
**CANADIAN BROADCAST STANDARDS COUNCIL
NATIONAL SPECIALTY SERVICES PANEL**

The Score re a segment of *WWE Bottom Line*

(CBSC Decision 02/03-0520)

Decided January 30, 2004

R. Cohen (Chair), S. Crawford (Vice Chair, Industry), H. Pawley (Vice Chair, Public), M. Hogarth, M. Harris, V. Morrisette and P. O'Neill

THE FACTS

The specialty service The Score aired the challenged program segment as a part of *WWE Bottom Line*, a “best of” magazine-style program that features updates and scenes on recent wrestling matches and events in the WWE world. The half-hour program in question aired on December 28, 2002 at 6:00 pm EST.

The segment at issue began approximately nine minutes into the program. WWFE CEO Vince McMahon, who was standing in the ring with a microphone, yelled at WWE announcer Jim Ross (popularly known as J.R.) for laughing at him. A wrestler grabbed J.R. out of his seat and pulled him into the ring. McMahon said, “You know what? Yeah, I’m gonna make you do exactly what vicariously each and every one of these people [he pointed at the crowd] are gonna do. ‘Cause these people are gonna kiss my [edited word] through you! [Directed at the wrestler] Get him down.”

McMahon dropped his pants and turned around. Although it appears that his bare buttocks were exposed, one cannot be certain as they were digitally pixillated. J.R. first got down on his knees and the wrestler then pushed the announcer’s face against McMahon’s buttocks. J.R. was next seen lying face down in the ring, sticking his tongue out in disgust.

After playing this clip, *Bottom Line* host Mark Lloyd commented on how humiliating that experience was for J.R. He then showed another clip of J.R. and his co-announcer, Jerry “King” Lawler, discussing the event. J.R. said that the

incident was particularly humiliating because the event had occurred in his home town. They criticized WWE management.

On January 12, 2003, the complainant sent a letter to the CRTC, which included the following comments (the full texts of this letter and all other correspondence are reproduced in the Appendix):

On Saturday, December 28, around 6:10 pm I switched on The Score to check on the winners of the football games which usually flash along the bottom of the screen. The wrestling programme that was on became, in my opinion, disgusting. When I saw what was on I switched off the sound but I could not avoid seeing the actions on the screen while I waited to see the scores.

The man with the microphone had two accomplices in the ring with him. He pointed towards a large man wearing a big cowboy hat sitting outside the ring. The two accomplices threw this large man into the ring. The man with the microphone dropped his pants and the other two forced the big man's face onto the other man's bum and ground it all around. It looked to me as though it was his bare skin. I did not wait to see the scores but switched off the channel.

If this is considered entertainment then we have hit new lows. I do not consider this to be appropriate behaviour for television at any time, much less when children can be influenced. I was offended by the gross, deliberate, and degrading nature of the actions on the screen. I was appalled by what I had seen. Whether this man was part of the action willingly or not, I do not believe this should be permitted on public television.

The Senior Vice-President and General Manager of The Score responded to the complainant's letter on January 24. He said, in part:

The Score takes its programming commitments very seriously and takes measures to ensure that all of its programming is in compliance with regulatory requirements and applicable codes. The Vice President of Programming and I personally reviewed the programming segment in question, and agree that the scene is in very poor taste. However, it is our opinion that this particular segment is in full compliance with both the regulatory requirements and, in particular, with the Canadian Association of Broadcasters *Voluntary Code Regarding Violence in Television Programming*, which all programming undertakings are subject to.

While WWE Smackdown may not appeal to every viewer's taste, The Score displays programming advisory's [sic] warning and describing the nature of the content within the program. It is our opinion that this represents an adequate warning of the nature of the programming content.

This reply did not satisfy the complainant, who filed his Ruling Request on January 29. Thereafter, dialogue continued between the broadcaster and the CBSC with respect to the furnishing of viewing tapes. The program tapes received by the CBSC on June 23 were screener tapes, rather than logger tapes. Such tapes consist of the underlying program and do not include the time/date codes, classification icons, viewer advisories or commercial advertisements that are a part of dubs from the original logger tapes. The Senior Vice-President and

General Manager of The Score explained in a telephone conversation of June 26 with the CBSC's Broadcast Analyst that the individual who was originally contacted by the CBSC to hold the tapes no longer worked at The Score and that the logger tapes, which were customarily recycled after 60 days, had probably not been retained on that account. On June 27, he sent an e-mailed explanation of The Score's approach to WWE programming to the CBSC:

Details of Score WWE policy.

The Score conforms to the CAB policies with respect to violence. As per our WWE programming The Score goes to greater lengths to ensure that the programming adheres to the policies by pre-screening both the script and the tape of the show prior to airing, thus making appropriate editing decisions, this combined with on-screen advisories of the nature and content prominently displayed in and out of every break.

THE DECISION

The National Specialty Services Panel considered the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Sex-Role Portrayal Code*:

CAB Sex-Role Portrayal Code, General Principle (c) in part:

Neither sex should be subject to degradation from gratuitous acts of violence.

CAB Sex-Role Portrayal Code, Article 4 (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.

The National Specialty Services Panel read all of the correspondence and viewed a tape of the episode. The Panel considers the segment in question in very bad taste but concludes that the broadcast by the specialty service does not constitute a breach of any of the foregoing Code provisions.

A Preliminary Matter: The Broadcaster's Obligation to Supply Tapes

It has long been established that one of the fundamental obligations of all broadcaster members of the CBSC is to supply the Council with logger tapes, when requested by the Secretariat to retain such records of challenged programming when the CBSC receives a viewer complaint. In this case, the broadcaster supplied dubs of screener tapes, rather than logger tapes. The

difference between the two types of tapes relates to the obligation under Section 7(4)(a) of the *Specialty Services Regulations, 1990* (and all corresponding regulations for radio and television broadcasters) to “retain a clear and intelligible audiovisual recording of all of its programming [...] for a period of four weeks after the date of the distribution.” That tape is a logger tape. It shows *everything* that has *actually* been broadcast, together with a time code indicating at precisely what hour, minute and second every element of the broadcast has occurred. It includes the programs themselves, as well as all interstitial elements, including advertisements, promos, viewer advisories, and such other elements as classification ratings. The screener tape, on the other hand, is merely the record of the original program which is then used for broadcast purposes. It does not show the entire program *as actually aired*. It is, so to speak, the *pre*-broadcast rather than the *post*-broadcast record. It is the logger tape which contains all the broadcast elements that the CBSC needs in order to adjudicate properly and it is, moreover, the logger tape that broadcast licensees are required by law and by condition of membership in the CBSC to retain.

The supply of a screener tape, technically speaking, constitutes a breach of CBSC requirements. In this case, however, upon inquiry, the Panel was informed that the broadcaster inadvertently supplied the incorrect version of the program and, as it happened, the supplementary information contained on the logger tape was not at issue on this occasion. The CBSC has also been advised that, in all matters arising hereinafter, The Score will be supplying logger tapes as required.

Bad Taste

The Panel does not dispute the complainant’s contention that the challenged segment of *WWE Bottom Line* was in bad taste. (His choice of descriptive words included the adjectives disgusting, gross and deliberate. The word “degrading” will be dealt with separately in the following section.) Bad taste is not, however, a Code-related issue. In broadcasting, as CBSC Panels have often explained, the primordial applicable principle is that of freedom of expression. It is not, however, a principle without limitation. The various constraining principles are those enunciated in the laws and regulations enacted by Parliament and the CRTC and in the Codes created by the private broadcasters as a reflection of their common standards of acceptable content. Simple bad taste is not, however, a breach of Code or statute. As the Quebec and Ontario Regional Panels said in the first Howard Stern decision, *CHOM-FM and CILQ-FM re the Howard Stern Show* (CBSC Decisions 97/98-0001+ and 0015+, October 17 and 18, 1997),

Many of the complaints received regarding the Howard Stern Show related to questions of taste. Stern was accused of being offensive, vulgar, adolescent, rude, unsuitable, outrageous, sick, tasteless and so on. [...] The Quebec and Ontario Regional Councils are, however, agreed that, under the present Codes, matters of taste must be left to be regulated by the marketplace. Such choices

remain those of the listener. This is the time when the on/off switch is the listener's coping mechanism. Unless comments made by a broadcaster are of a nature to breach provisions of one or more of the Codes, the CBSC will not judge them one way or the other.

The content is no worse here than it was in the Stern case or in many other broadcasts dealing with bad taste. Realizing fully that the complainant would not have selected the channel but for his desire to be updated on sports scores, his choice was simply to tune his set elsewhere when he saw programming that, understandably, did not suit his taste. The Panel certainly does not conclude that he was wrong or unduly demanding, only that even such unpleasant material as that encountered on this occasion does not rise to the level of a Code breach.

Degradation

Degradation is another matter. It may certainly amount to a Code breach but only in the circumstances envisaged by the Code. As defined in Article 4 of the Sex-Role Portrayal Code, degrading comments must be related to the "role and nature of women, men or children." And the next sentence in the Article provides that "Modes of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex." In other words, it is of the essence of the Article that the comments must be *generic*, not individually focussed. They must go, in the first instance, to the "role and nature" of one of the gender groups or children or, in the second example, be degrading to the gender as a whole. Comments or actions which are (regrettably, on one level) merely humiliating or degrading to an individual qua individual, rather than as a member of the male or female gender, do not attract the application of the Code provisions noted above. They may be, as in this case, tasteless and crude but they are not in breach of the *Sex-Role Portrayal Code*.

Broadcaster Responsiveness

The requirement that a broadcaster be responsive to the letter of complaint sent by a member of the public is considered by the Adjudicating Panels to be a significant part of the membership requirements of the CBSC. Such responsiveness is an essential part of the dialogue by which the CBSC considers that matters that trouble members of the public sufficiently to compel them to write are often successfully resolved. When accomplished in thorough and sensitive ways, such correspondence is also a way of letting the public know that broadcasters care about their audience's concerns. The Senior Vice-President and General Manager's letter was brief but responsive. On balance, the Panel considers that The Score has fulfilled the broadcaster's obligations in this regard in this instance.

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.

APPENDIX
To
The Score re a segment of WWE Bottom Line (CBSC Decision 02/03-520,
January 30, 2004)

I. The Complaint

The following complaint dated January 12, 2003 was sent to the CRTC and forwarded to the CBSC in due course:

On Saturday, December 28, around 6:10 pm I switched on The Score to check on the winners of the football games which usually flash along the bottom of the screen. The wrestling programme that was on became, in my opinion, disgusting. When I saw what was on I switched off the sound but I could not avoid seeing the actions on the screen while I waited to see the scores.

The man with the microphone had two accomplices in the ring with him. He pointed towards a large man wearing a big cowboy hat sitting outside the ring. The two accomplices threw this large man into the ring. The man with the microphone dropped his pants and the other two forced the big man's face onto the other man's bum and ground it all around. It looked to me as though it was his bare skin. I did not wait to see the scores but switched off the channel.

If this is considered entertainment then we have hit new lows. I do not consider this to be appropriate behaviour for television at any time, much less when children can be influenced. I was offended by the gross, deliberate, and degrading nature of the actions on the screen. I was appalled by what I had seen. Whether this man was part of the action willingly or not, I do not believe this should be permitted on public television.

I would appreciate your viewing the films of this "show". If you feel that what was shown went beyond the limits of normal decency, would you take the necessary measures to ensure that people are not subjected to this type of on-screen abusive, violent behaviour again.

I phoned the station but the VP in charge was on holidays. I phoned Bell ExpressVu and they said they had no control over "live" entertainment. I believe both should be held equally responsible.

I would be happy to discuss this matter with you should you so desire. You may contact me at the above address, or phone/fax me at ###-###-####.

II. Broadcaster Response

The broadcaster responded to the complainant's letter on January 24 with the following:

Dear Mr. [M]:

We are writing in response to your letter to the CRTC dated January 12, 2003 in which you raised concerns about a programming segment, which was broadcast on one of our programs, WWE Smackdown on December 28, 2002 at 6:10 pm.

The Score takes its programming commitments very seriously and takes measures to ensure that all of its programming is in compliance with regulatory requirements and applicable codes. The Vice President of Programming and I personally reviewed the programming segment in question, and agree that the scene is in very poor taste. However, it is our opinion that this particular segment is in full compliance with both the regulatory requirements and, in particular, with the Canadian Association of Broadcasters *Voluntary Code Regarding Violence in Television Programming*, which all programming undertakings are subject to.

While WWE Smackdown may not appeal to every viewer's taste, The Score displays programming advisory's [sic] warning and describing the nature of the content within the program. It is our opinion that this represents an adequate warning of the nature of the programming content.

We appreciate you taking the opportunity to write to us and we trust this response addresses the concerns raised in your letter. We would be pleased to discuss this program segment with you at anytime in the future.

The complainant returned his signed Ruling Request form dated January 29.

III. ADDITIONAL CORRESPONDENCE

The Score also provided an explanation of their approach to WWE programming in an e-mail sent directly to the CBSC:

Details of Score WWE policy.

The Score conforms to the CAB policies with respect to violence. As per our WWE programming The Score goes to greater lengths to ensure that the programming adheres to the policies by pre-screening both the script and the tape of the show prior to airing, thus making appropriate editing decisions, this combined with on-screen advisories of the nature and content prominently displayed in and out of every break.