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**CANADIAN BROADCAST STANDARDS COUNCIL  
PRAIRIE REGIONAL PANEL**

CKY-TV re Promos for *The Sopranos* and *City Hall*

(CBSC Decision 00/01-0071)

Decided August 20, 2001

D. Braun (Chair), D. Ish (Vice-Chair), D. Dobbie, S. Hall, A. MacKay (*ad hoc*)

R. Gallagher, who normally sits on Prairie Regional Panel matters, is an employee of CTV and did not participate in these deliberations

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**THE FACTS**

On September 13, 2000, CTV ran its weekly episode of *The West Wing* in its normal post-Watershed time slot. In the area served by CKY-TV (Winnipeg), which is an affiliate station of CTV, that episode of *The West Wing* was time-shifted to 8 p.m. The Winnipeg station did not, however, remove the promotional material for the series *The Sopranos* or the Saturday night theatrical feature film *City Hall* which was being run by the network.

As a result of the station's decision, the promos ordinarily scheduled by the network post-Watershed were broadcast before the Watershed. The promo for *The Sopranos* highlights several scenes from the program, in one of which Tony Soprano repeatedly punches a man who is already on the ground, and in another of which a person is executed by gunshot by at least two henchman, one of whom is Tony Soprano. Throughout the promo, there is a voice-over which states: "Tony Soprano's life is violent, sexy, funny. New Jersey is his turf. Watch out or he'll mow you down. Television for adults. Begins Sunday at 10. Viewer discretion is advised." The promo for *City Hall* shows a man about to be shot, a gun wrapped in a newspaper and an obscured dead body floating in a lake or river.

The complainant sent the following e-mail to the CRTC on the date of the broadcast. It was forwarded to the CBSC in due course. It read in part (the full e-mail is reproduced in the Appendix):

It is not that I have children watching, but that would be a further complaint. How can parents manage teen's and children's viewing when the network is inserting explicitly violent commercials into programs that do not have it? (And the inserted violence is gratuitous because these are short commercials, there is no plot, the explicit violence is only there to shock.)

I am watching *West Wing* on CTV, September 13 at 8:00 CDT. *West Wing* is an adult program without gratuitous violence. (Real adult program do not have gratuitous violence, contrary to what *The Sopranos* ad says.)

The past several commercial breaks have included scenes of murder promoting an Al Pacino movie, and the scene of a beating and murder, promoting *The Sopranos*. These murders and beating have been repeated over and over, because the commercials are repeated over and over.

CTV's Vice-President, Corporate Communications, replied in part as follows on September 15 (his full letter is included in the Appendix):

CTV broadcast *The Sopranos* because it is an excellent, award winning, critically acclaimed drama. We are aware that this program isn't for everyone. It does contain violence, sexual scenes and extremely coarse language. To alert viewers, we ran those on-air advisory at the top of the program, as well as after the first commercial break. The following was the exact wording of the advisory:

"This program is not intended for children. It contains scenes of violence, extremely coarse language and nudity. Some adults may be offended by the content. Viewer discretion is strongly advised."

After 9 p.m. is considered by the industry and the CRTC to be adult viewing time.

I understand your reaction to the content of *The Sopranos* but we cannot censor this program because some people believe, however sincerely and strongly, that it contains messages inappropriate for television viewing.

On the same day, the Vice-President, Program Planning and Promotion, wrote an additional letter in which he dealt specifically with the concerns of the complainant. He said, in part (the full reply also being included in the Appendix):

You are correct in your view that the particular promo for *Sopranos* that aired in *The West Wing* on September 13 was not appropriate for an 8:00 PM audience. This promo has been restricted by the network to post 9:00 PM, the time considered the watershed for adult viewing. The promo was scheduled by CTV in *The West Wing* which airs after 9:00 PM in most of the country. However some affiliates, including CKY, off schedule *The West Wing* in an earlier timeslot. CTV notified our affiliates about this particular promo and requested that they delete it locally. We have again contacted CKY and reinforced the importance of making sure this promo does not air prior to 9:00 PM.

On October 15, the complainant sent a Ruling Request accompanied by a letter which added the following observation (again reproduced in full in the Appendix):

The violence in these commercials was gratuitous, in violation of part 1.1 of the CAB *Voluntary Code Regarding Violence in Television Programming*, so these commercials should not have been shown at all. These commercials contained no plot, no identifiable characters, and no theme, so therefore the violence did not further the plot, or develop any characters or a theme.

[...]

CTV contends that the violence would have been acceptable if the commercials were aired after 9:00PM, and asserts that the commercials were shown earlier in error. I accept that mistakes happen and accept that showing these commercials so early was an honest mistake.

However, I assert that these two commercials were unsuitable for showing at any time, except possibly imbedded in a program already bearing a violence warning.

## THE DECISION

The Prairie Regional Panel considered the complaint under the following provisions of the *Voluntary Code regarding Violence in Television Programming* (the *Violence Code*).

### Article 1.1 (Gratuitous and glamorized violence)

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 3.2 (Scheduling of promotion material)

Promotion material which contains scenes of violence intended for adult audiences shall not be telecast before 9 pm.

The Adjudicators watched the episode of *The West Wing* in the course of which the challenged promos were broadcast. It is the decision of the Panel that the broadcast of the promo for *City Hall* was not in breach of either of the foregoing provisions but that the promo for *The Sopranos* was in breach of Article 3.2 of the *Violence Code*.

## The Nature of the Violence: Intended for Adult Audiences?

The promotional spots run during the broadcast of *The West Wing* were both for CTV programs. In the case of *The Sopranos*, the promo was for a series which the network was running. In the case of *City Hall*, the promo was for a theatrical feature film scheduled for broadcast on the network on the following Saturday night. While both *The Sopranos* and

*City Hall* were being run in the post-Watershed time frame, this is not alone determinative of the required placement of promos for the programs. That is decided solely on the basis of the content of the promotional material. In *CITY-TV re a broadcast promo for SexTV* (CBSC Decision 99/00-0133, July 6, 2000), the Ontario Regional Panel made this point in the following terms:

The Council wishes, first of all, to make it absolutely clear that a show which can itself only air in a post-Watershed time frame, namely, after 9:00 p.m. in the originating time zone, *can* be promoted prior to the Watershed. While there is, it goes without saying, an evaluation to be made of the content of the promo itself, the fundamental entitlement to promote the post-Watershed program itself is beyond contestation.

The Ontario Panel went on to clarify the question of assessment of material “intended for adult audiences.”

It is those words, “intended for an adult audience”, which set out the test under which the Council evaluates the scheduling of all programming pursuant to Clause 3 of the *Violence Code*. In the Council’s view, to fall afoul of the scheduling provision of the *Violence Code*, the challenged programming must not merely be “attractive” *mainly* to adults, it must be intended for an adult audience *to the exclusion of a non-adult audience*.

In the case at hand, it is the view of the Prairie Panel that the promo for *City Hall* does not contain any elements of violence which would relegate it exclusively to a post-Watershed viewing period. There are, in fact, no *acts* of violence in the promo although there are *suggestions* of violence, namely, in the form of a handgun wrapped in a newspaper, on the one hand, and a barely discernible body in a life preserver ring floating in a lake or river, on the other.

The case of *The Sopranos* is different. While, due to constraints of time, the promotional advertisement is not as graphic or lengthy as in the actual program, the violence is unequivocally present and aggressive. The Panel has no hesitation in concluding that the nature of the depiction of violence in this instance is such that it should be restricted for broadcast and only ought to play in a post-Watershed time frame. Whether it is or is not gratuitous, as the complainant has suggested, is another matter.

### **Gratuitous Violence**

This is, in fact, the first occasion on which the content of promotional material has been challenged on the basis that the material in it constituted gratuitous violence. It is, therefore, the first opportunity for a CBSC Panel to measure that possibility against the language used in the *Violence Code* articles. The Panel has no doubt that the prohibition in Article 1.1 was not, as a general rule, intended to be extended to promotional material or advertising.

The prohibition of gratuitous violence quoted above is declared to relate to *programming* and it is the view of the Prairie Regional Panel that, for these purposes, the codifiers did not intend to include promotional material in that prohibition. Not only is that clear from the wording itself but it also flows from the logic of the constraint. The definition which is provided in Article 1.1 refers to the development of “the plot, character or theme of the material as a whole,” an eventuality which is inconsistent with a 30-second spot which, by its *nature*, cannot be expected to develop a plot or characters, if not also a theme. It is to be expected that a promo or an advertisement will be made up of extremely brief sequences interwoven not to tell a story but to sell a story (or a product or service). Consequently, no breach of the gratuitous violence provision can be expected to occur.

It should be noted that, in *CTV re The Sopranos* (CBSC Decision 00/01-0130+, March 8, 2001), the National Conventional Television Panel determined that there was no gratuitous violence in any of the many episodes of the full first series which the Panel reviewed.

The Panel considers that no act of violence in the episodes was dramatically unsubstantiated. In other words, every such act was contextual and had a clear role in the advancement of the plot or was “justified” (not, of course, in a societal *legal* context) by some previous action on the part of the victim. While such justification flows from the socially distorted rules of the Cosa Nostra or of Tony Soprano’s mob family in particular, the story knows no *random* acts of violence such as those in some dramas which may only be circularly justified by the fact that the perpetrators “enjoy” or thrive on such random acts.

It follows that, in terms of Article 1 of the *Violence Code*, none of the violence in the episodes under consideration here is gratuitous.

Consequently, the Panel considers that a promotional spot based on a series that has been determined to be free of gratuitous violence cannot itself be characterized as containing such violence.

### **The Scheduling of the Promotional Spots**

Having determined that the promo for *City Hall* does not include violence intended for adult audiences, its scheduling is not an issue for this Panel in terms of the Watershed provision of the *Violence Code*.

The scheduling of the promo for *The Sopranos* is another matter. Article 3.2 is unequivocal. “Promotion material which contains scenes of violence intended for adult audiences shall not be telecast before 9 pm.” This broadcast is in breach of that provision.

The question, then, is “Which broadcaster is responsible for the breach?” In this respect, the clarifying letter of the network’s Vice-President of Program Planning and Promotion leaves little doubt. The network schedules *The West Wing* to air “after 9:00 PM in most of the country. However some affiliates, including CKY, off schedule *The West Wing* in an earlier timeslot.” The responsibility must, therefore, attach to the broadcaster *which*

*determines the hour of broadcast* and that, in this case, was CKY-TV. The responsibility for the broadcast is the more so clear when one appreciates that, as CTV's representative has said, "CTV notified our affiliates about this particular promo and requested that they delete it locally."

### **Broadcaster Responsiveness**

Broadcaster responsiveness is always an issue considered in CBSC adjudications. The CBSC considers that the dialogue between broadcasters and complainants is an extremely positive component of the self-regulatory process, to the point that it is in fact a membership responsibility of all CBSC broadcaster members. On the issue of broadcaster responsiveness in this instance, the CBSC's decision relates to the network and not CKY-TV since CKY-TV was never called upon to respond to the complainant and cannot in fairness be responsible for what it has not been asked to do.

With respect to CTV, however, the Panel has no doubt but that the first response, that of the Vice-President, Corporate Communications, would not satisfy the broadcaster's obligation of responsiveness, had it stood alone. It appears to be nothing more or less than a stock reply to the many persons who complained to CTV, the CRTC and the CBSC regarding the series *The Sopranos*. There is not a comment or observation in that letter which would provide any sense of comfort to a complainant troubled by the *promos* rather than (or in addition to) the series. But for the CTV follow-up letter by an alert executive, this would have constituted a breach of the standard of responsiveness as required of all CBSC members.

The second letter, on the other hand, came right to the point. It explained precisely what had happened regarding the scheduling question and what steps CTV had taken to avoid such an occurrence in the first place. It went even further. It also delineated the *subsequent steps* taken by CTV to avoid a recurrence of the problem. Regarding this letter and the CTV initiative, the Panel believes the broadcaster has been exemplary. The Panel also considers that the complainant recognized this fact when he acknowledges "that mistakes happen and accept that showing these commercials so early was an honest mistake." That being said, the complainant was, of course, within his rights to seek a decision from the CBSC regarding the appropriateness of the use of such promotional material.

## **CONTENT OF THE ANNOUNCEMENT OF THE DECISION**

CKY-TV is required to: 1) announce this decision, in the following terms, once during prime time within three days following the release of this decision and once more within seven days following the release of this decision during the time period in which *The West Wing* is broadcast; 2) within the fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the statement to the complainant who filed the Ruling Request; and 3) to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by CKY-TV.

The Canadian Broadcast Standards Council has found that CKY-TV has breached the promotional material scheduling provision in the *CAB Violence Code* in its broadcasts of promos for the television series *The Sopranos* on September 13, 2000. By scheduling a program promo containing scenes of violence intended for adult audiences before 9 pm, which is the Watershed hour before which no programming intended for adults can be shown, CKY-TV has breached Article 3.2 of the *Violence Code*.

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

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**APPENDIX**  
**TO CBSC DECISION 00/01-0071**  
*CKY-TV re Promos for The Sopranos and City Hall*

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**I. The Complaint**

The following complaint dated September 13, 2000 was sent via e-mail to the CRTC, and forwarded to the CBSC in due course:

It is not that I have children watching, but that would be a further complaint. How can parents manage teen's and children's viewing when the network is inserting explicitly violent commercials into programs that do not have it? (And the inserted violence is gratuitous because these are short commercials, there is no plot, the explicit violence is only there to shock.)

I am watching West Wing on CTV, September 13 at 8:00 CDT. West Wing is an adult program without gratuitous violence. (Real adult program do not have gratuitous violence, contrary to what The Sopranos ad says.)

The past several commercial breaks have included scenes of murder promoting an Al Pacino movie, and the scene of a beating and murder, promoting The Sopranos. These murders and beating have been repeated over and over, because the commercials are repeated over and over.

I do not watch programs with gratuitous explicit violence in a brutalized civilian life scenario. CTV's commercials mean that I will have to watch West Wing on another network.

By the way, how did the Americans promote The Sopranos without being objectionable?

**II. The Broadcaster's Response**

The V.P. Program Planning and Promotion, CTV Inc., replied to the complainant with the following on September 15, 2000:

CTV is in receipt of your communication with the Canadian Broadcast Standards Council (CBSC). Thank you for taking the time to express your concerns regarding our broadcast promotions for The Sopranos.

CTV broadcast The Sopranos because it is an excellent, award winning, critically acclaimed drama. We are aware that this program isn't for everyone. It does contain violence, sexual scenes and extremely coarse language. To alert viewers, we ran those on-air advisory at the top of the program, as well as after the first commercial break. The following was the exact wording of the advisory:

"This program is not intended for children. It contains scenes of violence, extremely coarse language and nudity. Some adults may be offended by the content. Viewer discretion is strongly advised"

After 9 p.m. is considered by the industry and the CRTC to be adult viewing time.



I understand your reaction to the content of The Sopranos but we cannot censor this program because some people believe, however sincerely and strongly, that it contains messages inappropriate for television viewing. There are many viewers who have expressed that they would be equally disappointed if we were to edit the piece.

Thank you again for taking the time to express your concerns. Viewer reactions are always valued.

A further response was received by the complainant and the CBSC from the V.P. Program Planning and Promotion of CTV the same day. That response stated:

You are correct in your view that the particular promo for Sopranos that aired in The West Wing on September 13 was not appropriate for an 8:00 PM audience. This promo has been restricted by the network to post 9:00 PM, the time considered the watershed for adult viewing. The promo was scheduled by CTV in The West Wing which airs after 9:00 PM in most of the country. However some affiliates, including CKY, off schedule The West Wing in an earlier timeslot. CTV notified our affiliates about this particular promo and requested that they delete it locally. We have again contacted CKY and reinforced the importance of making sure this promo does not air prior to 9:00 PM.

Thank you for bringing this situation to our attention. CTV is a member of the Canadian Broadcast Standards Council and adheres to the Council's standards.

### **III. Additional Correspondence**

On October 15, 2000, the complainant returned the Ruling Request form provided by the CBSC along with the following note:

My complaint is regarding violence in the Soprano commercials and Al Pacino movie commercials inserted into the 8:00 CDT September 13 broadcast of West Wing on CTV's Winnipeg affiliate CKY TV.

The violence in these commercials was gratuitous, in violation of part 1.1 of the CAB Voluntary Code Regarding Violence in Television Programming, so these commercials should not have been shown at all. These commercials contained no plot, no identifiable characters, and no theme, so therefore the violence did not further the plot, or develop any characters or a theme.

Showing punches and bullets being taken is a more extreme way to portray violence. Repeating a commercial several times in an evening increases the extremeness and reduces acceptability. In this case I think the commercials were shown more than 4 times in an hour.

Further, by calling the Sopranos "real adult programming", violent programming is being glamorized, which also violates of part 1.1. of the CAB Voluntary Code Regarding Violence in Television Programming .

CTV contends that the violence would have been acceptable if the commercials were aired after 9:00PM, and asserts that the commercials were shown earlier in error. I accept that mistakes happen and accept that showing these commercials so early was an honest mistake.

However, I assert that these two commercials were unsuitable for showing at any time, except possibly imbedded in a program already bearing a violence warning.