
**CANADIAN BROADCAST STANDARDS COUNCIL
PRAIRIE REGIONAL COUNCIL**

CITV-TV re *The Untouchables*

(CBSC Decision 92/93-0186)

Decided August 08, 1994

D. Dietrich (Chair), S. Hall (Vice-Chair), C. Armit, D. Braun, D. Ward

THE FACTS

During its broadcast of the series *The Untouchables*, CITV-TV aired one episode which prompted a response by an Alberta viewer. The program itself told a story of organized crime in the United States in the 1930's and depicted scenes of mob violence, including a brutal scene involving the baseball bat bludgeoning of one of the mob leaders at a meeting of Mafia family heads by one of the other bosses. The program in question, which originated at ITV, aired at 9:00 p.m. on June 19, 1993.

In his letter of June 30, 1993 to the Chairman of the CRTC (a copy of which he also sent directly to the station), the viewer expressed his concern about "the endless stream of television programs and movies which depict violent behavior" and about the resultant effects of such programming on children. He dealt with these general apprehensions and important related matters in some depth. These, of course, are generic issues with which the Council cannot be called upon to deal in a decision concerning *specific* programming, even where Council members may generally have sympathy with the points raised. In this case, however, Council was aware of the steps which had, by the time of this decision, already been taken to adjust the standards for the broadcast of violent programming on private conventional television in Canada and were optimistic than most, if not all, of the complainant's concerns would be dealt with thereby.

Insofar as the specific program was concerned, the complainant said:

What has prompted this long delayed letter is the showing of the Untouchables last Saturday, June 19, during prime time, 9:00 p.m., on ITV, while many children and young people would still be up and watching. Those who produced the clips advertising this glorification of mindless violence made sure that the viewer's long cultivated appetite for violence was suitably whetted with a few of the most disgusting scenes.

Those who create such trash and the owners and operators of the film media bear a heavy responsibility for teaching, justifying and glorifying violent behavior in our society and should be held accountable.

The Vice President and General Manager of the station responded to the complainant on July 14. The reply was framed in general terms, outlining the station's approach to violence on television, and then focussed on the specific program in question:

We, of course, share your concern regarding the amount of violence that exists in modern society. Please be assured that as a company we treat this subject very seriously. In fact, Canadian television stations in general have been very sensitive to this whole violence issue. ITV, along with all privately owned television stations in Canada, adhere to the Canadian Association of Broadcasters voluntary code regarding violence in television program [sic]. This has been in place since January 1987. ITV does not play programs that display gratuitous sex or violence. Programs that are considered more adult oriented are restricted to post 9:00 p.m. scheduling as are advertisements promoting such programs.

In the specific case you mentioned, (*The Untouchables*) this program has been playing on a regular basis on ITV since January 10, 1993. This program, produced by Paramount, is widely syndicated throughout North America. The program certainly contains some violent scenes, but it is our opinion that they are not excessive nor are they gratuitous. The series is based on factual events that took place during the 1920's during the prohibition era depicting what can happen when organized crime controls a community. It would be ludicrous to portray this era as being totally void [sic] of violence.

The viewer was unsatisfied with this response and requested, on August 27, 1993, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

By another letter to the broadcaster of that date, he made a number of observations regarding the substance of the broadcaster's response. Many of these concerned broader issues of violence in society and his perception of television's role in

“teaching and reinforcing the myth of redemptive violence as a basic orientation of human existence”. He did, however, respond specifically to questions concerning the broadcasting of the program in question.

...

3. You point out that "more adult oriented" programs are scheduled post 9:00 p.m. I would point out that thousands of children regularly watch T.V. after 9:00 p.m. Many children in my wife's kindergarten classes talk about programs that they watch at 10:00 and even 11:00 p.m.
4. With respect to The Untouchables, you refer to its respectable source (Paramount) and its wide syndication. This "nice people", "every one else is doing it" justification is a useless bit of moral rationalizing if you actually are concerned about the level of violence in Canada.

THE DECISION

The CBSC's Prairie Regional Council considered the complaint under the *1987 Voluntary Code Regarding Violence in Television Programming* of the Canadian Association of Broadcasters (CAB). The Council pointed out that, although the 1993 revised *Voluntary Code Regarding Violence in Television Programming* had come into effect by the time the Regional Council was called upon to adjudicate the question,¹ it had *not* been in effect at the time of the broadcast in June 1993. This meant, among other things, that the provisions of the 1993 Code relating to gratuitous violence and the watershed hour were not in effect at the time of the broadcast.

The Regional Council did not, even hypothetically, consider what the effect of this programming might have been under the new Code and makes no comment in that regard. It, therefore, limited itself to the matters governed by the old Code. Clause 1 of that Code reads as follows:

¹ It was announced on October 28, 1993 and came into effect with respect to programming broadcast after January 1, 1994.

1. Scheduling
 - (a) Scheduling of programs is the responsibility of the individual licensee. Broadcasters should make every effort to ensure that programming of a violent nature intended for mature, adult audiences be broadcast only during late evening and overnight hours.
 - (b) Broadcasters are sensitive to concerns that mature material should not be scheduled in so-called “family viewing hours,” when school-aged children are at home and are most likely to be part of the viewing audience.

The Regional Council members viewed a tape of the program in question and reviewed all of the correspondence. With one member dissenting, the Council agreed that the program did not violate the provisions of the 1987 *CAB Violence Code*.

Members of the Prairie Regional Council were unanimous in their characterization of the show as violent. One also described the program as tasteless and overdone. The majority acknowledged that the only provisions available in the 1987 Code to deal with the program were those in Clause 1 cited above. In other words, for purposes of this decision, the issue was fundamentally a scheduling issue.

In this respect, members were unanimous in their agreement on several related matters. First, the program was “of a violent nature intended for mature, adult audiences.” Second, airing the program at 9:00 p.m. could not be interpreted as broadcasting during “so-called ‘family viewing hours’”, as provided in Clause 1(b) of the 1987 Code. Third, for purposes of Clause 1(a) of the 1987 Code, the broadcast of the program at 9:00 p.m. constituted “late evening ... hours”.

It should be added that the Council was not in disagreement with the viewer’s contention in his second letter (of August 27) to CITV: “I would point out that thousands of children regularly watch T.V. after 9:00 p.m. Many children in my wife’s kindergarten classes talk about programs that they watch at 10:00 and even 11:00 p.m.” The fact that *some* children *may* be watching television after 9:00 p.m. does not mean that no programming containing violence intended for adults can be shown at or after that hour. It is expected that the imposition of the watershed hour of 9:00 p.m. in the 1993 Code will lead to the same consequence when it begins to be interpreted by the CBSC, namely, that parents will be entitled to expect that, *before* the watershed, broadcasters will not be running *any* programming containing violence intended for mature audiences and that, *after* the watershed, the parents will have to be responsible for guiding the programming available in their homes. Thus, whether by the old or the new standards, the program complained of was run in the correct time slot.

The Dissenting View and the Question of Gratuitous Violence

The Regional Council was, in the end, in disagreement on one major question related to the violence involved in the bludgeoning sequence.

The Chair dissented from the majority view on the basis of a principle established in the “Definitions” and the “General Principles” which, although not a part of the 1987 Code itself, form a part of the complete document bound together with the 1987 Code for distribution. In the “bound” version, the Code is Section IV; the “Definitions” are Section II and the “General Principles” are Section III. Paragraph (c) of the “General Principles” reads: “Broadcasters do not condone programs containing gratuitous violence nor programs which glorify violence or which minimize the consequences of violent acts.” Gratuitous violence was defined in Section II as the “blatant or excessive use of violent acts which have no particular relation to creative expression”.

It was the view of the Chair that the bludgeoning scene was “blatant and excessive” and that the same effect might have been achieved by a single stroke of the bat rather than by the broadcasting of repeated strokes. In consequence, it was his view that the scene constituted gratuitous violence and should not, in accordance with the terms of Paragraph (c) of the “General Principles”, have been broadcast *at any hour* of the evening or overnight schedule.

The other members of the Council expressed no view on the question of gratuitous violence. It was their view that the matter was treated in the 1993 Code quite specifically but that its presence in the *pre-Code* provisions rather than the Code provisions of the 1987 Code did not permit them to consider the question. They expressly reserved their right to review this issue under the 1993 Code in due course, even in the context where the very program considered pursuant to this complaint might be re-broadcast following the coming into effect of the 1993 Code.

The Broadcaster’s Response

The Council felt that the broadcaster’s response, while not agreeing with the contention of the complainant, was thoughtful and responsive to matters raised by him.

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