
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CITY-TV re Silence of the Lambs

(CBSC Decision 94/95-0120)

Decided August 18, 1995

M. Barrie (Chair), A. MacKay (Vice-Chair), P. Fockler, T. Gupta, R. Stanbury

THE FACTS

The complainant association wrote to the National Chair of the Canadian Broadcast Standards Council about the airing of the motion picture *Silence of the Lambs* on CITY-TV on February 19, 1995. The letter complained principally that the film depicted unacceptable violence against women and generally that “the subject matter, unspeakable horror and grotesque violence contained in *Silence of the Lambs*, makes it completely unsuitable for airing on a non-discretionary basis over our public airwaves.”

The complainant association pointed out that the film “had [previously] been aired on Canadian pay-per-view discretionary channels” but its representative pointed out that she did not “appreciate having a movie about killing and skinning women delivered to [her] free over the public airwaves.”

In the ordinary course, this complaint was forwarded by the CBSC to the broadcaster, whose Vice President of Programming responded to the complainant on March 13.

We have reviewed your letter with great interest because we share many of your concerns about violence in society and violence on television.

To put our telecast of this film in perspective, and to recap how we acted in a responsible manner, let me briefly review for you the handling of this feature film on Citytv.

This particular film was screened in its entirety by our Director of Programming Ellen Baine, by myself, and other senior management. In

addition, on a consultative basis, our Citytv/MuchMusic Review Committee (primarily made up of non-programming women and men from the stations) was asked to comment on the film prior to telecast. We did this not for defensive reasons but to internally test our staff and management feelings about a telecast of this award winning film. Everyone's comments were unanimous and supported a decision to air this film.

We chose to delay our normal 8pm start time to a more appropriate 9pm. We chose to make significant edits in the film, either removing or reducing eight scenes for a total of about eight minutes. We chose to restrict any promotion of the film on air to an "after 9pm" timeslot. We ran special extended disclaimers at the start of the film and at each break. We kept our switchboard open to keep special track of any calls about the film. We also requested a simulcast on the film from cable companies in Southern Ontario indirectly ensuring that the CBS telecast of this film (they were playing this film on the same evening) was not seen by viewers in most of Southern Ontario. CBS let the film run almost uncut, editing only an estimated three minutes of material. Most viewers in Southern Ontario watched our more severely edited version.

We acknowledge that this film contains potentially difficult material. We also acknowledge that it is one of the best films made in the last 10 years, having won Best Director, Best Film, Best Actor and Best Actress awards (among others) at the Oscars three years ago. This film has significant artistic merit and we make no apologies for its telecast.

We have been careful to track viewer response to this film. We have logged a total of 14 phone calls and letters. In every case viewers were upset, or extremely upset, at our "over editing" of the film. We have letters and calls using such phrases as "don't edit the movie" and "why did you ruin the show" as well as "we are sick of City's censorship". With the exception of your letter received from the CBSC, we have no recorded calls or letters complaining of our telecast of this film. We estimate total viewership of about 500,000 viewers to Citytv during this film.

...

You have disagreed with us on many programming decisions in the past. I hope we have at least in part, dealt with many of your concerns.

The response was not acceptable to the complainant association, whose representative requested that the complaint be taken to the Regional Council for adjudication. In her letter of March 18, she responded to CITY-TV's Vice President of Programming.

In this province, in which CITY TV broadcasts, *Silence of the Lambs* was given a Restricted rating by the Ontario Film Review Board and flagged with the following warnings:

BRUTAL VIOLENCE, HORROR, MAY OFFEND SOME

In Ontario, it is an offence under The Theatres Act, punishable by a significant penalty, for theatre owners to expose people under the age of 18, to films given a Restricted rating.

It is not a defence under this law for a theatre owner to say, as CITY TV has, well gee, we put off showing this Restricted film featuring BRUTAL VIOLENCE and HORROR from 8:00 p.m. until 9:00 p.m.; we all watched it first and thought it was great; we put viewer advisories on etc., etc., etc. In this province, we do not leave adherence to the film rating system to discretion of corporations...

The letter went on to decry the broadcast of “films with wishy washy ‘viewer advisories’ which advise viewers of exactly nothing. The advisories do not, for instance, state that the movies have been given a Restricted rating in Ontario and should not be viewed by people under eighteen.”

THE DECISION

The CBSC considered the complaint under Articles 1 (Content), 3 (Scheduling), 5 (Viewer Advisories) and 7 (Violence against Women) of the Canadian Association of Broadcasters *Voluntary Code regarding Violence in Television Programming*, the texts of which read as follows:

Article 1.0 (Content), *Voluntary Code regarding Violence in Television Programming*

- 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).

Article 3.0 (Scheduling), *Voluntary Code regarding Violence in Television 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.

Article 5.0 (Viewer Advisories), *Voluntary Code regarding Violence in Television Programming*

- 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.
- 5.3 Suggested language for suitable viewer advisories is outlined in *Appendix A*.

Article 7.0 (Violence against Women), *Voluntary Code regarding Violence in Television Programming*

- 7.1 Broadcasters shall not telecast programming which sanctions, promotes or glamorizes any aspect of violence against women.

The Regional Council reviewed all the correspondence and watched an air-check tape of the *Silence of the Lambs*. In other words, the Regional Council considered the film as edited for on-air use by CITY-TV. While all members of the Ontario Regional Council recalled having seen the film at some time in the past in its uncut version, the members, for the purposes of this ruling, did *not* consider the motion picture as it had run in the theatres, was available on videocassette, or had been aired on any Canadian discretionary service. The decision of the Ontario Regional Council was unanimous.

Before dealing with the specific question of *Silence of the Lambs* and the CITY-TV broadcast of the film, the Council felt it important to deal with two threshold issues, namely, the underlying rationale for the *Violence Code* and the question of the relevance of theatrical classification to a television broadcast of any theatrical film.

The Balance between the Violence Code and Freedom of Expression

This Regional Council has, on a previous occasion,¹ dealt with the background to the creation of the *Voluntary Code regarding Violence in Television Programming* and will not reiterate that explanation here. It does, however, choose to refer here to some observations which it made there regarding freedom of expression.

¹ Namely, the case of *CIII-TV re Mighty Morphin Power Rangers* (CBSC Decision 93/94-0270 and 0277, October 24, 1994).

Furthermore, those who drafted the Code were conscious of the need to create this protection in an environment in which preservation of the freedom of expression remains a paramount but not immutable principle. Public Notice CRTC 1993-149 provides (at p. 2):

The Commission is generally satisfied that the CAB's revised Code achieves the appropriate balance between preserving freedom of expression and protecting the viewing public, especially children, from the harmful effects of television violence.

In the *Power Rangers* case, the Regional Council was called upon to consider the special role of the *Violence Code* in the protection of the most vulnerable members of our society. In this case, the CBSC must consider the "adult" provisions of the *Violence Code*. The general principle which guided the framers of the Code, insofar as adults were concerned, was that freedom of expression would be the *rule* by which broadcasters could be guided regarding dramatic programming containing scenes of violence intended for adult audiences.²

To this general principle of freedom of expression they brought *two* general restrictions or constraints. The first was that there would be no broadcasting of programming containing scenes of violence intended for adult audiences *before* the so-called "watershed hour" (9:00 p.m.). The second was that there would be no broadcasting to Canadians, even to the adult population, of programs containing gratuitous violence. In other words, all dramatic programming intended for adult audiences which aired in the proper part of the broadcast schedule and which contained no gratuitous or glamorized violence would be protected by this fundamental freedom enshrined in the *Canadian Charter of Rights and Freedoms*.

As a further service to Canadians, and in the recognition of the fact that some viewers may be offended by some dramatic programming *legitimately* entitled to its place on the airwaves for reasons described above, the creators of the Code added the requirement that viewer advisories be added in certain cases. In the "Background" section preceding the provisions of the *CAB Violence Code*, it is provided that "creative freedom carries with it the responsibility of ensuring ... that viewers have adequate information about program content to make informed viewing choices based on their personal tastes and standards."

The Role of Theatrical Classification

² There are specific provisions relating to news and public affairs programming and to sports programming which are unrelated to the present matter and which will not be considered here.

No-one ought to confuse the theatrical classification of any film with the entitlement of that film to be aired on television. Theatres and television operate under different constraints. Theatrical films are as long as the producers, distributors and exhibitors wish them to be. Television programming must generally fit into 30, 60 or 120 minute slots. Once begun, a theatrical film runs without interruption until the final credits are concluded. A television film is interrupted by commercials appropriately placed, bumpers and periodic station identification. The shape and content of a theatrical film may vary until the director, producer(s), financiers and distributor have “locked” it but television networks, if not stations, have always reserved for themselves the right to cut a theatrical film to conform to time and content requirements. Long before the CAB *Violence Code*, broadcasters determined that certain violent, sexual and coarse language scenes would require editing for use on the airwaves.

The fact, therefore, that a motion picture may or may not have had a particular rating in its cinema incarnation has little or nothing to do with its entitlement to appear on conventional television stations. It cannot be assumed that it is the theatrical version which appears on television. In fact, it can probably generally be assumed that a film with a restricted rating will *not* appear on conventional television in its original form.

The Watershed Hour

It is undisputed that CITY-TV’s broadcast of *Silence of the Lambs* took place following the 9:00 p.m. watershed hour, thus in conformity with the scheduling requirements of the *Violence Code*.

Gratuitous or Glamorized Violence

Canadian broadcasters cannot, at *any* time of the day or night, air programming which contains gratuitous violence or which “sanctions, promotes or glamorizes violence”.

Gratuitous violence is defined by the Code as being “material which does not play an integral role in developing the plot, character or theme of the material as a whole.” Where, in other words, a program includes scenes of violence which are unnecessary to the progress of the story, which do not drive the plot forward, which play no role in the development or definition of the characters and are clearly serving a sensationalistic purpose, that program will be seen to contain gratuitous violence.

Programming which “sanctions, promotes or glamorizes violence” is, with the possible exception of the meaning of “sanctions”, more straightforward. While the Council understands that the verb “sanction” may have several meanings, an ordinary rule of interpretation would give it that meaning which is consistent with its accompanying verbs “promotes or glamorizes” and not a meaning which differs from those. The applicable meaning in the *Oxford English Dictionary* would be: “2. To permit authoritatively; to

authorize; in looser use, to countenance, encourage by express or implied approval.” The *O.E.D.* provides a similar definition for “promote”: “2. To further the growth, development, progress, or establishment (of anything); to help forward (a process or result); to further, advance, encourage.” “Glamorize” is presumably a slang corruption of “glamour” and does not make it to the *O.E.D.* but we all would likely understand from the use of all three verbs *encourage*, if not *glorify*, the use of violence. The CBSC does not expect that *any* use of violence in programming will offend the Code but only that which *encourages* violence in the sense of the quoted phrase.

The foregoing descriptions will always need to be measured against the content of a challenged program and the Council expects that these general terms will only come to be fully understood when sufficient examples will have been considered.

It was the view of the Ontario Regional Council that the broadcast version of *Silence of the Lambs* neither contained gratuitous violence nor sanctioned, promoted or glamorized violence.

The film could be characterized as a psychological thriller; it tells the story of an imprisoned serial killer, a sociopathic psychiatrist, Dr. Hannibal Lecter, nicknamed “Hannibal the Cannibal”. Through a young special agent, Clarice Starling, the FBI attempts to enlist his brilliant yet deviant mind to identify another sociopathic serial killer nicknamed “Buffalo Bill”.

Since the film deals with the sociology of serial killers, one in prison for much of the film and one at large, it would be fair to assume that there is much tension and suspense which is, after all, the constant *threat* of imminent violence. Although the viewer learns of murders which have *previously* been committed, the only homicides *seen* to occur *during* the film are those connected with the escape of Lecter from custody. There is also a kidnapping and, ultimately, the shooting of Buffalo Bill by S/Agent Starling. The Council did not consider that the film was afflicted by considerable violence. It also viewed the violence present as integral to the development of plot and character.

Given that the violence in the film is all perpetrated by unattractive sociopathic characters, the Council did not consider that there was any glamorization of violence in *Silence of the Lambs*.

Violence against Women

It was the contention of the complainant that the film “is about a serial killer who abducts, kills and then skins women. ... Edits for television will not change the concept on which this film is based - *killing and skinning women.*”

This was not the Regional Council’s view of the film. It considered that *Silence of the Lambs* had a much broader, albeit disturbing, theme. The movie was concerned with the psychopathology of serial killers and, to some extent, the exorcizing of the personal demons of S/Agent Starling. Of the two serial killers in the film, one killed only men and

the other, the lesser role, had killed a man and thereafter women. The violent acts depicted were no more, and possibly less, focused on women than on men.

Furthermore, the Regional Council was not unaware of the characterization of the principal protagonist in the film, Clarice Starling. It was she, and she alone, who solved the case and saved the day. She was initially introduced to viewers as a double major in psychology and criminology, a *magna* graduate, a summer intern at the Reisinger Institute and so on. She is the only figure to merit the respect and admiration of the brilliant, but sociopathic, Hannibal Lecter. Starling is in fact presented in striking counterpoint to the mindless herd of male agents, SWAT teams and all, who head off to the wrong city to arrest the wrong persons while she endures the terror of the final moments in the pitch dark with Buffalo Bill, advantaged in the contest by his night-piercing goggles.

Viewer Advisories

Viewer advisories are required at the beginning of and during the first hour of a film shown after 9:00 p.m. CITY-TV went further than required. The film was preceded by both an oral and a written advisory. The oral advisory stated: "The following movie contains some scenes of violence and mature viewing matter. Viewer and parental discretion is advised."

The written advisory, present at the beginning and during every commercial break for the full duration of the film (exceptionally, two hours and fifteen minutes), read: "VIEWER AND PARENTAL DISCRETION IS ADVISED".

It was not necessary for CITY-TV, for reasons explained above, to state, as complainant requested, that the movie had "been given a Restricted rating in Ontario and should not be viewed by people under eighteen." The information required for a cinema-goer is not necessarily that required for a television viewer and the Ontario theatrical rating was not, in any case, given to the film shown on CITY-TV but rather to a different, unedited version.

The CITY-TV Response to the Complainant

In addition to its review of the code provisions, as always, the Regional Council considered the adequacy of the broadcaster's response to the complainant. The Council's reconciliation mandate, as established in the CBSC *Manual*, has been considered and reaffirmed on numerous occasions by the British Columbia and Ontario Regional Councils in their decisions in *CFOX-FM re the Larry and Willie Show* (CBSC Decision 92/93-0141, August 30, 1993), *CHTZ-FM re the Morning Show* (CBSC Decision 92/93-018, October 26, 1993), *CFTO-TV re Newscast (Pollution)* (CBSC Decision 92/93-0178, October 26, 1993), *CIII-TV re Mighty Morphin Power Rangers* (CBSC Decision 93/94-0270 and 0277, October 24, 1994), and *CITY-TV re Beavis and Butt-head* (CBSC Decision 93/94-0074, June 22, 1994), among others.

This is not the first complaint brought by this complainant against this broadcaster. It does not make the complaint any less valid. Indeed, the complaints have tended to raise important issues for consideration. Nonetheless, the broadcaster has a duty to be responsive to even a militant viewer. In this regard, the Council believed that its remarks on this point in *CITY-TV re Beavis and Butt-head* (CBSC Decision 93/94-0074, June 22, 1994) were apt:

It is, therefore, encouraging that the vast majority of complaints which the CBSC refers to the broadcasters for response are satisfactorily resolved at that level between the broadcaster and the complainant. Of those few which remain unresolved at the "grass roots" level, it is often clear in the review of the correspondence that the territory staked out by some complainants is unlikely to permit reconciliation despite the care taken in the broadcaster response. In such cases, the Council is acutely conscious of the broadcaster's effort or lack of effort to be responsive to the issues raised in the complaint.

In the present case, the Regional Council considers the response of CITY-TV's Program Manager to the complainant to be a thoughtful and attentive answer to the issues raised by the complainant association, despite the strong negative reaction by the complainant to that response.

It was the view of the Regional Council in this case that the response of CITY-TV's Vice President of Programming was equally thoughtful and attentive despite the fact that it was equally unlikely to strike a responsive chord. It acknowledged that the film contained "potentially difficult material." It also explained the station's internal process in deciding that the film could play and its special arrangements set up to track viewer reaction to the film. Despite its contention that this complaint was the *only* one which decried the telecasting of the film, the Vice President took the time to reply carefully. That action is to be commended.

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.