
APPENDIX B

CBSC Decision 08/09-1097 & -1743 CHCH-TV (E!) re *E!'s Wildest Spring Break Moments*

The Complaint

The CBSC received the following complaint via its webform on February 18, 2009:

station: CanWest /E! Channel
program: *E! Channel's Wildest Spring Break Moments*
date: December 27, 2008
time: 1:00 pm
concern: Copy of email sent to CRTC on February 18, 2009

On December 27, 2008, I sent an email to CanWest and to E Channel regarding my concerns about airing *E! Channel's Wildest Spring Break Moments* at 1:00 pm in the afternoon. A rating was not indicated, nor was an advisory given. After visiting E! Channel's website, I found out that the program was rated PG. Nearly one month later, on January 26, 2009, I received a response from "Viewer Contact: Global Television and E!" stating that the rating for the program was PG and was therefore allowed to be aired prior to the "watershed hour".

On January 30, 2009, I received another email from "Viewer Contact: Global Television and E!" informing me that *E! Channel's Wildest Spring Break Moments* will likely be scheduled to air in March for Spring Break. In addition to this it was stated that "Viewer Contact has been assured both shows will be screened to ensure inappropriate materials (that shouldn't appear in the day) will be removed in addition to implementing an advisory before and during the show."

On January 31, 2009, I sent another email to Viewer Contact asking for clarification that it was their intent to air the programs once again in the afternoon during March Break. I also asked if they could tell me who was responsible for selecting the rating of the program. As of yet, February 18, 2009, I have not received a response to my last email.

My concern is that these programs have not been rated appropriately and that they will once again be aired before the watershed hour. It is my opinion that these programs contained more than the "limited sexual reference or content" that a PG rating would entail. They included: simulated sex on the beach, women exposing their breasts (images were blurred over), wet t-shirt contests, etc. The episodes also included segments about excessive drinking including giving beer to dogs and drinking alcohol and then igniting it while it was still in the person's mouth.

Please find attached my email correspondence with Global Television and E! Channel.

Although the complainant indicated that she had attached her correspondence with E!, it was not attached.

Since the complaint was about a December 27, 2008 broadcast, and the complainant did not file her official CBSC complaint until February 18, 2009, the CBSC at first informed her that it was too late for it to obtain logger tapes and proceed with her complaint. The complainant responded to the CBSC's initial e-mail on February 24:

Thank you for your response. You state that, "dialogue between broadcasters and members of their audience is a cornerstone of the CBSC's complaints resolution process. Concerns are often resolved satisfactorily through this dialogue phase". Please note that I did contact E! Channel and CanWest on December 27, 2008 and did not receive a response from CanWest until January 26, 2009. You also state that, "Broadcasters are only required to hold tapes of their programming for 28 days following the broadcast". Since CanWest did not respond to my concerns within the 28 days, I was unable to bring this matter to the CBSC's attention within the required timeframe. My question is: Are broadcasters required to address viewers' concerns within a certain period of time? If not, then it would appear that this is a "loop-hole" that broadcasters can use to their advantage. In other words, it's possible to air questionable programming and then not respond to a viewer's concerns in a timely manner so that the CBSC is unable to formally pursue the complaint and therefore allow broadcasters to maintain that they are a member of the CBSC in good standing.

My other concern is that CanWest intends to air these programs once again in the afternoon during the March Break. I still contend that the PG rating for this program is not correct. Is it possible for the CBSC to view this program before CanWest airs it again to ensure that it is indeed rated correctly and therefore allowed prior to the watershed hour?

Your response is greatly appreciated.

The broadcaster acknowledged that the complainant had a valid point about contacting the broadcaster in December and so agreed to provide the CBSC with copies of the program (though it no longer had the official loggers of the actual broadcast) so it could proceed with the complaint.

Broadcaster Response

E! provided its official response to the complainant on March 26:

We are in receipt of your letter via the CBSC regarding E! Channel's broadcast and rating of *Wildest Spring Break Moments* which originally aired December 27th 2008 at 1:00 pm, and was repeated on March 14th.

In your letter, you expressed concerns over this program not being rated appropriately and that it will once again be aired before the watershed hour.

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 six-level rating system is used to classify any levels of violence, language or sex/nudity in all drama, feature film and children's programming broadcast in Canada. These classifications allow viewers to use V-chip technology, which is built into almost all television

sets, to screen out programs with mature subject matter that they do not wish to watch. 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 a matching V-Chip data is encoded into our transmission for the entire duration of the program.

As mentioned in our previous correspondence, this episode of *E!'s Wildest Spring Break Moments* has been rated PG - parental guidance. Programming with this classification may contain themes which might not be suitable for viewers under the age of 8. As well, parents should be aware that there might be elements, such as limited sexual reference or content, which some could consider inappropriate for unsupervised viewing by children in the 8-13 age range. Again, please note that this rating does not restrict the broadcaster from airing the program prior to the "watershed hour" which is 9:00 pm to 6:00 am and usually reserved for adult content.

Our shows are screened and rated by our Programming Department according to viewing suitability. Programming decided the show would air again during the Spring Break with the appropriate advisories.

In order to further assist our viewers in making their viewing choices, we also ran the following viewer advisory at the beginning of the program and after every commercial break:

"The following program contains scenes which may not be suitable for children. Viewer discretion is advised."

There was no nudity, violence, or coarse language that warranted a stronger viewer advisory or a higher AGVOT rating.

We care about our audience and viewer feedback is always welcomed and encouraged, as it helps us to make informed decisions in the future.

We appreciate the time you have taken to contact us and hope we were able to address your concerns. Please note your comments have been passed on to our Programming Department and we hope you continue to enjoy other Global Television programming.

Additional Correspondence

The complainant filed her Ruling Request on April 3:

On December 27, 2008, I contacted E! Channel and CanWest regarding my concerns about the airing of the program *E! Channel's Wildest Spring Break Moments*. My concerns included the following: 1) The content of the program, 2) The fact that there was no rating aired with the program (I had to visit E! Channel's website to find out what rating the program had been given) 3) That this program was not rated correctly. I did not receive a response from CanWest until January 26, 2009. After finding the response to be unsatisfactory I contacted the CBSC and was informed by [the] Correspondence Coordinator for the CBSC, that my complaint was made too late for the CBSC to secure the logger tape of the broadcast and because of this they would be unable to formally pursue my complaint. I responded to [the CBSC]'s email by asking the question, "Are broadcasters required to address viewers' concerns within a certain period of time?" I went on to point out, "If not, then it would appear that this is a "loop-hole" that broadcasters can use to their advantage. In other words, it is possible to air questionable programming and then not respond to a viewer's concerns in a

timely manner so that the CBSC is unable to formally pursue the complaint and therefore allow broadcasters to maintain that they are a member of the CBSC in good standing."

I received a response from [the CBSC] on March 6, 2009 informing me that the CBSC had contacted CHCH-TV and had asked them to respond officially to the concerns that I had raised.

On March 26, 2009, I received a response from [the] Viewer Relations Coordinator for Global Television and E!, stating that CanWest's position was that the program was indeed rated correctly and that CanWest's Programming Department decided the show would air again during the Spring Break (March 14, 2009) this time with the appropriate advisories. [E!'s Viewer Relations Coordinator], in her response, defends the PG rating of the program by stating, "There was no nudity, violence, or coarse language that warranted a stronger viewer advisory or a higher AGVOT rating".

I still contend that this program was not rated appropriately. For comparison purposes, please note the following link to "Broadcasting Decision CRTC 2008-311" <http://www.crtc.gc.ca/eng/archive/2008/db2008-311.htm>

On November 14, 2008, the CRTC ruled on a similar program, "MuchMusic Spring Break '08". In this ruling the CRTC stated, "The Commission has previously determined that programming intended for adult audiences is not limited to that containing strictly sexually explicit material or coarse language but also includes programming whose overall theme is clearly unsuitable or unintended for younger viewers."

The ruling also stated, "The Commission considers that the persistence of the themes described above in the one-hour broadcast suggests that the program is not appropriate for children. The program's sole focus is on activities intended for adults, with no other storyline or element that is appropriate for younger audiences. Irrespective of the target audience, the Commission finds that the program is not appropriate for daytime broadcast."

The Commission also stated that they determined that the PG rating assigned to Spring Break '08 was insufficient.

The ruling also includes the following, "In light of the above, the Commission finds that, in broadcasting Spring Break '08 before 9 p.m., the licensee did not meet the Canadian broadcasting policy objective, set out in section 3(1)(g) of the Act, that programming be of high standard".

I offer this comparison to defend my position that *E! Channel's Wildest Spring Break Moments* was not rated correctly.

I understand that my initial complaint cannot be followed up on due to the fact that CanWest did not respond to my concerns in a timely manner; however, CanWest did re-broadcast the program on March 14, 2009. I would like to request that the CBSC obtain the logger tapes for the March 14, 2009 broadcast so that they may be viewed and a decision can be made as to whether or not *E! Channel's Wildest Spring Break Moments* was indeed rated correctly.

The CBSC acknowledged receipt of the Ruling Request and the complainant wrote back again:

Thank you for your response. [apologizes for getting CBSC Communications Coordinator's name wrong].

Secondly, for clarification purposes can you tell me if my request for ruling automatically means that the logger tapes will be requested for the program in question? Or do I need to make a second complaint regarding specifically the re-broadcast of the program in order for the CBSC to obtain the logger tapes?

The CBSC informed the complainant that she did not need to make a second complaint about the March 14 broadcast because it already had copies of the program pursuant to her initial complaint. The CBSC did not, however, order the official loggers of the March 14 episode.

The complainant wrote to E! again on May 30 and copied the CBSC:

E!'s Wildest Spring Break Moments was aired once again today, Saturday, May 30, 2009 at 1:00 pm with a PG rating and without a viewer advisory. In your letter, dated March 26, 2009, regarding the airing of the program during March Break of this year you stated:

In order to further assist our viewers in making their viewing choices, we also ran the following viewer advisory at the beginning of the program and after every commercial break:

"The following program contains scenes which may not be suitable for children. Viewer discretion is advised."

The program which aired today, however, did not carry a viewer advisory. I question CanWest's programming department's decision to air this program again, especially since it is my understanding that the CBSC Secretariat is reviewing my original complaint regarding the airing of this program before the watershed hour.

Please be advised that I will be contacting the CBSC to determine if it is necessary to lodge a separate complaint regarding today's broadcast.

The CBSC had E! retain the official loggers for the May 30 broadcast and the station responded to the complainant on June 19:

We are in receipt of your email to the CBSC regarding the content of E! Network's broadcast of *E!'s Wildest Spring Break Moments* which aired on CHCH-TV, at 1:00 pm, Saturday May 30, 2009.

In your letter, you expressed concerns regarding inappropriate content aired without the proper advisory.

After reviewing this episode, we found the AGVOT (Action Group on Violence on Television) rating and viewer advisory had not been inserted due to human error. We sincerely apologize for this omission as we are trying very hard to make sure that no details are missed.

Unfortunately, due to a serious economic decline in the conventional broadcasting sector as well as Canwest's precarious financial position (I'm sure you've heard about this in the news), we have staff shortages. That said, the omission of the AGVOT rating and viewer advisory was a mistake on our part and our programming department met with our scheduling department to put a process in place to ensure that this type of error does not occur again.

We again apologize for the error and appreciate you bringing this matter to our attention.