
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CHCH-TV re the movie *Strange Days*

(CBSC Decisions 98/99-0043 and 0075)

Decided February 3, 1999

A. MacKay (Chair), R. Stanbury (Vice-Chair), R. Cohen (*ad hoc*), P. Fockler,
M. Hogarth and M. Ziniak

THE FACTS

On a week-day night, namely, Thursday, September 17, 1998, at 9 p.m., CHCH-TV (popularly known as Ontv, Hamilton) aired a science-fiction thriller entitled *Strange Days*, an American feature film which was released theatrically in 1995. This decision is based on the version which ran on Ontv.

The film is slightly futuristic. It is set in Los Angeles on New Year's Eve, 1999, four years following the theatrical release of the film. The movie tells the story of a former L.A.P.D. vice cop, Lenny Nero, who was fired from the force for being involved in the illegal commerce of a virtual reality system called Playback, apparently originally designed for police surveillance purposes but now being used as a black market entertainment device (called the "wire" in the film) which enables users to "experience" the recorded activity. Now ex-policeman Nero peddles bootleg Playback clips, small bits and pieces of peoples' lives, being everything they saw, heard and felt for thirty minutes, captured on a digital recording. "Users" of the wire seem to have adopted it as a futuristic electronic "drug of choice". Nero himself has become addicted to Playback mementos of his brief relationship with Faith, a club singer and former prostitute.

Nero buys and sells tapes which touch on a wide range of sensory subjects but his "moral" limit is the category of tapes he calls "blackjacks", namely, those that deal with death. Suddenly though, Iris, a friend of Faith's and someone who used to do Playback recordings for Nero, approaches him frantically, trying to slip him a recording which she herself made of the murder of a leading black rap singer. She then herself becomes a victim of a

“recorded” murder, a brutal rape and slaying. Nero enlists some colleagues to help in the resolution of the murders of Iris and the rap singer, which he (and the audience) are forced to sit through on Playback. Other fight scenes and murders are presented against the backdrop of Los Angeles, which is portrayed as a city under siege, marked by a crumbling social order and scarred by crime, violence, poverty and racial conflict. The plot includes the “recording” of Iris’ rape and murder, numerous shootings and fight sequences, considerable coarse language, and scenes involving nudity and some sexual content.

There were viewer advisories at the beginning of the movie and after each commercial break during the two hours in which the film ran, which read “The following program contains scenes of violence, coarse language and nudity intended for adult audiences. Viewer discretion is advised.” The film was also rated by the broadcaster, as required by the industry’s self-regulatory *Violence Code*, originally applying AGVOT’s classification system rating of 14+. This initial rating (shown at the start of the film) was quickly corrected, however, and, by the next commercial break following which the icon was again shown, it had been raised to 18+, the highest level in the rating system.

The Letters of Complaint

The Council received 11 complaints concerning this movie, only two of which resulted in the filing of Ruling Requests. These were reviewed by the Ontario Regional Council. The first of these, dated September 18, was in the following terms:

The purpose of this letter is to request a formal investigation regarding what we believe is a serious violation of the community standard by "ON TV" based in Hamilton, Ontario on the evening of Sept 17, 1998. In particular, a movie entitled something like "Strange Days" was broadcast approximately between 9:30 and 11:30 pm. We had inadvertently turned on Channel 11(ONTV) at approximately 10:00 pm, and were extremely shocked by the content of this movie. When we called the station to get an explanation for the apparent lapse in broadcasting standards, the switchboard operator had indicated that at least 50 other people had called regarding the movie from all over Ontario, including Ottawa, Sudbury and Windsor.

We would like to strongly urge your Commission to review this movie as it was shown on Sept 17 to determine whether it was appropriate to broadcast on the public airwaves. In particular, we were offended by the many instances of “fuck and “shit”, the vulgar and sexually demeaning language used against women, and the graphic nude portrayal of torture and rape situations. This movie was broadcast on the public airwaves at a time when many children would have access to television. We are fairly sure that this movie would conflict with the community standards of Hamilton, or any other community in Canada.

The second complaint, dated September 22, stated:

This letter is to bring to your attention that on September 17, 1998, a Thursday night, at 9 p.m. on channel 11Ontv there aired a movie called “Strange Days” which had the content of nothing short of a pornographic movie with vulgarity that made me totally appalled at. This type of movie has no right to come across prime time television, which intruded on every

moral fibre of our Canadian family and as a tax payer I believe that I have every right to voice my concern, of which I am demanding that this never ever happens again.

The Broadcaster's Response

The Executive Vice-President and General Manager of ONtv responded to the complainants in the following terms:

Thank you very much for your comments regarding our telecast of the film "Strange Days" on Thursday, September 17, 1998. We have appreciated hearing the responses of our viewers, both positive and negative.

We regret your disapproval of our airing of the movie and/or its content. It is certainly never our intention to air programming which offends our viewers. We deeply regret that you were offended by this film and extend our sincere apology.

"Strange Days" was acquired in a package of theatrical films, some of which have already aired. Others, like "The Truth About Cats and Dogs" and "Independence Day" will air this upcoming season. The motivation to purchase theatrical films was to attempt to raise the profile and variety of our movie offerings.

The decision to air "Strange Days" was not made lightly. Our programming department balanced the graphic content in the movie with the way the content supports the subject matter, the screenplay, which was written by Academy Award winning James Cameron, based on a story he also wrote; the mainstream nature of the film given its Academy Award winning principal stars Ralph Fiennes and Angela Bassett; and its standard theatrical release history. Also, recognizing the controversial elements in the film, we aired disclaimers regularly during the telecast, advising of its "...language, violence and nudity" and the movie was scheduled after 9 p.m., a time appropriate for the subject matter. However, we did err with our initial movie coding advisory, which most certainly should have been 18+. The error was corrected for the second advisory.

While it is true that some of the content in the movie is graphic, it is not gratuitous because it supports the theme of a future in which people have lost hope and seek solace in - and eventually become addicted to - the "virtual reality" that the Ralph Fiennes character provides, with his mental recordings of real-life experiences. The movie's story is intended to illustrate the pitfalls - as we approach the millennium and face the ever-increasing sophistication of computers and virtual reality technology - of living as a society which seeks anarchy and escape, rather than unity and confrontation of its problems.

In conclusion, we thank you again for your comments and are sorry the film offended you. As mentioned, it is not our intention to offend but to entertain. We do weigh and will continue to weigh all our viewers' comments in determining what programs go to air.

Two of the complainants were unsatisfied with the broadcaster's response and requested, on October 26 and 20, respectively, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

THE DECISION

The CBSC's Ontario Regional Council considered the complaint under provisions of the Canadian Association of Broadcasters' (CAB) *Violence Code* and *Sex-Role Portrayal Code*. The texts of the pertinent parts of the relevant articles read as follows:

CAB Violence Code, Article 1 (Content)

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).

CAB Violence Code, Article 3 (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 4 (Classification System)

4.1 Canadian broadcasters are in the process of co-operatively developing with other segments of the industry, a viewer-friendly classification system, which will provide guidelines on content and the intended audience for programming.

Once complete, the classification system shall complement this Voluntary Code. As it is recognized that a classification system will have a bearing on program scheduling, the provisions of article 3.0 above shall be reviewed at that time.

CAB Violence Code, Article 5 (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.

...

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

CAB Violence Code, Article 7 (Violence Against Women)

- 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.

The Regional Council members viewed a tape of the program in question and reviewed all of the correspondence. While the Council considers that the CHCH-TV broadcast of *Strange Days* conforms to most of the above-cited provisions of the *Violence Code*, it does, for the reasons explained below, consider that the film contains elements of gratuitous violence and violence against women which are not permitted by the *CAB Violence Code*.

Classification Issues

The film was originally classified as 14+ but, as noted above, was re-classified as 18+ at the first commercial break following which the rating icon was again displayed. Even if the original rating was incorrect (the CBSC is not called upon to review that issue since the rating was modified to a higher and, in a sense, all-inclusive level), the change to a higher rating was made as quickly as possible following the discovery of the perceived error during the actual broadcast of the program. In this sense, the situation is analogous to the Council's earlier decisions with respect to the speedy correction of inadvertent errors.

In *CFRA-AM re the Mark Sutcliffe and Lowell Green Shows* (CBSC Decisions 9697-0083, 0084 and 0085, May 7, 1997), the announcer had made an inadvertent error regarding the nationality attributed to an individual and had corrected it within 30 minutes when made aware of the victim's proper national origin. The Council concluded:

Of the principal issues raised by the complaint, the first relates to the identification of Mr. Nicholls as "Jamaican". This occurred to a much less significant extent than has been suggested in the letter of complaint. The characterization of Mr. Nicholls as "Jamaican" did not last for more than 30 minutes of the first of the three programs being reviewed here. It appears to have been an honest error and one which, in any event, was corrected by Mr. Sutcliffe himself as quickly as the information became available to him. It does not constitute a breach of either the CAB or the RTNDA *Codes of Ethics*.

In *CITY-TV re CityPulse (Neighbourhood Drug Bust)* (CBSC Decision 96/97-0216, February 20, 1998), the Ontario Regional Council said:

[T]he Council notes that the broadcaster corrected its report in order to present the facts accurately in the very next newscast. While the Council recognizes that this mis-identification was the crucial issue to the complainant, it is of the view that the steps taken by the

broadcaster to virtually *instantly* put the matter right were sufficient to avoid a conclusion of broadcaster Code breach.

Similarly, in this case, the rapidity with which the classification error was corrected is, in the view of the Council, a total response to any suggestion of a breach by reason of the initial mis-classification of the program.

The Watershed and Viewer Advisories

The Council will not review its position on the question of the watershed hour of 9 p.m. which it has treated sufficiently frequently in the past, both as to its origin and purpose. See, among other decisions, *CITY-TV re Ed the Sock* (CBSC Decision 94/95-0100, August 23, 1995). It will only state here that the broadcaster has complied with the requirement that any program containing scenes of violence intended for adults be shown after the watershed hour.

As a part of Canadian broadcasters' facilitation of family viewing situations, the *Violence Code* provides rules for, and suggested texts of, viewer advisories. In this case, as noted above, viewer advisories were supplied at the beginning of the movie and after each commercial break during the two hour duration of the film which read "The following program contains scenes of violence, coarse language and nudity intended for adult audiences. Viewer discretion is advised." The broadcaster was, therefore, also in full compliance with this requirement of the Code.

Gratuitous Violence and Violence against Women

There is no doubt that the most difficult consideration for the Regional Council in this case has been the question of gratuitous violence and the related question of violence against women "unless the violence is integral to the story being told." The CBSC has, on several occasions, measured films against the gratuitous violence criterion but has not yet concluded that a film complained of has been gratuitously violent. In *CITY-TV re Silence of the Lambs* (CBSC Decision 94/95-0120, August 18, 1995), the Ontario Regional Council provided what remains the definitive understanding of the term.

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.

In the second case involving the Council's appreciation of gratuitous or glamorized violence, namely, *CTV re Complex of Fear* (CBSC Decision 94/95-0022, August 18, 1995), the movie of the week in question told the apparently true story of a series of rapes in an

apartment complex. The Council concluded that the rape scenes in that film did not amount to gratuitous violence.

The Regional Council noted four rape scenes in the film. While any scene depicting rape is necessarily awful, the members remarked that no scene lasted more than several seconds, none depicted the actual rape, and none glamourized the rape. In fact, scenes following the rapes depicted the *consequences* of the rape: the shock and despair of the victims as they related the event to the police; the occasional refusal of police to accept the characterization of the event as a rape; victims' self-doubt as to blame for the occurrence; the imputed role of previous victim behaviour as a contributing factor; and so on.

In no way did these scenes encourage or glorify violence against women. While the film dealt with a form of crime that is defined by violence against women, the film itself did not depict gratuitous, or unnecessary, violence against women. In other words, the Council affirmed that a film *about* rape does not necessarily *condone* rape.

In *CIHF-TV (MITV) re an Episode of "Millennium"* (CBSC Decision 96/97-0044, February 14, 1997), the complainant alleged that the violence depicted was gratuitous and sadistic. The Atlantic Regional Council disagreed. It concluded:

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.

The very difficult question for this Council is to determine whether the violent scenes portrayed in *Strange Days* are, like those in the programs noted above, so integral to the development of the plot that they do not amount to *gratuitous* violence. The difficulty in *this* case, as in others which the Council anticipates will come before it at some point, is that violence is one of the *premises* of the film itself, which is set against the backdrop of Los Angeles, a city futuristically conceived as being under siege and, as described above, "marked by a crumbling social order and scarred by crime, violence, poverty and racial conflict." To the extent that a program has violence as its fundamental premise, the question for the Council is to determine whether *that* premise alone will justify any and all portrayals of violence which the creators of the program might wish to include in it. To this circular argument, the Council must answer no. If this were the case, Article 1 would be rendered devoid of substance and the Council cannot presume that this was the intention of the codifiers.

Assuming, then, that there are limits to the violence which can be included in a *televised* version of a violent film or other program, the Council must judge what these are from case

to case. It should be added that this criterion of gratuitous violence affects *only* the television version of any film. The *Violence Code* was created by Canada's private broadcasters for application to conventional television. Its value was so appreciated by the CRTC, though, that the federal broadcast regulator has seen fit to apply its principles across the entire Canadian television broadcast system. This being said, the Code's principles do not extend to feature films in either their theatrical or video store incarnations.

Accepting that the Code has set limits on the depiction of violence which can be included in the televised version of a feature film, where use of the public airwaves is in question, the Council must decide what these limits are from case to case. In applying the foregoing principles to the televised version of *Strange Days*, the Council acknowledges that much of the considerable violence in the film is ambient, providing the evidence of the decaying and violent city of Los Angeles at the projected turning of the millennium. Some of that violence, particularly the not infrequent fights involving Lenny Nero, the film's Playback peddler hero, is rather tongue-in-cheek. The one scene, though, which has most troubled the Council is the gruesome strangulation and rape of a woman which, in its length and graphic presentation, exceeded *in the television context* what may have been necessary to advance the plot. Whether the scene should have been as long (or longer) in the theatrical version is not at issue. For the television version, measured against industry Codes, it is the view of the Council that it could have been edited without sacrificing any artistic integrity, and ought to have been edited in order to be long enough to make its point but not so long as to amount to violence for violence's sake. Moreover, the matter is exacerbated by the requirement of Article 7 to the effect that "Broadcasters shall be particularly sensitive not to perpetuate the link between women in a sexual context and women as victims of violence." That link could not be more evident than in a case such as this, where the recording of the event for sale as a thrill-seeking narcotic is its *raison d'être*. The length and graphic component of the scene constitute an unacceptable example of gratuitous violence against women, contrary to Article 7 of the *Violence Code*.

Broadcaster Responsiveness

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 Council considers that the broadcaster's response addressed fully and fairly all the issues raised by the complainant. Nothing more is required. Consequently, the broadcaster has not breached the Council's standard of responsiveness.

CONTENT OF THE ANNOUNCEMENT OF THE DECISION

The station is required to announce this decision forthwith, in the following terms, during prime time and, within the next thirty days, to provide confirmation of the airing of the statement to the CBSC and to the complainants who filed a Ruling Request.

The Canadian Broadcast Standards Council has found that CHCH-TV breached provisions of the Canadian Association of Broadcasters' *Violence Code* in its broadcast of the movie *Strange Days* on September 17, 1998. While most of the violent scenes in the televised version of the film were, in the view of the CBSC, contextually relevant to the advancement of the plot, one scene involving the rape and strangulation of a woman exceeded, in its length and graphic presentation, the requirements of the film's plot. That scene also perpetuated the link between women in a sexual context and as victims of violence, contrary to the provisions of Article 7 of the *Violence Code*.

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