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## CANADIAN BROADCAST STANDARDS COUNCIL

### ONTARIO REGIONAL PANEL

#### CITY-TV re *Trauma* (“Stuck”)

(CBSC Decision 09/10-0389)

Decided June 22, 2010

M. Oldfield (Acting Chair), B. Bodnarchuk, L. Levinson, J. Page (*ad hoc*), J. Pungente,  
P. Wedge (*ad hoc*)

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### THE FACTS

*Trauma* was an American dramatic program that followed the lives of a group of paramedics in San Francisco. The main characters were Nancy Carnahan, Tyler Briggs, Reuben “Rabbit” Palchuck, Cameron Boone, Marisa Benez, and new team member Glenn “Probie” Morrison. A secondary character was Dr. Joe Saviano. CITY-TV aired the challenged episode, entitled “Stuck”, on October 19, 2009 at 9:00 pm. There were no viewer advisories aired during the broadcast. The episode was rated 14+; the classification icon appeared for 16 seconds at the beginning of the show.

As would be expected in a drama program about paramedics, there were several scenes showing violence, accidents and injuries. For example, the program began with a flashback of Rabbit lying on the pavement with a bloody face and toes and his shoe torn open and smoking. The scene rewound to show that Rabbit had been in a fiery helicopter explosion.

The first accident that the paramedics had to face involved an incident at a construction site. A worker named Phil was shown tripping and falling backwards such that his arm was caught in a piece of machinery. There was a close-up of his hand jerking and blood flying. Another worker named Danny was injured falling out of a cherry-picker when a live wire started flying around shooting off sparks. He landed on his back on the

windshield of a car. Nancy and Glenn arrived at the scene to attend to the two injured men. The viewer then saw that Phil's arm had been cut off and that there was a lot of blood at the location of the severed limb.

In another scene, two men got into a fistfight at a park. After much punching and kicking, one man fell to the ground. The assailant attempted to run away, but Tyler clothes-lined him. Tyler and Boone then attended to the victim who had a bloodied mouth. They noted that a piece of his tongue was missing and Boone went off in search of it. The injured man's young son then handed Boone the piece of tongue.

About twenty minutes into the program, there was a scene in which a fire broke out at a Chinese restaurant. As patrons rushed for the exit, there was an explosion in the kitchen. Tyler and Boone arrived at the scene to find a man with severe (first- and second-degree) burn marks on his back and arm. When they entered the restaurant, they found a dead man. Further searching of the premises revealed a group of young Asian women in skimpy clothing in the basement. They drew the conclusion that there was a brothel being operated out of the restaurant.

A few minutes later, the group of young women were shown huddled together sitting outside on the curb. One of the women, responding to the female restaurant owner yelling at her (in Cantonese), lunged at the owner; they fell to the ground grappling each other. The paramedics broke up the fight and the restaurant owner was shown holding her hand up to the area of her eye, which was scratched and bleeding. Boone commented that she could lose her eye and she was shown a moment later with a bandage around it. The young woman's face was also bruised and scratched.

Another accident involved a man arguing with a contractor who was doing renovations on his house. The man, named Will, was standing on scaffolding a few feet off the ground. During the disagreement, Will fell backwards off the scaffolding and impaled himself (through his stomach) on a metal rebar. When Nancy and Glenn arrived to attend to Will, there were close-ups of the pole injury. Will remained conscious and spoke to the paramedics as they attended to him, occasionally groaning and wincing in pain. When the paramedics had to lift him slightly to cut the rebar, he screamed in pain, and the viewer saw his legs shaking. Complicating matters further, the paramedics inadvertently cut two arteries. Instructed by Dr. Joe via radio, Nancy performed a procedure to stop the bleeding. There were close-ups of Nancy cutting around Will's rebar wound with a scalpel and suturing his leaking arteries. Although Will frequently groaned in pain, Nancy efforts were successful.

The CBSC received a complaint dated November 5, 2009 about the scenes of injury in this episode. The complainant described his concerns as follows (the text of all correspondence can be found in the Appendix):

This episode begins with a graphic depiction of a traumatic amputation involving a maintenance worker falling on his own saw. [...] I believe any show depicting traumatic amputation, vivisection, mutilation, dismemberment, bifurcation [*sic*], decapitation or any other form of body-rending grievous bodily harm should be preceded by a viewer advisory. I concede certain viewers' interest and the broadcasters' right to air such programming; I ask merely that viewers are prepared for this sort of thing by broadcasters beforehand.

The complainant wrote again on November 13, reiterating his suggestion about including advisories "prior to shows depicting amputation, dismemberment, mutilation, decapitation, vivisection, bifurcation [*sic*] or body-rendering injuries of this sort."

CITY-TV responded to the complaint on December 1. The station cited Articles 3.0 and 5.0 of the *CAB Violence Code* as well as the description of a 14+ program. It also explained CITY-TV's programming philosophy and views on *Trauma* in the following terms:

Prior to dealing with the substance of your complaint, I would like to share with you our programming philosophy. At Citytv we try to select films and programs that will appeal to our viewers who are primarily urban adults. We try to treat our viewers in a mature and responsible way by offering them tools such as viewer advisories (when warranted) and rating icons, to help them decide for themselves whether they, or members of their family, should watch a particular film or program.

In your complaint you stated that shows depicting traumatic amputations should be preceded by a viewer advisory.

We have reviewed the logger tape of the episode in question. *Trauma* is a series about a group of paramedics in San Francisco, California. Due to the very nature of the series, scenes of people suffering from serious injuries are inherent to the plot. While we agree that this particular episode included a vivid scene of a construction worker falling on a saw resulting in the amputation of his arm, the camera angle was such that the viewer did not actually see the amputation. As such, we do not believe that this show contained scenes intended for adult audiences. Therefore, we did not believe that a viewer advisory was warranted.

[...]

Given the fact that images of physical trauma is [*sic*] inherent to the series, the program was scheduled after the watershed hour of 9 pm, and included an AGVOT rating of 14+, we respectfully submit that we have not breached the Code.

That said, it is clear from your email that you were offended by the programming on Citytv. It was certainly not our intention to upset you, and for that we apologize. Thank you for taking the time to express your thoughts about the programs on our station. We value the opinion of all our viewers.

The complainant was dissatisfied with that response and sent his Ruling Request and the following note on December 4:

Re CBSC File 09/10-0389 (*Trauma*, CITY-TV) [...], I feel it necessary to address the apparently heretofore unexamined issue of how to caution viewers about depictions of grievous body-rending harm such as traumatic amputation so that clear policy is set.

[...]

I find the fulsomeness of the networks' responses to be tonally patronizing & condescendingly invalidating, filled as they are with mind-fogging folderol such as "we at this network", "in good CBSC standing", "your valued opinion" (which is often not addressed until at least a page along) & quotations of broadcast policy. I'd rather have my opinion responded to, timely & succinctly.

## THE DECISION

The CBSC Ontario Regional Panel examined the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Violence Code*:

### *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.

### *CAB Violence Code*, Article 5.0 – Viewer Advisories

5.1 To assist consumers in making their viewing choices, broadcasters shall provide a viewer advisory, at the beginning of, and during the first hour of programming telecast in late evening hours which contains scenes of violence intended for adult audiences.

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 the broadcast in question. The Panel concludes that CITY-TV did not violate either of the aforementioned Code provisions with respect to this broadcast of *Trauma*.

## The Nature of the Content

As this and other Panels have often done, this Panel notes that there is no *mathematical* method of defining the adults-only quality of programming that forces it into a post-Watershed broadcast period (i.e. 9:00 pm-6:00 am). That said, the various CBSC Panels have applied the principles laid down by this Panel in *CKCO-TV re Kazan* (CBSC Decision 96/97-0226, February 20, 1998). In that decision, this Panel dealt with

a complaint relating to a Sunday matinee movie which told the story of a canine, part dog/part wolf, named Kazan whose personal challenge was to decide whether he belonged in the wilderness or in the company of humans. The movie included scenes depicting the strangulation of a man as well as the beating, shooting and near drowning of Kazan. The Panel found that none of these scenes of violence could be described as “intended for adult audiences”. It explained:

The Panel does not consider that the scenes of violence contained in *Kazan* are of such a nature as to be intended for adult audiences only, although they contain more violent elements than do the scenes contained in [...] the episode of *Matrix* considered by the Panel. While it is difficult to propose any cut-and-dried formula to apply in coming to any such conclusion, the Panel does 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 Panel notes that the scenes of violence in the movie *Kazan* were short and often obscured to limit their scariness. The Panel finds that, overall, the movie was very tame; in the Panel’s view, the few scenes of violence do not negate this characterization.

This Panel again dealt with this issue in *CJMT-TV (OMNI.2) re episodes of Law & Order: Criminal Intent (“Want”) and Law & Order: Special Victims Unit (“Pure”)* (CBSC Decision 07/08-1441, January 7, 2009). The Panel dealt with two episodes of the crime drama programs broadcast in the early evening hours. The episode of *Criminal Intent* entitled “Want” focussed on two related crimes in which women had been given “homemade lobotomies” and had their calf muscles removed. While there was no actual violence committed on screen, the episode included scenes with dead bodies and injured victims, as well as detailed conversations about the disturbing assaults. In the episode “Pure” of *Special Victims Unit*, the detectives dealt with the disappearance of a teen-aged girl and an investigation of a man who preyed on virgins. Again, the episode included scenes with bodies or injured individuals and discussions about the nature of the crimes, but no actual violent acts. On the subject of adult-related violence, the Panel said:

On the one hand, the presence, and level of, gore, explicitness, graphic or horrific images, frequency of violence, fear, terror-provoking suspense, and realism will tend toward adulthood determinations. It follows that violence that, while present, is tame, merely suggestive, even somewhat disturbing or threatening, marked by infrequency or brevity, is unlikely to be understood by Panels as exclusively intended for adult audiences. It is in this context that off-screen acts of violence will, in some senses, require a higher level of graphic, gory, explicit, horrific, realistic imaging and frequency to attain the “adulthood” required by certain of the above-cited provisions of the *CAB Violence Code*.

With respect to the content of these particular programs, the Panel stated:

While the Panel acknowledges that the episodes contained disturbing themes, it does not consider that there are sufficient on-screen violent acts or visual consequences of off-screen violent acts that would drive the programs into the adulthood camp. In the first episode, there was *discussion* of the “homemade lobotomy” and the suspicion that the

state of the refrigerated calf muscle may have reflected a symbolic or ritualistic cannibalistic act. Otherwise, there was no on-screen violence [...]

In the case of the challenged episode of *Trauma*, the Panel acknowledges that there are some graphic incidents, but they are all, of course, accidental occurrences rather than purposeful, graphic but not in the foregoing sense *violent*. It is disturbing but so are many surgical operations to the non-medically-trained viewer. Fear and suspense of impending violence are absent, and most of the on-screen graphic content reflects accidental and medical occurrences, which is quite contrary to the substance of programs about criminal violence. Moreover, as is not always the case, the title of the program suggests the type of content that may be anticipated by the audience. While not the equivalent of an advisory (more about that subject in the following section), it undeniably provides information to the viewer about the nature of the program.

In any event, the Panel's bottom line is that it does not find the content to be exclusively adult-oriented.

### **A Viewer Advisory Conundrum**

The Panel understands, appreciates and is sympathetic to the complainant's very reasonable concern about the value of viewer advisories on any program that could be expected to cause concern about its content to audiences. That said, there are rules established in the form of broadcast standards and the Panel is bound to apply these. An explanation is, however, due to the complainant.

The rules are established in Article 5, cited above. These rules relegate programming "exclusively intended for adults", as the CBSC jurisprudence has clearly set down over the years, to broadcast after 9:00 pm. Any such programming must also provide viewer advisories, as provided in Article 5.1. The logic is clear. Programming *intended for adults* includes a type of content that is correspondingly *not* suitable for children. Consequently, if it is "forced" into the post-9:00 pm period, it should, indeed, *must*, carry a viewer advisory. And Article 3.1.2 draws the link, in the scheduling context, between *children* watching television post-9:00 pm and the need for advisories in the case of post-9:00 pm-qualified broadcasts.

Article 5.2 envisages another kind of programming, namely, one with content that is not "forced" into post-Watershed broadcast, but that is broadcast "outside of late evening hours [i.e. the Watershed period]" *and* is unsuitable for children. Fair enough. The rationale is equally clear. (Note also that there is a category of programming not at all relevant to this decision, namely, programming *suitable for children*.)

Here is the conundrum. There may be, indeed there is (as this episode of *Trauma* has shown) programming that is neither suitable for children nor, to repeat the phrase, “forced” into the post-Watershed broadcast period. What of it? In such a case, there is no provision in Article 5.0 or elsewhere that *requires* a viewer advisory at all, if the content is broadcast after 9:00 pm. Since the broadcaster chose to air *Trauma* after that hour, the challenged episode is in that category, namely, a program not restricted to adult viewing and not therefore anticipated or covered by Article 5.1. It falls between two chairs. The rationale for not needing an advisory would be as follows: that what the CBSC has described in earlier decisions as a “safe haven”, that is, the pre-Watershed period, effectively also defines the converse, that is, the post-Watershed period as a time zone when adult-directed programming can be anticipated. It can be argued that it is a period, in other words, when persons are “on notice” that “risky”, child-inappropriate programming may be broadcast. It is, in the Panel’s view, a loophole, but not an utterly unreasonable one, and the Panel can find no Code breach on account of the broadcaster’s failure to include a viewer advisory in the currently challenged episode of *Trauma*.

The foregoing being said, the Panel believes that it would be helpful to audiences if the broadcaster were to include a viewer advisory on future episodes of programs such as *Trauma*, whose content is not suitable to children. Whatever the hour of the broadcast, it is understandable that the theme of Article 5.0 is that there may be content that is not suitable for children and that, consequently, merits helpful advisories. This is just such a case and, despite the absence of a codified requirement for such a warning, it would clearly be helpful to audiences to have information that helps them to select programming suitable for their families. That ultimately is a choice reserved to the broadcaster.

### **Broadcaster Responsiveness**

In all CBSC decisions, the Council’s Panels assess the broadcaster’s responsiveness to the complainant. In the present instance, the Panel finds that the response of the Vice President, Regulatory Affairs, of Rogers Media, Citytv’s parent company, focussed on the complainant’s concern, which is fundamentally what is required as a component of CBSC membership requirements. The Panel recognizes that the broadcaster’s viewpoint was not that of the complainant, but that is always the case where a file is brought to a Panel adjudication level. It is also necessary to observe that the Panel finds the complainant’s accusation of the broadcaster’s letter as “tonally patronizing & condescendingly invalidating” utterly unreflective of that letter. Moreover, the phrases he has cited as most annoying to him, namely, “we at this network”, “in good CBSC standing”, “your valued opinion”, are all fair for the broadcaster to express. The respondent does, after all, speak for the individual station *and* the network of which it is

a part; nothing could be more appropriate than for the broadcaster to state that it does subscribe to the Council's codified standards and their interpretation; as to the extent to which the broadcaster "values" the particular complainant's position, the CBSC has no information, except to say that broadcasters *do* generally value their audiences' input. The Panel understands that the complainant in this instance has filed many complaints over the years and is occasionally at least intolerant of broadcasters' good faith attempts to explain their position. That is his *right* but it does not *make* him right. Simply stated, it is the thoughtfulness of the response that determines whether the broadcaster has met the CBSC membership responsibility of responsiveness, and, in this case, the Panel considers Citytv has fully met its membership responsibilities.

*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 09/10-0389 CITY-TV re *Trauma* (“Stuck”)

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#### The Complaint

The CBSC received the following complaint dated November 5, 2009:

To whom it may concern:

I am articulating two concerns about Global TV [*sic*, it was subsequently determined that the broadcaster of *Trauma* was actually CITY-TV; see complainant's second letter below].

The first is an episode of *Trauma* that aired Oct. 19 or the week thereof. This episode begins with a graphic depiction of a traumatic amputation involving a maintenance worker falling on his own saw. My concern is similar to that re a pending complaint I have made to the CBSC & [a different broadcaster regarding a different program], in that I believe any show depicting traumatic amputation, vivisection, mutilation, dismemberment, bifurcation, decapitation or any other form of body-rending grievous bodily harm should be preceded by a viewer advisory. I concede certain viewers' interest and the broadcasters' right to air such programming; I ask merely that viewers are prepared for this sort of thing by broadcasters beforehand.

[The complainant then outlined his concerns about another program, which did air on Global, and was treated as a separate file.]

Thank you for your consideration.

The complainant sent another letter on November 13:

To whom it may concern:

I am writing re CITY-TV & [another broadcaster].

A CITY-TV broadcast of the show *Trauma* from October 19 or 26 depicted a traumatic amputation involving a construction worker losing his arm falling backward on his saw. For the purpose of policy development, I wish this complaint to deal with the necessity of always showing viewer advisories prior to shows depicting amputation, dismemberment, mutilation, decapitation, vivisection, bifurcation or body-rending injuries of this sort.

[He then provided additional thoughts on one of his other complaints.]

Thank you for your consideration.

#### Broadcaster Response

CITY-TV responded on December 1:

We have received your complaint to the Canadian Broadcast Standards Council (CBSC) regarding the program *Trauma* which was broadcast on Citytv Toronto (CITY-TV) on October 19, 2009 beginning at 9 pm.

As you may be aware, the CBSC is an independent organization created to administer codes and standards that have been proposed by the Canadian Association of Broadcasters (CAB) and approved by the CRTC. Citytv Toronto, is owned and operated by Rogers Broadcasting Limited. We are a member in good standing with the CBSC and we welcome the opportunity to respond to your concerns.

As noted above, the CBSC administers a number of codes and standards, including the *CAB Violence Code* (the Code). As a member of the CBSC, Citytv Toronto is subject to the Code. Relevant clauses are reproduced below for your reference:

### **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 glamourizes 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.*

*(Note: To accommodate the reality of time zone differences, and Canadian distant signal importation, these guidelines shall be applied to the time zone in which the signal originates.)*

### **5.0 Viewer Advisories**

*5.1 To assist consumers in making their viewing choices, broadcasters shall provide a viewer advisory, at the beginning of, and during the first hour of programming telecast in late evening hours which contains scenes of violence intended for adult audiences.*

*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.*

Clause 3.1.1 states that 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. As further set out in Clause 5.1, broadcasters must also provide a viewer advisory at the beginning of each program and during the first hour of programming telecast in late evening hours which contains scenes of violence intended for adult audiences.

Prior to dealing with the substance of your complaint, I would like to share with you our programming philosophy. At Citytv we try to select films and programs that will appeal to our viewers who are primarily urban adults. We try to treat our viewers in a mature and responsible way by offering them tools such as viewer advisories (when warranted) and rating icons, to help them decide for themselves whether they, or members of their family, should watch a particular film or program.

In your complaint you stated that shows depicting traumatic amputations should be preceded by a viewer advisory.

We have reviewed the logger tape of the episode in question. *Trauma* is a series about a group of paramedics in San Francisco, California. Due to the very nature of the series, scenes of people suffering from serious injuries are inherent to the plot. While we agree that this particular episode included a vivid scene of a construction worker falling on a saw resulting in the amputation of his arm, the camera angle was such that the viewer did not actually see the amputation. As such, we do not believe that this show contained scenes intended for adult audiences. Therefore, we did not believe that a viewer advisory was warranted.

Having said, that *Trauma* is rated 14+. Under the Canadian rating system 14+ is defined as follows:

*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*

Given the fact that images of physical trauma is [sic] inherent to the series, the program was scheduled after the watershed hour of 9 pm, and included an AGVOT rating of 14+, we respectfully submit that we have not breached the Code.

That said, it is clear from your email that you were offended by the programming on Citytv. It was certainly not our intention to upset you, and for that we apologize. Thank you for taking the time to express your thoughts about the programs on our station. We value the opinion of all our viewers.

## **Additional Correspondence**

The complainant filed his Ruling Request dated December 4 and added the following comments regarding this particular file:

To whom it may concern:

May it be known that I am dissatisfied with all of the responses to all of my pending complaints.

Re CBSC File 09/10-0389 (*Trauma*, CITY-TV) & a broadcast of [a different program on a different broadcaster], I feel it necessary to address the apparently heretofore unexamined issue of how to caution viewers about depictions of grievous body-rending harm such as traumatic amputation so that clear policy is set.

[He then made specific comments about his other files.]

I find the fulsomeness of the networks' responses to be tonally patronizing & condescendingly invalidating, filled as they are with mind-fogging folderol such as "we at this network", "in good CBSC standing", "your valued opinion" (which is often not addressed until at least a page along) & quotations of broadcast policy. I'd rather have my opinion responded to, timely & succinctly.

[He then complained specifically about the response & programming of another station.]

Thank you for your consideration.