
**CANADIAN BROADCAST STANDARDS COUNCIL
ATLANTIC REGIONAL COUNCIL**

CIHF-TV (MITV) re an Episode of "Millennium"

(CBSC Decision 96/97-0044)

Decided February 14, 1997

P. Schurman (Chair), R. Cohen (*ad hoc*), K. MacAulay, C. McDade*,
Z. Rideout, C. Thomas

(*Since Ms. McDade's station was directly involved, she abstained from consideration of this matter)

THE FACTS

The television series *Millennium* premiered on October 25, 1996 at 10 p.m. on MITV in Nova Scotia and New Brunswick. The episode complained of was the first of the new series. It involved a retired lawman with a psychic ability to "see" the occurrence of criminal offences when exposed to elements relating to the crime. These included being in the area of occurrence of the crime or an area related to the event, being in the presence of the corpse or surviving victim and so on. Although desiring to be retired with his wife and daughter in a small unidentified American town, the protagonist found himself drawn into the search for the perpetrator of a series of murders and attempted murders. Some of these events are described in the complainant's letter.

The Letter of Complaint

A viewer wrote to the CRTC on October 28, shortly after the airing of the first episode. That letter was forwarded to the CBSC on November 8. The viewer expressed her "outrage and concern" in the following terms:

I was immediately offended as soon as the show began. The opening scene was in a busy strip club with several big-breasted, scantily-clad

strippers gyrating and “performing” for peep-show customers. The bikinis they wore were very small and barely contained breasts.

While a stripper [who later will be murdered] performs for a customer she says to him: “you like to watch my body” and “Tell me what you want...” [Ellipsis original]. The killer, who is ranting about her going to hell, imagines blood running down the walls behind her and down her forehead. Then, flames begin to shoot up all around her. This is very disturbing and VIOLENT imagery - sex and violence. To watch a stripper wiggling around with vibrant, red blood oozing all around her and on her was deeply offensive. This kind of sick, sadistic imagery is unacceptable.

Next scene, we see the killer go cruising for male prostitutes. He picks one up and we later see him pull a limp body out of his car and place it in his trunk. Later, his body is found charred, decapitated and his fingers severed.

The complainant’s letter further describes scenes of a similar genre, in which the protagonist “sees” in his mind’s eye the replay of murders as they have actually occurred “in graphic detail”. The complainant’s conclusion:

This was gratuitous, sadistic violence.

Also annoying, a “warning” message regarding the content of this show was a SILENT warning - not audible.

My concern is that this show will be watched by countless children because of when it is aired. I believe we all know the largest audience will be youth. ...

...

The media must begin to accept responsibility for the material it presents. IT MUST START TO MONITOR ITSELF. Media, in particular American media is inundating children with sex, violence and aggression. This must stop NOW.

The Station’s Reply

As is its customary practice, the CBSC forwarded the letter to the broadcaster for reply. In her letter of November 15, MITV’s Program Manager wrote:

Your letter requests media responsibility. As you are aware,

Canadian broadcasters have voluntarily established a number of self-regulatory organizations, including the CBSC, which monitor and respond to a wide variety of broadcast issues. In addition, as a federally regulated industry, we are required to adhere to federal broadcast regulations.

Your letter indicated that the first episode of the above-noted program contained gratuitous and sadistic violence. The CAB's Voluntary Code Regarding Violence in Television Programming (the "Code") defines gratuitous violence as "material which does not play an integral role in developing the plot, character or theme of the material as a whole." Our interpretation of this episode is that the acts of violence were integral to the plot and were not gratuitous. ...

However, in recognizing the content of the programming, MITV aired a viewer advisory prior to the telecast. The advisory at the start of the episode contained both a video and audio message and was as follows: "Viewer Advisory: Due to some graphic and mature adult content, parental discretion is advised." In addition, MITV aired two further viewer advisories, video only, following the first two commercial breaks. The silent advisory you refer to was one of these additional two advisories.

... We wish to advise you that MITV deliberately schedules *Millennium* at 10:00 pm which is no longer considered to be children's viewing time. ...

The Program Manager also said that "[i]t is important that producers are made aware of the opinions of the viewers, especially those as strongly felt as yours" and, to that end, she committed to forward a copy of the correspondence to Twentieth Century Fox/Astral Television, the program's producers/distributors.

The viewer was unsatisfied with this response and requested, on December 6, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

THE DECISION

The CBSC's Atlantic Regional Council considered the complaint under the *Voluntary Code regarding Violence in Television Programming* and the *Sex Role Portrayal Code* of the Canadian Association of Broadcasters (CAB).

Articles 1, 3, 5 and 7 of the *Violence Code* 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.
- 7.2 Broadcasters shall ensure that women are not depicted as victims of violence unless the violence is integral to the story being told. Broadcasters shall be particularly sensitive not to perpetuate the link between women in a sexual context and

women as victims of violence.

- 7.3 Broadcasters shall refer to the Canadian Association of Broadcasters' code on Sex Role Portrayal for guidance regarding the portrayal of women in general.

Article 4 of the *Sex Role Portrayal Code* reads as follows:

Exploitation:

Television and radio programming shall refrain from the exploitation of women, men and children. Negative or degrading comments on the role and nature of women, men or children in society shall be avoided. Modes of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex. The sexualization of children through dress or behaviour is not acceptable.

Guidance: "sex-ploitation" through dress is one area in which the sexes have traditionally differed, with more women portrayed in scant clothing and alluring postures.

The Regional Council members viewed a tape of the program in question and reviewed all of the correspondence. The Regional Council considers that the episode of *Millennium* in question does not breach the provisions of either of the CAB Codes.

The Content of the Program

The members of the Atlantic Regional Council believe that the content of the episode of *Millennium* which they viewed contained violent elements which they readily acknowledge will not be suitable for everyone, indeed not for all of them. That is not, however, the point of television programming, which ought to be diverse and directed at different groups and tastes. Freedom of expression in our democracy carries with it the burden that there will be things expressed which not everyone will wish to hear. That being said, that freedom is not without its limits. In the area of television programming, a number of those limitations are imposed by the broadcasters' own *Violence* and *Sex Role Portrayal Codes*. Private broadcasters in Canada created those Codes and are generally *bound* by Conditions of Licence to adhere to their provisions.

The Issues of Sex Role Portrayal and Violence against Women

While the complainant's concern was principally addressed toward the issue of

violence, she did refer early in her letter to the “opening scene ... in a busy strip club with several big-breasted, scantily-clad strippers gyrating and ‘performing’ for peep-show customers.” Although the Council believes that the scene was intended to be erotic or titillating, this does not, in and of itself, mean that the scene was either exploitative or degrading. The strip club served as a setting in which a pathological serial killer began a series of homicides which were not fundamentally directed at women. He himself was portrayed as a homosexual, who preyed particularly on men. There is nothing in the depiction either of the killer or the circumstances of the crimes which can be said to glorify or glamorize him or them. To the contrary, “sordid” seems a more appropriate term. Consequently, the Council finds no breach of either Article 4 of the *Sex Role Portrayal Code* or of Article 7 of the *Violence Code*.

Gratuitous Violence

The CBSC has now dealt with the issue of gratuitous violence on several occasions. It was in *CITY-TV re Silence of the Lambs* (CBSC Decision 94/95-0120, August 18, 1995), that the CBSC was first called upon to consider the meaning of gratuitous or glamorized violence. In that case, the Ontario Regional Council put the matter in the following terms:

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.

As in the case of *Silence of the Lambs*, the theme of this episode of *Millennium* involves a psychopathic serial killer and the attempts to put an end to his homicidal activities. While violence is central to the tale being recounted, the underlying saga is that of a former law enforcement official with psychic powers who is attempting to restructure his family life away from threats he and his family had suffered in the “backstory”, *i.e.* the time prior to the beginning of the first episode of the series. Such violence as occurs in the episode is central to the plot and character of the principal protagonist. Furthermore, the scenes complained of do not generally show the occurrence of violent acts as much as they do the *results* of the violent acts and, at that, the violence is not overplayed. There is also violent *imagery* and effective editing which give rise to fear, if not terror, on the part of the viewer. These are a part of a genre which is aimed at adult audiences but which does not *per se* fall afoul of the interdiction against gratuitous violence. In the Council's view, this episode of *Millennium* is not in breach of Article 1 of the *Violence Code*.

The Watershed Hour

Perhaps because the *Violence Code* is relatively new, having only been in effect for three years, not all Canadians are familiar with the importance of the watershed hour to their viewing choices. As in many other countries, it serves as a programming frontier in Canada. It is now and will undoubtedly come to be better known as the time *following which* parents should be advised that there is a greater likelihood that programming which may be unsuitable for their young children, or even their older children, may be aired. It is the signal to families to be vigilant in determining which programs their children ought not perhaps to watch. Its 9:00 p.m. definition means that, in most homes, the parent or parents will have returned from work and have the opportunity to supervise what their families will watch. They will also soon have the benefit of the V-chip and the classification system to help them in those choices; however, they should *now* be aware of the significance of the watershed.

The Council considers it worth referring to the initial CBSC decision dealing with the watershed hour, namely, *CITY-TV re Ed the Sock* (CBSC Decision 9495-0100, August 23, 1995). In that case, the Ontario Regional Council made the following observations concerning the purpose and significance of the 9:00 p.m. watershed,

whose significance the Atlantic Regional Council considers entirely applicable here:

Since this is the Council's first decision dealing in any significant way with the "watershed" hour, it is worth noting what it is and what purpose it serves. In its literal sense, it, of course, denotes the line separating waters flowing into different rivers or river basins. Popularly, the term has been applied to threshold issues but the literal meaning of the word gives the best visual sense of programming falling on one side or the other of a defined line, in this case a time line. Programming seen as suitable for children and families falls on the early side of the line; programming targeted primarily for adults falls on the late side of the line. It should be noted that the definition of that time line varies from country to country, from 8:30 p.m. in New Zealand to 10:30 p.m. in France. (Great Britain, Finland, South Africa and Australia all share the Canadian choice of 9:00 p.m. as the watershed.)

In Canada, the watershed was developed as a principal component of the 1993 *Violence Code*, establishing the hour *before which* no violent programming intended for adult audiences would be shown.

The Atlantic Regional Council believes that the episode of *Millennium* which they viewed contains violent material intended for adult audiences and that, in the circumstances, MITV acted entirely properly in scheduling *Millennium* at 10 p.m.

The Council is also conscious of the viewer's observation concerning the erotic material at the beginning of the series. It can do no better than to refer to its decision in *TQS re Quand l'amour est gai* (CBSC Decision 94/95-0204, December 6, 1995), in which the Quebec Regional Council made the following statement on a similar issue:

While the Violence Code refers to "scenes of *violence* intended for adult audiences", CBSC Regional Councils have recognized that, generally speaking, the 9 p.m. watershed hour established in the Code is often used by broadcasters as a watershed for other types of programming, beyond that which could be considered "violent".

The Quebec Council then referred to another statement by the Ontario Regional Council in the above referred to decision in *CITY-TV re Ed the Sock* (CBSC Decision 9495-0100, August 23, 1995), namely:

In Canada, the watershed was developed as a principal component of the 1993 *Violence Code*, establishing the hour *before which* no violent programming intended for adult audiences would be shown. Despite the establishment of the watershed for *that* purpose, the Council has

reason to believe that broadcasters regularly consider this hour as a rough threshold for *other* types of adult programming. There is, in fact, no formal restriction on the timing of broadcasting of slightly “racy” material but the earliest of the promos under consideration here could not be said to have been run in a time slot which was *primarily* a *young* children’s slot or even at a time when one would have expected significant numbers of young children to be watching television at all.

The Atlantic Regional Council believes that the type of erotic material which began the episode was properly broadcast by CIHF-TV (MITV) after the 9:00 p.m. watershed hour.

Viewer Advisories

This was not, however, the end of the broadcaster’s obligations to its viewers. Even when a program is aired after the 9:00 p.m. viewing hour, the CBSC, broadcasters, and the public are aware that not all children will have gone to bed. Furthermore, there are adults who would not wish to watch programs with violent content. The *Violence Code* accordingly provides that broadcasters must provide viewers with advisories so that they will be informed of the nature of the content in the program they are about to see. Here, too, MITV fulfilled their obligations to the public by airing an advisory at the start of the program and during the two following commercial breaks. There is no obligation that any of the advisories be *oral*; however, the CBSC considers that MITV acted wisely in making the first advisory both oral and written (the viewer had apparently missed the oral advisory). It enables viewers who may not be paying total attention to the screen at that moment to be aware that they may not find the coming program suitable.

The Broadcaster’s Response

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. In this case, the Program Manager responded thoroughly and thoughtfully to each of the points raised by the complainant, thereby fulfilling the station’s obligations to the public. Nothing more is required.

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.