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

Prime re the film *Smokey and the Bandit*

(CBSC Decision 05/06-1575)

Decided January 8, 2007

R. Cohen (Chair), E. Duffy-MacLean, S. Fernandez, M. Harris, M. Hogarth

THE FACTS

The specialty service Prime broadcast the feature film *Smokey and the Bandit*, a 1977 comedy starring Burt Reynolds and Sally Field, from 11:00 am to 1:00 pm Central Time (noon to 2:00 pm Eastern) on May 13, 2006. (Subsequent to the broadcast, Prime changed its name to Tvtrópolis.) In the film, Bandit (Reynolds) and his partner Snowman were hired to illegally transport a truckload of beer across state lines. Carrie (Field) was a runaway bride they encountered along the way. Mayhem ensued as they tried to evade the police, who were in hot pursuit of both Carrie and the Bandit (they did not yet know about the illegal cargo in the truck, for which the Bandit was the outrider distraction). Prime rated the broadcast PG. It also provided the following viewer advisory in audio and video format at the beginning and coming out of every commercial break:

The following program contains scenes of violence and coarse language. Viewer discretion is advised.

The broadcast contained a number of instances of coarse language, including “son-of-a-bitch”, “damn”, “hell”, “shit”, “bullshit”, “ass” and “Jesus Christ”. There was also one scene in which a character mouthed the words “Fuck off”, but they were inaudible, drowned out purposefully by the sound effects employed at that instant for comedic effect.

A viewer in Manitoba complained about the broadcast on May 18 in the following terms (the full text of all correspondence can be found in the Appendix):

On Saturday morning the movie *Smokey and the Bandit* was on. I have seen a clean version of this movie but was surprised that this was the original print. The movie had a large amount of foul language in it. My complaint is: A) There were no warnings regarding the content of the movie and its language; B) Movies with adult language should not be on at 11AM when children are watching TV vs. having it on later at night. I feel Prime was negligent in warning [*sic*] the public and living up [*sic*] to its responsibility to the public. They put the wrong movie on in the wrong time slot.

Prime responded to the complainant on June 5 with the following explanation:

In your letter, you have raised concerns regarding the content of programming airing from 11:00 am to 1:00 pm Central Daylight Time, when children could be watching. We acknowledge the opinion you hold with respect to this matter, and respect the fact that you were concerned enough to bring this to our attention.

Under the *Broadcasting Act*, Canadian broadcasters are required to provide a broad spectrum of entertainment and information programming for "men, women and children of all ages, interests and tastes." Television programming is required to be diverse and appealing to a wide variety of audiences and what one viewer might consider an interesting program, might lead another to turn the channel.

Prime/Global Television Specialty Networks adheres to the television rating system created by the Canadian Association of Broadcasters (CAB) and the Action Group on Violence on Television (AGVOT). This public rating system is intended to advise viewers of a program's content in order to allow you, the viewer, to determine a program's suitability for your own viewing needs and desires. As required, an on-screen key airs for the first fifteen seconds of the program and the matching V-chip data is encoded into our transmission for the entire duration of the program.

Also, with this in mind, we assigned an AGVOT rating of PG (parental guidance programming) to this program. In accordance with the *Code of Ethics* and to assist our viewers in making informed decisions, we also aired the following visual and verbal viewer advisory at the top of the show and coming out of every commercial break:

"The following program contains scenes of violence and coarse language. Viewer discretion is strongly advised."

Further to your specific complaint concerning scenes containing profanity, after reviewing the tape in question, the content is consistent with the guidelines of the PG rating which states: *might contain infrequent and mild profanity, might contain mildly suggestive language.*

We do appreciate that the content in this broadcast may not be suitable for all viewers, and as diligent broadcasters, we acknowledge the importance of airing the movie with the appropriate viewer advisories. Having done so, we do not feel the broadcast contravened any regulations or guidelines.

After a telephone conversation with the complainant, Prime sent him an additional response on June 6:

Thank you for your follow-up call on Monday afternoon. As I said, I have followed up with our programming department to determine the selection of the movie version that went to air. You are correct that there is a "sanitized" version that has actually aired on Prime before, and the unedited version was unfortunately selected to air when you were watching. We apologize for this error. You will note that there are no movies scheduled to air on Tvtropolis, so we have eliminated this possible problem for this network in the future.

With regard to your second concern relating to viewer advisories, please note that the following visual and verbal advisory did air at the top of the show and coming out of commercial breaks,

"The following program contains scenes of violence and coarse language. Viewer discretion is strongly advised."

I am also providing a summary of the number of advisories that were run during this movie. Upon reviewing the tape in question of this particular broadcast, the advisory aired a total of nine (9) times during the two-hour broadcast at the following times (all in Central Daylight Time): 10:59:50, 11:20:32, 11:38:23, 12:02:03, 12:16:01, 12:24:26, 12:41:19, 12:51:34.

I trust this now directly answers your two specific concerns. Thanks for taking the time to follow up with me to ensure you received answers to these two questions.

The complainant submitted his Ruling Request on June 5 with the following additional comments:

Today a response was received from the broadcaster. The response missed the reason for my complaint and was typical corporate "babble". I did call the broadcaster and spoke to [the Director of Marketing]. The conversation and response from him was not acceptable. First in his letter to me I was advised of a rating system and was fully aware of the system, thus the complaint. The broadcaster was advised to address two major points that they failed to do and was requested of them. The two unanswered questions were: A) Why was a movie aired not only in Winnipeg but country-wide that truly had strong adult language that should not have been broadcast until after 9pm in any time zone. In this case it was aired in Winnipeg at 11am. The broadcaster had access to an edited version but chose to air the adult cut. B) The broadcaster failed to put the warnings after every ad break warning the viewer of the content. They say they did but I can assure you it did not appear and I believe [this is] a cover-up by the broadcaster. In closing, the broadcaster slapped the show (movie) in question in a unresponsable [*sic*] manner. The fact that the adult cut was used for that time of day is proof enough. It is time for the broadcaster to be more responsible and in this case sanctioned for its performance. I await a response from the CBSC.

THE DECISION

The National Specialty Services Panel examined the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* and *CAB Voluntary Code regarding Violence in Television Programming*:

CAB Code of Ethics, Clause 10 - Television Broadcasting (Scheduling)

- a) Programming which contains sexually explicit material or coarse or offensive language intended for adult audiences shall not be telecast before the late viewing period, defined as 9 pm to 6 am. [...]

CAB Violence Code, Article 4 – AGVOT’s Classification System for English-Language Broadcasters

PG – Parental Guidance

Descriptive

This programming, while intended for a general audience, may not be suitable for younger children (under the age of 8). Parents/guardians should be aware that there might be content elements which some could consider inappropriate for unsupervised viewing by children in the 8-13 age range.

Programming within this classification might address controversial themes or issues. Cognizant that pre-teens and early teens could be part of this viewing group, particular care must be taken not to encourage imitational behaviour, and consequences of violent actions shall not be minimized.

Violence Guidelines

- any depiction of conflict and/or aggression will be limited and moderate; it might include physical, fantasy, or supernatural violence.
- any such depictions should not be pervasive, and must be justified within the context of theme, storyline or character development.

Other Content Guidelines

- Language: - might contain infrequent and mild profanity
 - might contain mildly suggestive language
- Sex/Nudity: - could possibly contain brief scenes of nudity
 - might have limited and discreet sexual references or content when appropriate to the storyline or theme

The National Specialty Services Panel Adjudicators viewed a tape of the broadcast and read all of the correspondence. The Panel concludes that, in its broadcast of *Smokey and the Bandit*, Prime was not in breach of either of the foregoing standards.

The Nature of the Content

The Panel begins by acknowledging Prime’s admission of an error in deciding to broadcast the unedited version of *Smokey and the Bandit* in this early time slot. It recognizes that the broadcaster would have preferred not to offer such fare to its audience in a mid-day time slot. That is to its credit and a reflection of the fact that broadcasters frequently take decisions in the interests of their audiences whether or not they are *obliged* to do so by codified or regulatory standards. That being said, the Panel recognizes that its responsibility is strictly to consider whether broadcast material breaches a codified standard.

The Panel recognizes that coarse language is not polite and that some members of society are understandably very offended by it. Regrettably for some, coarse or offensive language is permissible on the airwaves, albeit under some restrictions. While there is no list of offensive words, there have been CBSC decisions that have defined certain language as “intended exclusively for adult audiences”. Those words, hitherto the f-word and its derivatives, have been relegated to post-Watershed broadcast. All other words considered by the various Panels (with a rare exception not relevant to the matter under consideration) have been viewed as acceptable for broadcast, albeit in bad taste, before 9:00 pm. In an early B.C. Panel decision dealing with the issue, namely, *CHAN-TV re Sportscast* (CBSC Decision 95/96-0108, December 18, 1996), the words “crap” and “ass” were used by an interviewee sports expert in a description of a hockey team. A viewer felt that such “gutter words” were completely unacceptable and were setting a very poor example to the younger generation. The Panel considered the complaint under the relevant clause of the Code as well as with reference to the section of the CRTC’s *Television Broadcasting Regulations, 1987*, which refers to language and provides that “A licensee shall not broadcast [...] (c) any obscene or profane language or pictorial representation.” Applying current broad social norms, the Panel concluded that this language, while not “attractive, articulate or perhaps even appropriate to the airwaves,” nevertheless did not violate the Code:

They may even be, to use the characterization of the complainant, “gutter or crude” language. They are not, however, in the view of the B.C. Regional Council, either obscene or profane, which is ultimately the test which the Regional Council must apply.

The National Specialty Services Panel finds that the matter at hand is similar. In the challenged film, the off-colour words “son-of-a-bitch”, “damn”, “hell”, “shit”, “bullshit”, “ass” and “Jesus Christ” were the offenders. There was no use of the f-word except as cleverly muted (as described above). Since muting is one of the acceptable *solutions* to the problem of insertion of such language in an original cinematic film, there could be no breach on its form of usage in this instance. Overall, the Panel concludes that the particular coarse language used in *Smokey and the Bandit* is insufficient to characterize the film as exclusively adult fare. The Panel finds no breach in its broadcast prior to the Watershed.

Viewer Advisories

The CBSC sometimes refers to viewer advisories as the *quid pro quo* for the entitlement of broadcasters to air matter that some persons will find inappropriate for their viewing. It does, after all, make sense. Coarse language, to take the example relevant to the matter at hand, will not offend everyone but it will trouble some viewers. To balance the rights of those who seek accessibility to such programming with the rights of those who seek avoidance of it, Canada’s private

broadcasters have agreed that they will provide sufficient information about the forthcoming potentially problematic content to all audience members, so as to facilitate informed choice.

In the matter before the National Specialty Services Panel, the logger tape of the broadcast has been carefully reviewed by the Adjudicators. Notwithstanding the assertion of the complainant to the contrary, the review of the logger tape by the Adjudicators makes it absolutely clear that the necessary advisory was present at the start of the movie and coming out of every single commercial break thereafter. Prime did its job and its Director of Marketing provided confirming detail regarding the precise timing of the broadcast of each of the viewer advisories. Prime fulfilled its obligations under Article 4 of the *CAB Violence Code* and Clause 10 of the *CAB Code of Ethics*. The Panel also agrees that the PG rating applied by the broadcaster was correct.

Broadcaster Responsiveness

The CBSC always assesses the broadcaster's responsiveness to the complainant, which is a responsibility of membership in the Council. It expects that response to be thoughtful and focussed on the substance of the complaint. In the matter at hand, the Panel considers that the two responses from Global Television's Director of Marketing constitute a sufficient reply to fulfill Global's obligation of responsiveness on this occasion.

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

CBSC Decision 05/06-1575 Prime re the film *Smokey and the Bandit*

The Complaint

The CBSC received the following complaint from a viewer in Winnipeg, Manitoba dated May 18, 2006 via the CBSC's web complaint form:

station: Prime
program: movie
date: May 13/06
time: 11:00 AM

concern: On Saturday morning the movie *Smokey and the Bandit* was on. I have seen a clean version of this movie but was surprised that this was the original print. The movie had a large amount of foul language in it. My complaint is: A) There were no warnings regarding the content of the movie and its language; B) Movies with adult language should not be on at 11AM when children are watching TV vs. having it on later at night. I feel Prime was negligent in warning the public and living up to its responsibility to the public. They put the wrong movie on in the wrong time slot.

Broadcaster's Response

Prime responded with the following on June 5:

We are in receipt of your e-mail message to the Canadian Broadcast Standards Council regarding Prime's broadcast of the movie *Smokey and the Bandit* on May 13, 2006.

In your letter, you have raised concerns regarding the content of programming airing from 11:00 am to 1:00 pm Central Daylight Time, when children could be watching. We acknowledge the opinion you hold with respect to this matter, and respect the fact that you were concerned enough to bring this to our attention.

Under the *Broadcasting Act*, Canadian broadcasters are required to provide a broad spectrum of entertainment and information programming for "men, women and children of all ages, interests and tastes." Television programming is required to be diverse and appealing to a wide variety of audiences and what one viewer might consider an interesting program, might lead another to turn the channel.

Prime/Global Television Specialty Networks adheres to the television rating system created by the Canadian Association of Broadcasters (CAB) and the Action Group on Violence on Television (AGVOT). This public rating system is intended to advise viewers of a program's content in order to allow you, the viewer, to determine a program's suitability for your own

viewing needs and desires. As required, an on-screen key airs for the first fifteen seconds of the program and the matching V-chip data is encoded into our transmission for the entire duration of the program.

Also, with this in mind, we assigned an AGVOT rating of PG (parental guidance programming) to this program. In accordance with the *Code of Ethics* and to assist our viewers in making informed decisions, we also aired the following visual and verbal viewer advisory at the top of the show and coming out of every commercial break:

"The following program contains scenes of violence and coarse language. Viewer discretion is strongly advised."

Further to your specific complaint concerning scenes containing profanity, after reviewing the tape in question, the content is consistent with the guidelines of the PG rating which states: *might contain infrequent and mild profanity, might contain mildly suggestive language.*

We do appreciate that the content in this broadcast may not be suitable for all viewers, and as diligent broadcasters, we acknowledge the importance of airing the movie with the appropriate viewer advisories. Having done so, we do not feel the broadcast contravened any regulations or guidelines.

You, the viewer, are the valued customer. As such, we strive to ensure you will continue to watch our programming. We appreciate open dialogue with our audience, and thank you for your letter.

Please feel free to contact me at [e-mail address] if you should have any future comments or concerns about our programming.

The broadcaster sent an additional response on June 6:

Hello,

After a discussion with [the complainant] on Monday afternoon I agreed that he should receive the following clarification to his original complaint.

Thank you for your follow-up call on Monday afternoon. As I said, I have followed up with our programming department to determine the selection of the movie version that went to air. You are correct that there is a "sanitized" version that has actually aired on Prime before, and the unedited version was unfortunately selected to air when you were watching. We apologize for this error. You will note that there are no movies scheduled to air on Tvtropolis, so we have eliminated this possible problem for this network in the future.

We regard to your second concern relating to viewer advisories, please note that the following visual and verbal advisory did air at the top of the show and coming out of commercial breaks,

"The following program contains scenes of violence and coarse language. Viewer discretion is strongly advised."

I am also providing a summary of the number of advisories that were run during this movie. Upon reviewing the tape in question of this particular broadcast, the advisory aired a total of nine (9) times during the two-hour broadcast at the following times (all in Central Daylight Time): 10:59:50, 11:20:32, 11:38:23, 12:02:03, 12:16:01, 12:24:26, 12:41:19, 12:51:34.

I trust this now directly answers your two specific concerns. Thanks for taking the time to follow up with me to ensure you received answers to these two questions.

(Note: Prime was re-branded as Tvtropolis in June 2006.)

Additional Correspondence

The complainant submitted his Ruling Request on June 5 with the following note:

Today a response was received from the broadcaster. The response missed the reason for my complaint and was typical corporate "babble". I did call the broadcaster and spoke to a [Director of Marketing]. The conversation and response from him was not acceptable. First in his letter to me I was advised of a rating system and was fully aware of the system, thus the complaint. The broadcaster was advised to address two major points that they failed to do and was requested of them. The two unanswered questions were: A) Why was a movie aired not only in Winnipeg but country-wide that truly had strong adult language that should not have been broadcast until after 9pm in any time zone? In this case it was aired in Winnipeg at 11am. The broadcaster had access to an edited version but chose to air the adult cut. B) The broadcaster failed to put the warnings after every ad break warning the viewer of the content. They say they did but I can assure you it did not appear and I believe [this is] a cover-up by the broadcaster. In closing, the broadcaster slapped the show (movie) in question in a unresponsable [sic] manner. The fact that the adult cut was used for that time of day is proof enough. It is time for the broadcaster to be more responsible and in this case sanctioned for its performance. I await a response from the CBSC.