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

**CTV re a promotional spot for *Flashpoint***

(CBSC Decision 08/09-0668)

Decided June 25, 2009

R. Cohen (Chair), A. Cardozo (Vice Chair, Public), E. Duffy-MacLean (*ad hoc*),  
M. Hogarth, T. Tatto

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**THE FACTS**

*Flashpoint* is a Canadian police drama series that follows the members of the Strategic Response Unit (SRU) as they deal with high risk crime situations in progress. A 30-second promotional spot for the program aired multiple times on January 10, 2009 during CTV's back-to-back broadcast of two National Football League (NFL) games and again during another NFL game on the afternoon of January 11. The promo consisted of various scenes from the upcoming episode. A detailed description of the promo content follows.

SRU Sergeant Greg Parker is outside in a suburban area. A man (Josh) says to him, "My wife's in there. She's in danger. What are you doing?" Parker replies, "Sir, we're not sure it was your wife that placed the 911 call." Josh replies, "What do you mean?" The promo cuts to SRU member Jules Callaghan creeping around a house holding a large gun, and then to a close-up of a woman's fingers holding a PDA on which a message reads "From Hannah. Yesterday was amazing. Call me. H." There is a close-up of a blonde woman (Sarah) crying. The promo cuts to Sarah standing in a door frame inside while a brunette woman (Hannah) stands outside. Parker is heard saying, "We believe your wife is holding someone in there against their will."

Sarah pulls a large kitchen knife out of a wooden knife holder sitting on the kitchen counter. She spins around and points the knife at Hannah who raises a hand in defence. The promo cuts to a close-up of Sarah as she says "I want to know about you and him." Josh is outside looking anxious, standing near Parker. Through the window, the viewer sees Hannah sitting on the floor with her hands up defencelessly as Sarah holds the knife close to Hannah's throat. Sarah says, "I just want the truth." SRU team member Spike looks through the window and says, "Knife confirmed." Hannah looks scared. The knife is visible in front of her face. SRU member Ed Lane says, "A knife is as bad as a gun; never sticks, never jams, never runs out of ammo."

Callaghan and Parker approach the house. In close-ups, Sarah asks, "What happened?" and Hannah, with the tip of the knife visible in front of her, responds, "What do you want me to say?" Sarah, standing up with the knife in her hand, screams. The action response begins with SRU member Sam Braddock breaking a window, followed by a series of very quick flashes of scenes from the episode with a woman's scream as background noise: a close-up of Spike holding a gun; Josh covering his face with his hands; a male voice is heard saying "They're escalating"; an SRU officer running upstairs; Callaghan saying "Three seconds"; Hannah crawling quickly along the floor trying to escape from Sarah, who is chasing after her; Hannah being pushed over; Parker's voice saying "Go, go, go, go, go!"; SRU member Kevin Wordsworth on the stairs pointing a large gun; Sarah lunging at Hannah; a close-up of Parker. The climax is marked by exploding glass around the title logo *Flashpoint* and the words "New Episode Friday 9:00/8c" below it. A voice-over says, "An all-new *Flashpoint*. Friday at nine, eight Central on CTV." The promo fades to the CTV logo.

The following complaint dated January 12, 2009 was sent to the CRTC, which forwarded it to the CBSC in due course. (The full text of all correspondence can be found in the Appendix.)

The network ran self-promotional advertising during the NFL Playoff games for an upcoming episode of *Flashpoint*. The ad depicted a character that suspected her husband of infidelity holding hostage her husband's suspected mistress at knife point. Several shots showed both the perpetrator and victim in severe distress. Several shots showed the perpetrator wielding a large kitchen/carving knife with both characters clearly in distress. At least one shot showed the perpetrator holding the large knife within a close proximity of the victim's throat with the apparent intent to injure or even kill.

This ad, running in the middle of the afternoon during a sporting event, disturbed my young children so much that I was forced to change channels or turn off the television completely during the commercial's airtime. My youngest (three-years-old) had seen the commercial with me for the first time before I began censoring the ad. As a result he refused to watch the football game on the basis that the "scary movie" would make him cry again. This ad was completely inappropriate for the time slot in which it aired. The content was clearly disturbing to young children and came on during the broadcast of a football game without any warning or advisement. The fact that the ad was self-promotional and entirely at the control and discretion of the network, is most disturbing. Other ads from the network promoting other violent prime-time dramas (*CSI* and *CSI*:

*Miami*) did not depict any actual violence during the ad. The same discretion should have been shown for the *Flashpoint* ad.

On January 23, a Senior Vice President of CTV responded to the complainant in the following terms:

*Flashpoint* is a Canadian program on CTV that focuses on the emergency response unit of the Toronto police. The stories presented often deal with hostage situations as was the case in this episodic promotion. It is very germane to the story line and important to relay the hostage situation in the promotion. We acknowledge that even though no direct violence was displayed in this promotion, it is intense. It is for that reason that we were careful to schedule the promotion in programming that is intended for a more mature audience. Football is such programming. Football is an inherently violent and intense sport. For those reasons we feel the scheduling of this promotional announcement during the football broadcast was an appropriate placement.

On the same day, the complainant reacted to the CTV reply in the following words:

At the crux of the broadcaster's defence of their decision is the following:

It is for that reason that we were careful to schedule the promotion in programming that is intended for a more mature audience. Football is such programming. Football is an inherently violent and intense sport. For those reasons we feel the scheduling of this promotional announcement during the football broadcast was an appropriate placement.

The argument is that professional football is a violent sport intended for mature audiences for which this type of advertising is entirely appropriate. The broadcaster is attempting to have it both ways. Either NFL football is intended for mature audiences, should be aired at the appropriate time and should therefore contain the appropriate warnings and advisements, or it should be considered suitable for all audiences and continue to be aired at all hours of the day, without any warnings or advisements and with appropriate advertising suitable for a "general" audience.

Choosing one of these two scenarios would have an immediate impact on advertising revenue – the only possible reason for the broadcaster to defend a position in which the network knowingly intends "to schedule the promotion in programming that is intended for a more mature audience" even though the "violent and intense" programming is aired on a Sunday afternoon without ANY warning or advisement as [to] the program's violent content.

If the broadcaster is aware of any anecdotal or scientific evidence that viewing professional football is as potentially harmful to young children as watching the "emergency response unit of the Toronto police" ... "deal with hostage situations as was the case in this episodic promotion", then by all means the broadcaster should [be] taking every possible step to move NFL football broadcasts to more appropriate time slots and insert the appropriate warnings/advisements throughout the broadcast.

For the broadcaster to go on record as stating that "football is an inherently violent and intense sport" that warrants the "scheduling of this promotional announcement during the football broadcast", with absolutely NO warnings or advisements to address that precise fact is completely disingenuous and opportunistic.

The broadcaster has been able to air a broadcast they "know" to be intended for mature audiences to a much broader audience during a time-slot normally intended for a more "general" audience, all while avoiding warning and advisements that would assert their belief in the nature of the violent programming. This allows the broadcaster to achieve higher ratings/higher revenue than would be the case if professional football was restricted to certain time-slots and included proper warnings.

This is completely unacceptable!

## THE DECISION

The National Conventional Television Panel examined the complaint under the following provision of the Canadian Association of Broadcasters' (CAB) *Violence Code*:

### *CAB Violence Code*, Article 3.0 – Scheduling

3.2 Promotional material which contains scenes of violence intended for adult audiences shall not be telecast before 9 pm.

The National Conventional Television Panel read all of the correspondence and watched a recording of the promo. While the Panel considers that the choice of time to broadcast the challenged promo was not the most appropriate, it did not find the broadcast in breach of the foregoing Article.

### **The Nature of Football Broadcasts**

There has never been an issue raised to the CBSC regarding the maturity level of the broadcast of any traditional sporting contest. Indeed, but for the raising of the point by the broadcaster and the subsequent dialogue between the broadcaster and the complainant, it would not have been a component of this decision. While it may be that CTV simply intended to observe that adults are the customary demographic for football games, that was not the way they framed the issue. It was CTV that chose to characterize football as "an inherently violent and intense sport" and one "intended for a more mature audience." It is with this contention that the National Conventional Television Panel disagrees and this point that the Panel wishes to clarify for future CBSC decisions. While the Panel acknowledges that football is a *contact* sport, it does not consider for an instant that it is *inherently violent*. Players block and tackle, but they rarely fight or engage in unorthodox physical activity. There is simply no evidence that Canadian or American professional or university football is inappropriate for afternoon broadcast. Indeed, in the Panel's experience, many families choose to watch football together. That some parents may choose not to watch the sport as a family is, like all

other television watching decisions, up to them, but the Panel does not consider that the sport is problematic for such viewing.

### **Post-Watershed Content?**

The CBSC has previously considered the issue of pre- or post-Watershed appropriateness of program promos (the Watershed being defined as running between 9:00pm and 6:00am). Certain principles have emerged from those decisions. First, the fact that a promo is for a post-Watershed (i.e. adult) program does not mean the promo itself cannot air pre-Watershed, since the material consideration is the content of the promo and not the content of the program being promoted. In *CKCK-TV re Promos for The Sopranos and an Advertisement for The Watcher* (CBSC Decision 00/01-0058, August 20, 2001), for example, the Prairie Regional Panel explained

that any kind of assessment or evaluation of a promotional spot would depend solely on the *content of the material used in that promo*. It would thus be unrelated to the content of the material contained in the film or program for which the promo has been produced. In other words, the rating for the *actual program* does not necessarily transfer to the promotional spot for that program. [Emphasis original.]

After all, the promo might be created by the use of nothing other than the milder scenes from the program. If, in other terms, a promo does not contain any scenes of violence intended for adults, it can air at any time of day (with the possible exception of during programming actually targeted to children). Where the promo does contain scenes intended exclusively for adults, it can only air after 9:00 pm.

The evaluation of the promo content is never, of course, mathematical. It can only be assessed as a function of the level of elements of “fear, suspense, gore and explicitness,” according to *CKCO-TV re Kazan* (CBSC Decision 96/97-0226, February 20, 1998). Ads or promos that are merely suspenseful will not necessarily be considered intended exclusively for adults. *Global re an advertisement for the movie SkinWalkers* (CBSC Decision 06/07-1352, November 29, 2007), for example, was a CBSC decision relating to a promo for a feature film about werewolves that was theatrically released in August 2007. The 15-second long advertisement for the film aired twice during the reality program *Big Brother 8* at 8:00 pm. It contained a rapid series of very brief clips from the movie, which included a shot of biological cells dividing, four quick flashes of different werewolves, a close-up of an eyeball changing colour, a woman with fangs who roared at the camera, a cut to werewolf eyes, as well as shots of men and women holding semi-automatic weapons leaping away from an exploding gas station. A viewer complained that the advertisement was too violent to be aired at a time when children could be watching television. The National Conventional Television Panel concluded that the scenes were not so violent or graphic as to necessitate a post-Watershed time-slot: “While certain of the images were

somewhat startling, such as those of the werewolf eyes and fangs, they did not depict any scenes of actual violence.”

The Panel finds that, although the challenged promo was suspenseful and scary, there was no actual element of violence included. Nor was there any depiction of the consequences of off-screen violence. There were screams, guns (although only in the hands of law enforcement personnel), exploding glass, and several appearances of knives, but no violence at all. This is not to say that the Panel disputes the frightened reaction of the complainant’s child. It is only its analysis of the characterization of the elements of the promo itself. It finds the promo free of the adult violence that would force it into a post-Watershed broadcast period.

In this regard, the Panel is also constrained to underscore a crucial issue clarified in the *CKCK-TV* decision, namely, that the “private broadcasters’ system simply divides *all* dramatic broadcast matter into two categories, that which is intended for adults and that which is not.” In other words, a promo is either black or white; there are no greys in this area. The effect of this is that promos, if not relegated to a post-9:00pm broadcast period, are not ineligible, on the basis of *standards*, for broadcast pre-9:00pm, whatever their nature. As explained in the *CKCK-TV* decision,

It should also be borne in mind that the broadcaster has the right to promote any program to the diverse audience watching the station at any time during the day, provided that the content of the promotional spot does not cross the line of containing content intended for an adult audience. Knowing that there may be viewers from across the age and taste continuum, it is, after all, eminently fair that they be appealed to at any pre-Watershed time of day when they might be watching *provided that the content of the promotional spot will not offend those other viewers who may be watching at the same time.*

In a post-Watershed environment, the “burden” shifts. There is an assumption in the late viewing hours that material is entitled to be appropriate to that time period. Viewers must be aware of that. Thus, the rule is that, pre-Watershed, the promos not be intended for adults; however, it is not required that they be *so refined* that they fall into the same more precise rating category as the show within which they are shown. That would constitute an almost impossible situation for the broadcaster traffic departments and is unnecessary, as long as the broader Watershed provisions are respected. [Emphasis original.]

While the Panel is sympathetic to the complainant’s dilemma that the promo so disturbed his young children to such an extent that he was forced to change channels or turn off the television completely during the promo’s airtime, it has no choice but to apply the standards as they exist. This does not mean, of course, that a broadcaster, knowing that a program may be watched by younger persons, may not choose to consider the broadcast of promotional content as a reflection of such audience concerns; it only means that the broadcaster is not under an obligation to do so. On balance, the Panel concludes that CTV did not breach Article 3 of the *Violence Code* in its broadcast of the promo for *Flashpoint* on this occasion.

## **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 considers that the letter of the Senior Vice President on this occasion was different from the customarily more helpful, thoughtful and responsive approach of CTV. It was both shorter and unusually detached from the issue of concern to the complainant. Although the Panel also finds CTV's reliance on the concept of the mature, or adult, level of customary afternoon programming curious, it has dealt with that issue above, and it considers that CTV's explanation of its reading of its customary sports demographic was not framed in an intentionally problematic way. While it finds the response, as noted above, uncharacteristic of the normal CTV style of response, it does not conclude that it is in breach of the broadcaster's CBSC membership responsibilities on this occasion.

*This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.*

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## APPENDIX

### CBSC Decision 08/09-0668 CTV re a promotional spot for *Flashpoint*

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#### The Complaint

The following complaint dated January 12, 2009 was sent to the CRTC and forwarded to the CBSC in due course:

Network: CTVglobemedia

Station(s): National Network including CFTO (Toronto) and CKCO (Kitchener/Waterloo)

Program(s): NFL Playoffs

Date(s)/Time(s): Saturday, January 10 @ 4:00 pm; Sunday, January 11 @ 1:00 pm

Complaint:

The network ran self-promotional advertising during the NFL Playoff games for an upcoming episode of *Flashpoint*. The ad depicted a character that suspected her husband of infidelity holding hostage her husband's suspected mistress at knife point. Several shots showed both the perpetrator and victim in severe distress. Several shots showed the perpetrator wielding a large kitchen/carving knife with both characters clearly in distress. At least one shot showed the perpetrator holding the large knife within a close proximity of the victim's throat with the apparent intent to injure or even kill.

This ad, running in the middle of the afternoon during a sporting event, disturbed my young children so much that I was forced to change channels or turn off the television completely during the commercial's airtime. My youngest (three-years-old) had seen the commercial with me for the first time before I began censoring the ad. As a result he refused to watch the football game on the basis that the "scary movie" would make him cry again. This ad was completely inappropriate for the time slot in which it aired. The content was clearly disturbing to young children and came on during the broadcast of a football game without any warning or advisement. The fact that the ad was self-promotional and entirely at the control and discretion of the network, is most disturbing. Other ads from the network promoting other violent prime-time dramas (*CSI* and *CSI: Miami*) did not depict any actual violence during the ad. The same discretion should have been shown for the *Flashpoint* ad.

#### Broadcaster Response

CTV responded to the complainant on January 23:

The Canadian Broadcast Standards Council has forwarded your correspondence regarding the promotional announcement for *Flashpoint* to our attention.

*Flashpoint* is a Canadian program on CTV that focuses on the emergency response unit of the Toronto police. The stories presented often deal with hostage situations as was the case in this episodic promotion. It is very germane to the story line and important to relay the hostage situation in the promotion. We acknowledge that even though no direct violence was displayed in this promotion, it is intense. It is for that reason that we were careful to schedule the promotion in programming that is intended for a more mature audience. Football is such programming. Football is an inherently violent and intense sport. For those reasons we feel the scheduling of this promotional announcement during the football broadcast was an appropriate placement.

CTV is a member of the Canadian Broadcast Standards Council and follows the Council's standards and guidelines.

## **Additional Correspondence**

The complainant filed his Ruling Request on January 23 with the following note:

Dear CBSC,

At the crux of the broadcaster's defence of their decision is the following:

It is for that reason that we were careful to schedule the promotion in programming that is intended for a more mature audience. Football is such programming. Football is an inherently violent and intense sport. For those reasons we feel the scheduling of this promotional announcement during the football broadcast was an appropriate placement.

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