
**CANADIAN BROADCAST STANDARDS COUNCIL
NATIONAL CONVENTIONAL TELEVISION PANEL**

Global re an episode of *fatbluesky*

(CBSC Decision 05/06-1611)

Decided January 8, 2007

R. Cohen (Chair), R. Deverell (*ad hoc*), S. Fernandez, P. Hebden, M. Hogarth

THE FACTS

On May 27, 2006 at 10:00 am, Global Television aired an episode of the program *fatbluesky*, a documentary/magazine-style program targeted at youth that focussed on action sports, such as skateboarding, extreme skiing, etc., and their related lifestyles and subcultures. It included sports scenes and interviews with the participants.

The first segment was about skateboarder Dustin Montie, who, at one point, was shown in the midst of a failed skateboard move. From a distance, the production microphone picked up his comment, "Why did you have to throw that fucking thing?! Fuck!"

The second segment recounted the fishing exploits of a man named Joe and his dog Kudo (it is relevant to note that Joe was not wearing a life jacket at any point in the segment). The camera focussed on different parts of, and things in, Joe's speed boat, including a drink cooler whose lid Joe lifted to reveal numerous cans of beer. A few seconds later, the camera zoomed in on a single can of beer sitting on the dashboard of the runabout and then panned to Joe, who was steering the boat with a can in his hand. Grinning, he took a sip.

Joe was then shown with a fish he had just caught. Joe said, "That's a problem, the ocean, you never know what you're gonna hook. It's a big mystery. You know, I'm no biologist, but there's some big fuckin' weird fish out there, I'll tell you that."

That comment was followed by more footage of Joe driving his boat, can in hand. He said, "You know, if you want to be a corporate climber, I got a saying for that: The higher a monkey gets up a tree, the better you can see its ass!" There were then a couple of scenes of Kudo in the boat, which were followed by Joe looking into the camera and saying, "See, boys and girls, this is why you should be fucking smart enough to scare up a couple thou' each month. If you're fucking working all the time, you're an idiot. You're workin' for everyone else but yourself. They're sucking the fucking life outta ya. Dummy up, figure out how you can score a coupla grand a month and you can do this every fucking day."

There were more scenes of Joe driving his boat with a beer can in his hand. As they arrived on land, Joe said to Kudo, "Kudo, we're gonna go ashore to rape and pillage." That statement was followed by scenes of Joe playing with Kudo on a beach and then diving off his boat to swim, all of which were interspersed with additional scenes of Joe drinking from his beer can.

It was the segment involving Joe and Kudo which concerned a viewer who then wrote to the CBSC on May 27 (the full text of all correspondence can be found in the Appendix):

I wish to inform you of a program aired on Global TV Saturday, May 27th, Morning at 10:00 am. This show called Joe and Kudo featured a drunken man driving a power boat, while drinking beer and not wearing any safety gear, and using the f-word a lot, telling youth to figure out how they can live like him. I only saw this clip towards the end but am shocked and wondering if there is any controls [*sic*] left in this industry on morale [*sic*] and good example standards. Or for the sake of rights and freedoms is this complaint going to be put off as another conservative person's nutty comment?

The complainant also wrote directly to Global on June 1 requesting a reply to his complaint. A Global Viewer Relations representative sent a response on June 2:

First, we would like to apologize for the delay in response. As you can imagine we are frequently inundated with emails and phone calls; however, your concerns have not gone unheard.

The show you are referring to, *fatbluesky*, has since been pulled from conventional airing. I'd like to apologize for the crude and inexcusable behaviour portrayed on the show, and would also like to stress that we do not condone such actions. I'd like to thank you for your patience in the matter, and we hope to continue providing quality viewing suitable for you and your loved ones.

The complainant wrote back to the network that same day:

Great news to hear you pulled the show. Will there be an on-air statement of regret and explanation to youth of Global's non-support of this video's message, and apology? It's the right thing to do. Don't you think?

Global's Coordinator of Compliance Standards then sent an additional reply on June 8:

Unfortunately, this program was not screened before it went to air and we fully acknowledge our mistake and apologize for the error. We do have a screening process in place where most programs are carefully screened to ensure that they do not contravene our industry guidelines or are simply not in bad taste. However, in this instance this program slipped through the cracks. We have since pulled this program and we agree that the content is not suitable for air. In future, we will make sure this type of omission doesn't happen again.

As responsible broadcasters, we are sensitive to your concerns and beliefs. Our purpose and intention is to entertain and inform, not to offend our viewers. We value and respect the fact that you have an interest in our programming and that you were concerned enough to let us know your opinions.

The complainant submitted his Ruling Request on June 15 with the following note:

I am grateful to Global for pulling the program, and [...] for the apology and assurance of better screening. I did recommend that Global do the right thing and apologize on air to the viewers (youth) at 10:00 am Sat. morning and state they don't uphold this man's statements or use of such language. That was not spoken about in their response.

THE DECISION

The National Conventional Television Panel examined the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics*:

CAB Code of Ethics, Clause 10 – Television Broadcasting

- 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 Code of Ethics, Clause 11 – Viewer Advisories

To assist consumers in making their viewing choices, when programming includes mature subject matter or scenes with nudity, sexually explicit material, coarse or offensive language, or other material susceptible of offending viewers, broadcasters shall provide a viewer advisory

- a) at the beginning of, and after every commercial break during the first hour of programming telecast in late viewing hours which contains such material which is intended for adult audiences, or
- b) at the beginning of, and after every commercial break during programming telecast outside of late viewing hours which contains such material which is not suitable for children.

The National Conventional Television Panel Adjudicators reviewed all of the correspondence and viewed a tape of the challenged episode of *fatbluesky*. The Panel concludes that Global violated each of the foregoing Code provisions.

Coarse Language

The CBSC has consistently determined that the broadcast of the f-word constitutes language “intended exclusively for adult audiences” and is therefore relegated to post-Watershed broadcast, that is, after 9:00 pm and before 6:00 am. Previous decisions enunciating this position include *Showcase Television re the movie Destiny to Order* (CBSC Decision 00/01-0715, January 16, 2002), *WTN re the movie Wildcats* (CBSC Decision 00/01-0964, January 16, 2002), *Bravo! re Love on the Line* (CBSC Decision 00/01-1050, May 3, 2002), *Showcase Television re The Cops* (CBSC Decision 01/02-1076, February 28, 2003), *Showcase Television re the movie Frankie Starlight* (CBSC Decision 02/03-0682, January 30, 2004) and *Global re ReGenesis (“Baby Bomb”)* (CBSC Decision 04/05-1996, January 20, 2006). The broadcast of the several examples of the f-word in the matter at hand constitute a breach of the coarse or offensive language component of Clause 10 of the *CAB Code of Ethics*.

Adult Themes

Until such time as the *CAB Code of Ethics* was revised in 2002, the standard establishing the Watershed was found only in the present *CAB Violence Code*, which came into effect on January 1, 1994. In its specific wording, it appeared to apply only to programming that included *violent* material assessed as being intended for adult audiences. It did not, however, take long for the CBSC to observe that the purpose of the Watershed was to distinguish between all types of programming suitable for children and families, on the one hand, and those types suitable only for adults. That principle was put by the Ontario Regional Panel in the first CBSC decision that dealt with the Watershed, namely, *CITY-TV re Ed the Sock* (CBSC Decision 94/95-0100, August 23, 1995).

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. Despite the establishment of the watershed for *that* purpose, the Panel has reason to believe that broadcasters regularly consider this hour as a rough threshold for *other* types of adult programming.

That principle was followed in *CFMT-TV re an episode of The Simpsons* (CBSC Decision 94/95-0082, August 18, 1995), in which the Ontario Panel framed the issue in slightly different terms: "Private broadcasters have *voluntarily* tended to extend this principle to all programming containing any material which they believe is intended for adult audiences, even if not of a violent nature." Other decisions, such as *The Comedy Network re an episode of Dream On* (CBSC Decision 97/98-0571, July 28, 1998), have continued in that vein.

When the *CAB Code of Ethics* was significantly revised in 2002, that principle was added to Clause 10, which specifically included references to "sexually explicit material or coarse or offensive language intended for adult audiences." It is the view of this Panel that Clause 10 ought not to be understood as being limitative, that is, restricted to sexual content and coarse language, any more than Article 3 of the *Violence Code* was limited by Panel interpretations to violent content. Put in other terms, this Panel considers that these provisions reflect the principle that any form of content that can reasonably be understood as being exclusively intended for adult audiences, whether on the foregoing nominate bases or on the basis of its theme, must run after the start of the Watershed hour.

In the matter at hand, despite the fact that Joe, the irresponsible boat driver, at one point addresses the youthful component of the viewing audience (using the phrase "boys and girls", which may not have been literally aimed at young children), the Panel considers that his outlandish and illegal antics driving a boat while drinking are utterly inappropriate for a non-adult audience. That neither the producers nor programmers viewed Joe's behaviour as problematic is evident in the fact that he was seen grinning and smirking each time he took a sip of his alcoholic beverage. Moreover, there was no component of the program that served to point out that Joe's behaviour was illegal and dangerous. Although the complainant also raised the fact that Joe was driving without donning "any safety gear", the Panel notes that that is not illegal. The rule is that there must be a regulation flotation device for each person in the watercraft, but there is not a requirement that they be worn. While, arguably, the practice of drinking while driving is hardly a model for adults either, the Panel appreciates that adults have powers of discernment, which younger individuals may not. What would disarm the youthful viewers still more is the trivialization of Joe's boating practices. All things considered, the Panel views the boating display in this episode of *fatbluesky* as an exclusively adult theme and one which ought not to have been broadcast prior to the Watershed. Consequently, it finds Global Television in breach of Clause 10 of the *CAB Code of Ethics*.

Viewer Advisories

The requirement for viewer advisories in a program with such coarse language is clear, whether it is aired before or after the Watershed hour. In *WTN re the movie Wildcats* (CBSC Decision 00/01-0964, January 16, 2002), the Panel explained

that, with respect to programming including scenes of violence, coarse language, nudity or sexual activity, children and families [must] be either protected or informed with respect to their viewing choices. On the one hand, parents need to know that programming directed at their children (defined as being under 12 years of age) will be free from inappropriate violence. Parents also need to know that even programming not pointedly directed at their young children will not contain elements of violence, coarse language, nudity, sexual content or other potentially offensive content of which they are not advised. Not only may they wish to make informed choices for their families on the basis of that content but they may also have their own programming tastes which do not extend to violence, coarse language, nudity or other such matters. In the end, viewer advisories [...] are important literacy tools for television viewers.

In the *Wildcats* decision, which, like the matter at hand, involved the broadcast of coarse language before the Watershed, the Panel concluded: “Had the broadcaster aired *Wildcats* in its appropriate time-slot, that is, after 9:00 pm due to the coarse language in the film, it would still have been required to air viewer advisories.” The National Conventional Television Panel concludes similarly in the case of the *fatbluesky* episode and, in so doing, finds a breach of Clause 11 of the *CAB Code of Ethics*.

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 response of the Viewer Relations department was especially helpful, in the sense that the broadcaster went as far as it could in response, by “pull[ing it] from conventional airing [and] apologiz[ing] for the crude and inexcusable behaviour portrayed on the show.” This was followed by a similar commitment from Global’s Coordinator of Compliance Standards, who acknowledged the error and said candidly that “in this instance this program slipped through the cracks.” She agreed that “the content is not suitable for air [adding that] In future, we will make sure this type of omission doesn’t happen again.” While the CBSC understands that the complainant would have liked to see a voluntary on-air apology by Global Television, it considers it important to acknowledge the candour of the broadcaster’s representatives and the constructive step taken by Global to

remedy the underlying substantive problem, which constitutes a sufficient reply to fulfill Global Television's obligation of responsiveness on this occasion.

ANNOUNCEMENT OF THE DECISION

Global is required to: 1) announce the 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 this episode of *fatbluesky* was broadcast; 2) within the fourteen days following the broadcasts of the announcements, to provide written confirmation of the airing of the statement to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with a copy of that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by Global.

The Canadian Broadcast Standards Council has found that Global Television breached the Canadian Association of Broadcasters *Code of Ethics* in its broadcast of an episode of *fatbluesky* on May 27, 2006. The Council found that the severity of the language in, and the adult theme of, the episode of *fatbluesky*, which Global broadcast at 10:00 on a Saturday morning breached the requirement of Clause 10 of the *CAB Code of Ethics* that such content not be aired before the industry-established Watershed hour of 9:00 pm. The Council also concluded that, by failing to air any viewer advisories during the course of the program, alerting potential viewers to the coarse language and adult theme of the program, Global breached the provision in Clause 11 of the *CAB Code of Ethics* requiring the use of viewer advisories.

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

APPENDIX

CBSC Decision 05/06-1611 Global re an episode of *fatbluesky*

Initial Correspondence

The CBSC received the following complaint via e-mail on May 27, 2006:

Hello,

I wish to inform you of a program aired on Global TV Saturday, May 27th, Morning at 10am. This show called Joe and Kudo featured a drunken man driving a power boat, while drinking beer and not wearing any safety gear, and using the f-word a lot, telling youth to figure out how they can live like him. I only saw this clip towards the end but am shocked and wondering if there is any controls [*sic*] left in this industry on morale [*sic*] and good example standards. Or for the sake of rights and freedoms is this complaint going to be put off as another conservative person's nutty comment?

On June 1, the complainant wrote directly to the broadcaster:

Hi,

I have only received an acknowledgement from Global of receiving this e-mail, to this date. Are you going to reply?

A Global Viewer Relations representative replied on June 2 with the following:

First, we would like to apologize for the delay in response. As you can imagine we are frequently inundated with emails and phone calls; however, your concerns have not gone unheard.

The show you are referring to, *fatbluesky*, has since been pulled from conventional airing. I'd like to apologize for the crude and inexcusable behaviour portrayed on the show, and would also like to stress that we do not condone such actions. I'd like to thank you for your patience in the matter, and we hope to continue providing quality viewing suitable for you and your loved ones.

The complainant responded to that e-mail on June 2:

Dear Viewer Relations,

Great news to hear you pulled the show. Will there be an on-air statement of regret and explanation to youth of Global's non-support of this video's message, and apology? It's the right thing to do. Don't you think?

Broadcaster's Response

Global's Coordinator of Compliance Standards then sent a lengthier reply on June 8:

We are in receipt of your correspondence expressing concern regarding the content of *fatbluesky* which aired on Global Television on May 27th, 2006 at 10:00am.

Unfortunately, this program was not screened before it went to air and we fully acknowledge our mistake and apologize for the error. We do have a screening process in place where most programs are carefully screened to ensure that they do not contravene our industry guidelines or are simply not in bad taste. However, in this instance this program slipped through the cracks. We have since pulled this program and we agree that the content is not suitable for air. In future, we will make sure this type of omission doesn't happen again.

As responsible broadcasters, we are sensitive to your concerns and beliefs. Our purpose and intention is to entertain and inform, not to offend our viewers. We value and respect the fact that you have an interest in our programming and that you were concerned enough to let us know your opinions.

We thank you for bringing this matter to our attention.

Additional Correspondence

The complainant submitted his Ruling Request on June 15 with the following note:

Hi,

I am grateful to Global for pulling the program, and to [Global's Compliance Standards Coordinator] for the apology and assurance of better screening. I did recommend that Global do the right thing and apologize on air to the viewers (youth) at 10:00 am Sat. morning and state they don't uphold this man's statements or use of such language. That was not spoken about in their response.