onto the window and McCarthy slumped over, dead. Rita opened the truck door and pushed his body onto the road.

In another scene with violent elements, Rita and O'Brian arrived at the apartment where Fayed and his henchmen were hiding out; Rita had her gun to O'Brian's back. Fayed let them in and one of his henchmen pushed Rita up against the wall to frisk her and O'Brian. When Fayed asked if O'Brian was "the engineer", O'Brian responded, "You've got the wrong man" and Fayed punched him in the face. After a henchman dragged O'Brian to the couch and pointed a gun at him, Fayed ordered him to reprogram the nuclear bombs. When O'Brian refused, the thug smacked him and then, the viewer assumes, struck him repeatedly with a club. The viewer only saw the terrorist wield the club and then heard O'Brian cry out in pain, followed by a close-up of the agent's face with a pained expression.

In another violent scene, the one generating the complainant's principal concern, approximately half way through the episode, the viewer heard O'Brian crying and screaming and then saw the bathtub, where one of Fayed's cohorts was holding O'Brian's head underwater. When he let O'Brian up for air, the CTU agent asked them to stop, whereupon Fayed grabbed an electric drill and instructed his crony to stand O'Brian up against the wall. On a simulated basis, the terrorist leader then drilled into O'Brian's back as his victim screamed in agony. When he stopped, O'Brian collapsed on the floor, and Fayed threatened, "I will use this all over your body until you die of

shock or blood loss.” At that point, Rita entered the room and told Fayed she did not want the money, she just wanted to leave. Although Fayed said “okay”, he then shot her in the head and she fell beside the prostrate O’Brian. Fayed re-started the power drill and approached O’Brian’s head. At this point, O’Brian complied and began to help him with the activation of the devices. All was not lost. Good guys to the rescue. Bauer and other CTU agents entered the apartment building with their semi-automatic weapons. As O’Brian armed the bomb, Fayed instructed one of his henchmen to kill him. He struck O’Brian on the back and then pointed a gun at him. A firey explosion interrupted, just as Bauer and his team burst in. They fired on Fayed’s men, a number of whom were killed, as mini-explosions went off and debris flew around the apartment.

A viewer complained about this episode, in an e-mail dated February 14 (the full text of all correspondence can be found in the Appendix):

I am writing about a TV show I saw on Monday February 12th, 2007 on the Global network - although it may have shown on other networks as well. The show was called 24. It was a show I had seen only once before.

The time of the show was 8:00 pm. My concern about this program was with the violence depicted in it. It showed not only people being murdered gratuitously or in cold blood – something seen in other shows (although perhaps not at this time slot) – but a very disturbing scene of torture. The victim was a man being held in a hostage-type situation where he was being asked to help a group of terrorists make an exploding device. The man did not want to cooperate and in order to get him to do so the terrorist group used a drill to drill a hole in his back with the threat of doing this to his entire body until he "bled to death". It was horrific, graphic and unpleasant to watch.

I turned the show off. I do not recall any prior notice of violence that might have caused me to do this in advance. From a personal point of view, I am a social worker who hears people talk about real life violence and therefore do not find violence "entertaining". But apart from this, the scene was extremely disturbing. I believe that if this would have been in a movie it would have been rated to be seen by those over 18.

I have never seen or heard of the use of a drill to torture people with. I would not like to think of youngsters watching this and having to cope with this kind of an image in their consciousness as it is now in mine.

Such scenes, in my opinion, should not be on T.V. at all and certainly not at 8:00 p.m. and certainly not without warnings.

The broadcaster responded to the viewer on March 9, in principal part as follows:

Under the *Broadcasting Act*, broadcasters are required to provide a broad spectrum of entertainment and information programming for “men, women and children of all ages, interests and tastes.” Television programming is required to be diverse and appealing to a wide range of audiences. As a result, what one viewer might consider an interesting or informative program might lead another to turn the channel.

Global Television adheres to the television rating system created by the Canadian Association of Broadcasters (CAB) and the Action Group on Violence on Television (AGVOT). This public rating system is intended to advise viewers of a program’s content in order to allow you the viewer to determine a program’s suitability for your own viewing

needs and desires. As required, an on-screen key airs for the first fifteen seconds of the program and the matching V-Chip data is encoded into our transmission for the entire duration of the program. This program is rated “PG” – “Parental Guidance” as per the CAB’s AGVOT rating guidelines.

We have screened the particular episode and agree that it was more graphic than the regular weekly episodes. However, we believe that violent scenes were not gratuitous but integral to the plot.

In accordance with the Code of Ethics, we aired the following visual and verbal viewer advisory at the top of the show and coming out of every commercial break to assist our viewers in making informed decisions:

“The following program contains mature subject matter and scenes of violence. Viewer discretion is advised.”

Please note that we requested simultaneous substitution for this program of the Global signal over FOX, as it was also broadcast on FOX during the same time period. As a result, the 9 pm watershed hour for programs containing scenes of violence does not apply, as Canadian broadcasters are granted an exception to the watershed rule when a program is simulcast over the U.S. service prior to the watershed hour. This simulcast provides our audience with the necessary and proper advisories further to Clause 10(c) of the Code of Ethics which states:

In order to provide viewers with the benefit of Canadian program classification and viewer advisories not available on foreign distant signals, broadcasters which have CRTC permitted substitution rights over programming which is imported into their markets before the late viewing period, may employ substitution.

That being said, we believe that we aired this program with the appropriate viewer advisories and AGVOT rating. Therefore, we do not feel the program contravened any Codes.

The complainant requested, on April 25, that the CBSC adjudicate this matter.

THE DECISION

The CBSC National Conventional Television Panel reviewed the complaint under the following provisions of the Canadian Association of Broadcasters’ (CAB) *Violence Code*:

CAB Violence Code, Article 1.0 – Content

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).

CAB Violence Code, Article 3.0 – Scheduling

- 3.1 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.
- 3.1.3 In order to provide viewers with the benefit of Canadian program classification and viewer advisories not available on foreign distant signals, broadcasters who have CRTC-permitted substitution rights over programming which is imported into their markets before the late evening viewing period, may employ substitution, notwithstanding article 3.1.1.
- 3.1.4 Broadcasters shall exercise discretion in employing substitution in accordance with article 3.1.3 and shall at no time avail themselves of substitution rights over programming which contains gratuitous violence in any form or which sanctions, promotes or glamorizes [*sic*] violence.
- 3.1.5 Broadcasters shall take special precautions to advise viewers of the content of programming intended for adult audiences which is telecast before 9 pm in accordance with article 3.1.3.

CAB Violence Code, Article 4.0 – Classification System

PG – PARENTAL GUIDANCE

Descriptive

This programming, while intended for a general audience, may not be suitable for younger children (under the age of 8). Parents/guardians should be aware that there might be content elements which some could consider inappropriate for unsupervised viewing by children in the 8-13 age range.

Programming within this classification might address controversial themes or issues. Cognizant that pre-teens and early teens could be part of this viewing group, particular care must be taken not to encourage imitational behaviour, and consequences of violent actions shall not be minimized.

Violence Guidelines

- any depiction of conflict and/or aggression will be limited and moderate; it might include physical, fantasy, or supernatural violence.
- any such depictions should not be pervasive, and must be justified within the context of theme, storyline or character development.

14+ -- OVER 14 YEARS

Descriptive

Programming with this classification contains themes or content elements which might not be suitable for viewers under the age of 14. Parents are strongly cautioned to exercise discretion in permitting viewing by pre-teens and early teens without

parent/guardian supervision, as programming with this classification could deal with mature themes and societal issues in a realistic fashion.

Violence Guidelines

- while violence could be one of the dominant elements of the storyline, it must be integral to the development of plot or character.
- might contain intense scenes of violence.

CAB Violence Code, Clause 5.2 - Viewer Advisories

- 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 Panel Adjudicators read all of the correspondence and viewed a tape of the challenged program. The Panel concludes that the broadcast is not in violation of Articles 1.0, 3.0 or 5.2, but that it is in violation of Article 4.0 for its incorrect classification.

Gratuitous Violence

The Panel considers that “gratuitous violence” is an occasionally misunderstood term. It is essentially the equivalent of “unnecessary” violence, unnecessary, that is, with respect to the development of the plot, character or theme of the material as a whole. If the violent content does not fulfill one or more of those frequently related functions, and is thus not *required* to drive forward plot, theme or character, it will be understood by the Panel to be gratuitous. This is not to suggest that gratuitous violence is an unacceptable dramatic device *in its place*; it is only to say that that place is not on Canadian television. The CBSC makes no comment whatsoever on such violence in the cinemas, on DVDs, or other platforms; the Council's concern is limited to television and, on that platform, Canada's private broadcasters are agreed that it has no place.

The foregoing being said, it is also essential not to confuse gratuitous with gruesome. There may be violence that is difficult to watch because it is frank, graphic, harsh or gruesome. This does not lead inexorably to the conclusion that it does not serve a dramatic purpose. It is, in the end, the question of the role it plays in the drama that must be considered by the Panel in assessing the gratuitous nature of the violent content.

In *CTV re The Sopranos* (CBSC Decision 00/01-0130+, March 8, 2001), for example, the National Conventional Television Panel said the following of the content in the episodes of that series that it examined: “Graphic true, perhaps because it is realistic in its presentation, but not excessive, and always contextual.” The Panel's perspective on that issue did not change, despite its acknowledgement that the acts of violence “tend to be brutal.” In *Showcase Television re the movie Police 10-07* (CBSC Decision 00/01-

0613, January 16, 2002), the National Specialty Services Panel considered the serial killing of homosexual men by an unusual method known as auto-erotic strangulation. Of these unusual murders, the Panel concluded that, “although some of the crimes in *Police 10-07* are disturbing in their conception and realization, their presence in the movie does not in and of itself amount to the promotion of such acts.”

In the matter at hand, the Panel acknowledges the brutality of the use of a drill to inflict the torturous technique. That it may cause viewers to cringe in empathetic pain does not render the tactic gratuitous. Inflicting pain as a device to convince recalcitrant individuals to bend to the will of the administrator is an old dramatic device, and one that is well within the dramatic rationale of the challenged episode of 24. That it is original and unusual does not change its nature as plot-justified. One might even argue that that very fact drives the character of Fayed as a sadistic, absolutely no-holds-barred individual. The Panel also concludes that all of the other preceding aggressive or murderous acts play contributory roles in the plot development of what is an undeniably violent episode, or, not unimportantly, the chronologically-oriented series itself.

The Panel’s conclusion is that the violent acts in the challenged episode drive the plot and character development, are thus not gratuitous, and consequently not in breach of Article 1 of the *CAB Violence Code*.

The Nature of the Content

While the Panel has concluded that the violent content in the challenged episode of 24 is not gratuitous, it considers that it is sufficiently graphic, gruesome and intense that it is clearly intended exclusively for adult audiences. While this characterization does not, in and of itself, lead to any breach of the *CAB Violence Code*, it does inform some of the categories of issue that follow.

Scheduling and Simultaneous Substitution

Simultaneous substitution has existed in Canada for more than thirty years. It occurs when a broadcasting distribution undertaking, whether a cable or satellite system, inserts the signal of a local or regional Canadian television station on the channel of, as in the matter at hand, an American station showing programming that is substantially the same, at the same time. Simultaneous substitution helps protect the value of the program rights that Canadian broadcasters acquire for their market. For substitution to take place, the Canadian television station has to make a request to that effect to the broadcasting distribution undertaking in advance, as Global did in the present instance.

While simultaneous substitution benefits the rights holder, which has after all paid to acquire broadcast rights in Canada (or some region thereof), it also benefits the Canadian viewer. It means that the rules about ratings icons, viewer advisories, and V-chip encoding applicable to Canadian programming undertakings will be reflected in the signal on the American channel, which is running the *Canadian* signal, rather than that which provides none of the viewer protections mandated here. As this Panel said in *CHCH-TV re NCIS ("Mind Games")* (CBSC Decision 05/06-0479, December 15, 2005),

It should be noted that, far from opening a door to contentious programming, Article 3.1.5 requires broadcasters to take "special precautions to advise viewers of the content of programming intended for adult audiences." Were that provision *not* present in the *CAB Violence Code*, the pre-Watershed broadcast of programming with elements of violence destined for adult audiences would be accessible in Canada on an American channel (not subject to the *CAB Violence Code*) *without* any Canadian ratings icons or viewer advisories provided to assist viewers in making informed choices for them and their families. Article 3.1.5 at least ensures that the Canadian signal, with such information, is the *only* version of the program available to Canadian families.

While this may have the effect that a series broadcast by a Canadian programming undertaking that is normally required to play after the 9:00 pm Watershed may play *before* that hour, the viewer is not worse off on that account. After all, if no simultaneous substitution rule existed, the American signal would *still* play at the earlier inappropriate hour and be accessible by Canadian audiences then, but it would have none of the other protections for Canadian viewers. It is for this reason that Article 3.1.3 provides an exception for the Canadian broadcaster, which is entitled to play an adult program prior to the Watershed hour when it has availed itself of simultaneous substitution. Thus, while the Panel has no doubt but that the violent content in this episode of *24* is intended exclusively for adult audiences, Global, having availed itself of its right to simultaneous substitution, has not breached the scheduling provisions of the *CAB Violence Code* by broadcasting *24* prior to the Watershed hour.

Classification and Viewer Advisories

Regardless of the hour at which a program should air, it must be correctly rated under the AGVOT classification system, which is administered by the CBSC. In this case, the broadcaster chose PG as the appropriate rating. Under the PG descriptor, any violent content must "be limited and moderate" and "should not be pervasive." It is abundantly clear to the Panel that the violent content of the challenged episode exceeds the PG rating. The program content is analogous to that considered *CHMI-TV re the movie Double Team* (CBSC Decision 99/00-0372, May 5, 2000), a Jean-Claude Van Damme movie "replete with fighting, explosions and gunfire." The National Conventional Television Panel agrees with the conclusions of the Prairie Regional Panel, which concluded in that case that

[d]espite the fact that the film appears to contain violent elements suitable for an adult audience in terms of the watershed, the Council is of the view that the nature of the violence is not such that it would have needed be rated 18+, the highest category. The Violence Guidelines for the 14+ category allow that “violence could be one of the dominant elements of the storyline” and that the programming may even “contain intense scenes of violence.” While, for watershed purposes, the program is intended for adult audiences, the purpose of the 14+ rating, in the view of the Council, is to provide sufficient information for families that, despite its compatibility with a more mature audience, they may determine *for their own homes* that it may constitute suitable viewing for their older children.

Consequently, while the Council considers that the broadcaster’s choice of rating was incorrect and in breach of classification system requirements, it is a 14+ icon which should be present on future broadcasts of the film.

The Panel adopts that reasoning in the matter at hand and concludes that the failure to broadcast a 14+ icon has resulted in a breach of Article 4 of the *CAB Violence Code*.

The Panel also notes that the viewer advisory reference to “mature subject matter and scenes of violence”, while accurate, was not as useful to viewers as it might have been. Although it does not conclude that there is any breach of Article 5.2 of the *CAB Violence Code*, the inclusion of terminology such as “scenes of intense violence” or equivalent would have been more helpful to audiences wishing to make fully informed viewing choices about the “1:00-2:00 pm” episode of *24*.

Broadcaster Responsiveness

When members of the public express concerns about television or radio content, private broadcasters are expected by the CBSC to provide their explanation or response to the complainant regarding the substance of the complaint. Indeed, that is a fundamental component of the CBSC’s process. While not required to agree with a complainant, broadcasters must reply in a timely and thoughtful manner to those audience members who have taken the time to express their concerns. In this case, Global provided a substantive letter which outlined its rationale for the broadcast of *24* and choice of rating, as well as an explanation of its request for simultaneous substitution. Global has met its obligations in terms of responsiveness on this occasion and nothing further is required in this regard.

ANNOUNCEMENT OF THE DECISION

Global 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 *24* was broadcast; 2) within the fourteen days following the broadcasts 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 a copy of that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by Global.

The Canadian Broadcast Standards Council has found that Global Television violated provisions of the Canadian Association of Broadcasters' *Violence Code* in its broadcast of an episode of *24* on February 12, 2007. Because the violent content was more than "limited and moderate", Global's rating of the episode as PG when it should have been 14+ due to the intense scenes of violence breached Article 4 of the *Violence Code*.

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

APPENDIX

CBSC Decision 06/07-0713 Global re 24 (Season 6, Episode "1:00-2:00 pm")

The Complaint

The CBSC received the following e-mail complaint, dated February 14, 2007, via the CRTC:

Dear Sir/Madam

I am writing about a TV show I saw on Monday February 12th, 2007 on the Global network - although it may have shown on other networks as well. The show as called 24. It was a show I had seen only once before.

The time of the show was 8:00 pm. My concern about this program was with the violence depicted in it. It showed not only people being murdered gratuitously or in cold blood – something seen in other shows (although perhaps not at this time slot) – but a very disturbing scene of torture. The victim was a man being held in a hostage-type situation where he was being asked to help a group of terrorists make an exploding device. The man did not want to cooperate and in order to get him to do so the terrorist group used a drill to drill a hole in his back with the threat of doing this to his entire body until he "bled to death". It was horrific, graphic and unpleasant to watch.

I turned the show off. I do not recall any prior notice of violence that might have caused me to do this in advance. From a personal point of view, I am a social worker who hears people talk about real life violence and therefore do not find violence "entertaining". But apart from this, the scene was extremely disturbing. I believe that if this would have been in a movie it would have been rated to be seen by those over 18.

I have never seen or heard of the use of a drill to torture people with. I would not like to think of youngsters watching this and having to cope with this kind of an image in their consciousness as it is now in mine.

Such scenes, in my opinion, should not be on T.V. at all and certainly not at 8:00 p.m. and certainly not without warnings.

I would be interested to know if shows such as these are seen by anyone at the CRTC prior to airing.

Please be good enough to look into this.

Thank you for your attention to this matter.

Broadcaster's Response

The broadcaster responded on March 9 with the following:

This letter is in response to yours to the CRTC concerning the broadcast of *24* on Global Television on February 12, 2007 at 8 pm. As responsible broadcasters, we try to be sensitive to the members of our viewing audience, and we apologize if this program has offended you. I assure you that it is neither Global's nor the producer's intention to do so.

Under the *Broadcasting Act*, broadcasters are required to provide a broad spectrum of entertainment and information programming for "men, women and children of all ages, interests and tastes." Television programming is required to be diverse and appealing to a wide range of audiences. As a result, what one viewer might consider an interesting or informative program might lead another to turn the channel.

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In order to provide viewers with the benefit of Canadian program classification and viewer advisories not available on foreign distant signals, broadcasters which have CRTC permitted substitution rights over programming which is imported into their markets before the late viewing period, may employ substitution.

That being said, we believe that we aired this program with the appropriate viewer advisories and AGVOT rating. Therefore, we do not feel the program contravened any Codes.

We hope we have addressed your concerns and thank you for your letter.

Additional Correspondence

The complainant submitted the following note to the CBSC on April 25:

I have received the letter attached (as have you, I believe) and am not satisfied with the response for various reasons that I will not go into now. However, please let me know what I can do to pursue my concerns further.