
CANADIAN BROADCAST STANDARDS COUNCIL

NATIONAL SPECIALTY SERVICES PANEL

G4 Tech TV re *Superjail!*

(CBSC Decision 09/10-0078)

Decided April 1, 2010

R. Cohen (Chair), A. Cardozo (Vice-Chair, Public), H. Pawley (Vice-Chair, Public),
D. Braun (*ad hoc*), J. Macdonald (*ad hoc*), F. Niemi, D. Ward

THE FACTS

Superjail! is an adult animated program. The stories take place inside an unusual jail for male offenders located inside a volcano on a planet in outer space. The jail is run by Warden, his assistant Jared, the masculine guard Alice and a robot called Jailbot. Two blonde men known as The Twins inhabit a laboratory under Superjail and cause mischief. Each episode begins with a criminal named Jackknife committing a crime and being taken to Superjail by Jailbot. The plots involve unusual and outrageous situations, often with significant amounts of violence, gore, injury and various types of adult situations.

Each episode is 15 minutes long. G4 Tech TV broadcast two episodes back-to-back on September 8, 2009 beginning at 9:00 pm. There was no viewer advisory at the beginning of the first episode, but a PG icon appeared for 20 seconds. The two episodes were separated by a commercial break. A viewer advisory, in video format only, appeared coming out of that break which was thus at the start of the second episode. A PG icon also reappeared at the beginning of that second episode. The advisory read as follows:

The following program may contain scenes of mature subject matter which may not be suitable for younger children. Viewer discretion is advised.

The first episode was entitled "Ladies Night". The opening sequence, in which Jacknife commits a crime and is then sent to Superjail, involved Jacknife killing an elderly Flower Lady, who was then seen wrinkled, naked and splayed on the street. As Jailbot attempted to apprehend Jacknife, Jacknife's shoe flew off and hit a bystander in the eye, causing the eye to bleed. Jailbot then threw Jacknife through the front window of a bar, so Jacknife landed on the street where he got run over repeatedly. Jacknife's body was flattened and bloody. Jailbot picked up Jacknife's skeleton and a dog came to lick the blood off the street, but then it got run over as well.

The actual episode then began with a scene of Alice in a nurse's outfit, with a man wearing thong underwear and a mask who was bent over a bench. He was shaking in fear and there were whips, chains and other S&M gear hanging on the wall. Alice said, "Don't worry, this'll hurt worse than it tastes."

The premise of the episode was that a spaceship carrying the staff and inmates of a female prison called Ultraprison crashed into Superjail. The female jail was run by Mistress Head of Ultraprison, her assistant Charise, Corrections Officer Bruce and a pink robot called Nova. Superjail's inmates' jaws dropped and eyes bulged when they saw the voluptuous female inmates of Ultraprison, who were all wearing blue bikinis. One man smacked his own face repeatedly with a frying pan until his face was bloodied and disfigured. Another man's eyeballs popped out of his head and landed at the feet of a female prisoner. She crushed both eyeballs with her boot.

A few minutes later, Alice and Bruce put the female inmates into a holding cell. One of the inmates pulled a knife out of her cleavage. Alice ran up to her and slapped her arm, breaking it. Bruce then twisted the woman's other arm until it spurted blood and fell off as the woman screamed.

Warden suggested to Mistress Head of Ultraprison that they hold a ball for their inmates. There was a scene showing Jared trying to prepare the male prisoners for the ball, teaching them the table setting. Jacknife grabbed a fork and stabbed his neighbour in the eye. Another prisoner stabbed his fellow inmate with a walking stick. The victim bled and fell over.

During the actual ball, The Twins dumped Spanish flies onto the inmates, which caused the women to get "hot and bothered". The women were shown tearing their dresses off, dancing provocatively and making out with each other. They then chased after the men. This scene included a number of instances of violence, among which: two women tearing off a man's arms and then holding the severed arms between their legs as the arms spurted blood; a woman's head exploding and her bloody brain popping out; a woman ripping off a man's skin and other tissue until he was reduced to a skeleton; and Bruce and Alice punching each other.

The morning after the ball, Warden and Mistress were shown in bed together and Warden said "Thanks for the great sex, loser!" As the Ultraprison female inmates left, Warden said "Girls are nothing more than a pack of hormonally insane vixens" and then Jailbot's face-screen flashed the word "HIV".

The second episode was called "Don't Be a Negaton". The opening Jacknife sequence involved Jacknife posing as a bride at a casino chapel wedding. The real bride was shown bound and gagged in her underwear cowering on the floor. Jailbot apprehended Jacknife again and took him to Superjail.

The plot of this episode had Warden inviting his favourite motivational speaker, D.L. Diamond, to speak to the Superjail inmates. Diamond, however, turned out to be a fraud. In one scene, D.L. Diamond was shown in his dressing room, stretched out on a divan, wearing only small red brief underwear. He said to one of his female assistants, "Amber, hold up a second. D.L.'s diamond needs a little polishing," as he pointed to his crotch.

Later in the episode, three inmates were at a table playing cards. Borrowing a phrase that Diamond had used during his presentation, one inmate said he was "trying to escape the prison bars of my skull with the power of my mind." The top portion of his head then popped off in a bloody mess and landed on the head of another inmate. That inmate then said, "Hey guys, who wants to take a look at my family jewels?" and pointed to his crotch. Another inmate grabbed the man's crotch and said "Don't make me go galactoid on your ass"; he then punched the man in the crotch causing that man to fall down.

Another scene showed the inmates watching a video of Diamond in which Diamond said "Did I mention that Galactoid females have six mammary glands and 14 pleasure holes?" That statement was followed by an image of an octopus-like female alien lying on a bed. Black bars covered her numerous private parts. Diamond commented, "The days just aren't long enough on that planet."

Eventually, Jared discovered Diamond was a fraud when he opened Diamond's dressing room door and saw that, without his costume and make-up, Diamond was really a decaying old man.

In another scene, Alice was annoyed at Diamond, so she removed her pink panties, rubbed them all over herself to absorb her sweat and then stuffed them into Diamond's mouth. Later, a photograph showed Diamond standing behind a donkey as if he were sodomizing the animal. The donkey's eyes were bulging.

Towards the end of the episode, the inmates were listening to Diamond speak. All of Superjail's inmates and staff inhaled Diamond's magic space dust which transported them to a psychedelic landscape. At first, the landscape was pleasant with meadows,

flowers and rainbows, but then it started to change. A cute fuzzy creature dissolved into a skeleton with worms coming out of it; a man's hair turned into snakes which tore off his flesh; a giant hand grew teeth and punched and ate people; mushrooms turned into monsters which ate and threw people and creatures; a rainbow bled onto a unicorn, which turned the unicorn into a red snake that chased Jared; and a giant, vicious-looking spider almost ate Jared.

On September 9, a viewer complained about the advisory and rating for this broadcast. He explained his concerns in the following terms (the full text of all correspondence can be found in the Appendix to this decision):

The program, *Superjail!*, only had a mild advisory that it may not be suitable for younger children and is given a rating of PG.

The show is about a huge jail located in a volcano with a Willy-Wonka-like warden. The jail is an extremely violent place where graphic killings by inmates, staff, catastrophes and various monsters are commonplace. One of the main themes of the program is to explore innumerable ways people can be killed.

Clearly the advisory should be stronger and more specific and the rating should be 18+.

The complainant wrote back to the CBSC on October 22 indicating that he had not yet received a broadcaster response, but noticed that G4 Tech TV had changed its classification and advisory for the program in question:

I have not received a response from this complaint.

The broadcaster has changed the rating from PG to 14+. It's arguable since the violence is so pervasive and intense it should be rated 18+. The code gives very little guidance on what constitutes violence that should be rated 18+.

The disclaimer at the beginning of the episode has not changed, although it is now read aloud.

The broadcaster responded to the complainant with a letter dated October 21 (though sent on October 22). G4 Tech TV cited Articles 3.0 and 5.0 of the Canadian Association of Broadcasters' (CAB) *Violence Code*, as well as the PG descriptor of the rating system. The station committed to rate the program 14+ and to improve the language of its viewer advisory:

Superjail! is an animated series that takes place in a rather unusual prison. *Superjail!* is characterized by its psychedelic shifts in settings and plots and outrageous behaviour by its prisoners. Animated programming is very different from real-life comedies and dramas. By its very nature, animation includes the element of the fantastic or surreal. As a result, animation can push the envelope a bit more in terms of character situations and graphic storyline depictions.

While we fully appreciate this program may not be to your taste, we believe *Superjail!* does fall into that characterization. While the show does carry violent scenes, the violence is intended to be humoristic in nature, and specifically unreal in its approach.

In your complaint, you stated that this program “only had a mild advisory that it may not be suitable for younger children and is given a rating of PG.”

We have reviewed the logger tape of the episode in question and discussed the matter with our programming department and learned that the PG rating was a technical error. *Superjail!* is rated 14+. However, in and around the time that you watched the program, a technical error in our traffic department caused some shows to carry an incorrect rating. That technical issue has since been corrected and all of the programs on G4 have been running with correct ratings.

[...]

Given the fact that this program is scheduled after the watershed hour of 9:00 pm, included a viewer advisory and what we thought was an accurate rating, we believed at the time that any concerns with respect to the content were addressed.

However, given the concerns you raised, we revisited the issue and will adjust our practice with respect to the advisory in response to your feedback. Therefore, going forward we intend to broadcast a more restrictive advisory as follows:

The following program contains scenes of violence and mature subject matter, which may not be suitable for young children. Viewer discretion is advised.

We hope we have addressed your concerns. Thank you for bringing this matter to our attention. We value the opinion of all our viewers.

The complainant filed his Ruling Request on October 22 with the following note:

The response said, "Superjail! is rated 14+. However, in and around the time that you watched the program, a technical error in our traffic department caused some shows to carry an incorrect rating."

It had been rated PG since Superjail! started airing. It only changed to 14+ a couple of weeks [after] the complaint was submitted.

They propose a new advisory: "The following program contains scenes of violence and mature subject matter, which may not be suitable for young children. Viewer discretion is advised."

I'm not sure a 13-year old would be considered a young child.

Does the cartoon nature of the violence on this show make it not so bad?

I want the CBSC to make a decision.

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 Violence Code*.

CAB Code of Ethics, Clause 11

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

[...]

Suggested language for suitable viewer advisories is outlined in Appendix A. The suggestions are meant as possible illustrations; broadcasters are encouraged to adopt wording which is likeliest to provide viewers with the most relevant and useful information regarding the programming to which it applies.

CAB Violence Code, Article 4.0 – Classification

AGVOT Classification System for English-language Broadcasters

PG – Parental Guidance

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

14+ – Over 14 Years

Programming with this classification contains themes or content elements which might not be suitable for viewers under the age of 14. Parents are strongly cautioned to

exercise discretion in permitting viewing by pre-teens and early teens without parent/guardian supervision, as programming with this classification could deal with mature themes and societal issues in a realistic fashion.

Violence Guidelines

- while violence could be one of the dominant elements of the storyline, it must be integral to the development of plot or character
- might contain intense scenes of violence

Other Content Guidelines

Language: could possibly include strong or frequent use of profanity

Sex/Nudity: might include scenes of nudity and/or sexual activity within the context of narrative or theme

18+ – Adults

Intended for viewers 18 years and older.

This classification applies to programming which could contain any or all of the following content elements which would make the program unsuitable for viewers under the age of 18.

Violence Guidelines

- might contain depictions of violence, which while integral to the development of plot, character or themes, are intended for adult viewing, and thus are not suitable for audiences under 18 years of age.

Other Content Guidelines

Language: might contain graphic language

Sex/Nudity: might contain explicit portrayals of sex and/or nudity

CAB Violence Code, Article 5.0 – 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 [to the *CAB Violence Code*].

The Panel Adjudicators read all of the correspondence and viewed the broadcast in question. The Panel concludes that G4 Tech TV violated Articles 4.0 and 5.0 of the *CAB Violence Code* and Clause 11 of the *CAB Code of Ethics*.

Classification

The complainant was concerned with the PG rating on the September 8 broadcast and suggested that the appropriate rating for the show was 18+. G4 Tech TV acknowledged that the PG rating was “a technical error”; sometime in the September-October period, G4 Tech TV increased the rating on episodes to 14+. The complainant noted this change, but still insisted that 18+ would be more appropriate. The one thing that is clear, from the point-of-view of the complainant and the broadcaster is that the PG rating was inappropriate for the show. To this the Panel adds that it shares that perspective; namely, the inappropriateness of the PG rating. Consequently, the Panel finds a breach of Article 4 of the *CAB Violence Code*. The question for it, however, is which of the ratings, 14+ or 18+, it considers applicable to the two challenged episodes. In previous decisions, the CBSC has found that a 14+ rating is acceptable for programs with a mature/disturbing subject matter and/or a moderate amount of actual violence being committed on screen. The CBSC usually only requires an 18+ rating on programs that contain either a combination of explicit sex, violence and language or *extremely* graphic and disturbing sex or violence.

Starting with the second of the two episodes (“Don’t Be a Negaton”), the Panel considers that the Prairie Regional Panel’s decision in *CTV re Kevin Spencer* (CBSC Decision 98/99-1173, November 18, 1999) is particularly applicable. That animated series dealt with a “chain-smoking, alcoholic sociopath” from a dysfunctional family. Although the content of the show was satirical and played to a considerable extent on irreverent and anti-social themes, there was not inconsiderable violent content, including: Kevin’s father beating a man with an ashtray stuffed in a stocking; Kevin kicking his father in the groin; Kevin being beaten by four prison guards; Kevin sticking a fork in his temple; Kevin taking a severed head from a car accident and using it first as a pet and then as a bird feeder; a bombing showing bloody body parts strewn all over; and Kevin being sliced into pieces by prison inmates and an especially graphic display of Kevin’s head in a pool of blood. It was classified, correctly in the view of the Prairie Regional Panel, as 14+. That seems to this Panel to be the appropriate precedent to be followed in the second episode in the matter at hand. [See also *CHMI-TV re the movie Double Team* (CBSC Decision 99/00-0372, May 5, 2000), *CHCH-TV re NCIS (“Mind Games”)* (CBSC Decision 05/06-0479, December 15, 2005), *Global re 24 (Season 6, Episode “1:00-2:00 pm”)* (CBSC Decision 06/07-0713, November 29, 2007), and *CJMT-TV (OMNI.2) re episodes of Law & Order: Criminal Intent (“Want”) and Law & Order: Special Victims Unit (“Pure”)* (CBSC Decision 07/08-1441, January 7, 2009).]

The Panel found, however, that the first episode (“Ladies Night”) was far more violent and troubling. Examples of the excessive violence, cumulative in its effect, included: the image of the elderly Flower Lady, wrinkled, naked and splayed on the street; the

shoe flying into a bystander's eye causing it to bleed; Jackknife and the dog being run over repeatedly and bleeding in the street; the self-inflicted frying pan injuries leading to a bloodied and disfigured face; the crushed eyeballs; the broken and separated arm of a female inmate; the severing of both arms on another individual; and so on. The Panel found the violence level well in excess of the level of intensity noted in the descriptor to the 14+ classification level, and "unsuitable for viewers under the age of 18." While there are no closely similar examples in the CBSC jurisprudence, the Panel considered the following decisions to be relevant: *CHCH-TV re the movie Strange Days* (CBSC Decision 98/99-0043 and 0075, February 3, 1999), *CTV re The Sopranos (Season 2)* (CBSC Decision 01/02-0104+, May 9, 2002), and *CTV re the Eleventh Hour ("Hard Seven")* (CBSC Decision 03/04-1738, December 15, 2004).

In summary, the Panel finds that the broadcasters' ratings on the two episodes of *Superjail!* under consideration here were inadequate and in violation of Article 4 of the *CAB Violence Code*.

Viewer Advisories

In the case of programs relegated to the post-Watershed period as intended exclusively for adult audiences (which the Panel considers both challenged episodes to be), there are requirements for broadcasters to advise their audiences about content that may not be appropriate for their viewing preferences. While it is understood that post-9:00 pm content may be expected to contain adult fare, individuals are entitled to *know* what the *nature* of potentially offensive programming may be. To some persons, violent content may be a concern, while other kinds of mature content will not be. Conversely, sexual content, adult themes or coarse language may be troubling. The point, of course, is that viewers are entitled to be warned about potentially problematic content so that *they* will be in a position to choose what will not work for them or their children.

Consequently, the failure to include a viewer advisory at the start of the first episode was a clear breach of Article 5.1 of the *CAB Violence Code*. As this Panel explained in *Discovery Channel re an episode of The Sex Files* (CBSC Decision 00/01-0791, January 16, 2002),

the initial advisory is obviously crucially important in that it is the *first* opportunity for viewers to be made aware that upcoming programming may not be to their tastes. They are then able to avoid such programming *before* it begins, rather than having to view the beginning of the program to determine if it is or will be suitable for them.

Although an advisory was included at the beginning the second episode, it was in video format only. The broadcaster's obligation is to provide all required advisories in both video and audio formats. In *Showcase Television re the movie Rats* (CBSC Decision 99/00-0772, August 23, 2001), for example, this Panel dealt with an advisory in audio

format only. It concluded that “this warning in audio format only is of no assistance to the hearing impaired or to those who may be glancing at their television sets at a distance or with the volume turned down or otherwise rely on visuals only to determine the viewing choices for their household.” See also this Panel’s other decisions in *Showcase Television re the movie Police 10-07* (CBSC Decision 00/01-0613, January 16, 2002), *Showcase re an episode of Queer as Folk* (CBSC Decision 01/02-0217, September 13, 2002), *TSN re an episode of WWE* (CBSC Decision 02/03-1656, May 11, 2004), and the Ontario Regional Panel’s decision in *CITY-TV re the feature film Jade* (CBSC Decision 03/04-0382, October 22, 2004). The Panel’s observations regarding audio format only apply correspondingly to video format only advisories.

Finally, with respect to the only advisory, the Panel noted that its broadcast following the commercial break only alerted audiences to the presence of “scenes of mature subject matter which may not be suitable for younger children.” Such vague references miss the whole point of advisories, which are meant to alert viewers to the precise types of content that *they* may find problematic. In *Bravo! re the movie Up!* (CBSC Decision 03/04-0930, December 15, 2004), for example, this Panel noted the proper deployment of audio and visual viewer advisories at the beginning of the film and coming out of every commercial break alerting audiences to the “nudity, coarse language and mature subject matter” but found a breach for the broadcaster’s failure to mention “sexual activity” and “violence” in the advisories:

The references to nudity, coarse language and mature subject matter are apt; however, the absence of any reference to either violence or explicit sexual content is striking. It leaves the sense that the person choosing the advisory did not see the film, which is most unfortunate for the viewers who are entitled to rely on the accuracy of the warning. Without that dependability, viewers can hardly be assured that their viewing choices will be informed.

Similarly, in *CHCH-TV re NCIS (“Mind Games”)* (CBSC Decision 05/06-0479, December 15, 2005), the broadcast contained a viewer advisory in audio and video format, but imprecise language, which read: “Due to some graphic and mature adult content parental discretion is advised.” The Panel concluded that the advisory was insufficient because it did not specify the nature of the “graphic” content:

Viewer advisories differ from classification icons. They are not, like the latter, a form of shorthand; they do not require extrapolation by the audience. They describe in specific words the nature of the content in the programming, at a minimum alerting viewers to the presence of violence, coarse language, sexuality, nudity, or mature themes. The goal in including such content alerts is to permit the audience to make informed viewing choices about the programs that should or should not come into their homes.

[...]

In the matter at hand, the application of the generic information, “some graphic and mature adult content”, is insufficient. Those words could appertain to any of sexuality, coarse language or violence; they are, consequently, insufficiently descriptive. The

failure to include any reference to the violent content of the program constitutes a breach of Article 5 of the *CAB Violence Code*.

And in *Teletoon re Team America: World Police* (CBSC Decision 07/08-1011, August 7, 2008), this Panel concluded that the advisories were inadequate because they did not mention the violence and sexuality components of the program that were absent in the advisories. In that case,

while Teletoon specifically advised viewers of the “coarse language” in the film, it characterized the violence and the sexual content under the amorphous heading “mature subject matter”. [...] The Panel finds this patently insufficient for viewers who may wish to know what kind of subject matter they and their families may encounter. Some who may be offended by sexual content may have no difficulty with violence. Others may tolerate both those categories but be troubled by the use of coarse language. While the Panel has no problem with the *additional* designation “mature subject matter”, it concludes that this is insufficiently precise in the face of any of the categories of sexual content, violence, or coarse or offensive language. They must be explicitly identified in viewer advisories. [...]

The Panel also finds the use of the following language in the advisory problematic: “It [the program] *may* contain mature subject matter and coarse language [emphasis added].” Simply stated, either it does or it does not. The duty of the broadcaster is to inform the viewer of exactly what he or she will encounter during the program. While the advisories listed in Appendix A to the *CAB Violence Code* are but examples and not at all exhaustive, each one uses either “contains” or “deals with” in reference to the program whose content is being described. Nothing wishy-washy. Just plain language. The phrase “may contain” or “may deal with” looks and feels “off the shelf”, a short-cut. Such language is not helpful to the viewer. It does not provide what Clause 11 of the *CAB Code of Ethics* requires, namely, “wording which is likeliest to provide viewers with the most relevant and useful information regarding the programming to which it applies.”

The Panel concludes, in the matter at hand, that no-one was alerted to the presence of sexual and violent content in the episode that followed the advisory. Consequently, G4 Tech TV was in breach of Article 5.3 of the *CAB Violence Code* and Clause 11 of the *CAB Code of Ethics*.

Broadcaster Responsiveness

In all CBSC decisions, the Council’s Panels assess the broadcaster’s responsiveness to the complainant. In the present instance, the Panel finds that the response of the broadcaster’s Vice President, Regulatory Affairs, was thorough and focussed on the issues that concerned the complainant. In addition, she pointed out that the broadcaster had already taken audience-friendly steps by revising the rating in more of the direction suggested by this Panel (although the Panel has not looked at any of those episodes to draw a 14+ or 18+ conclusion as to appropriateness), and by making the wording of the advisory more specific (although the Panel has not compared the choice suggested to any of the episodes to which it would have been attached). The Panel

considers that the broadcaster has fully met its responsiveness responsibilities of CBSC membership on this occasion.

ANNOUNCEMENT OF THE DECISION

G4 Tech TV 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 *Superjail!* was broadcast, but not on the same day as the first mandated announcement; 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 G4 Tech TV.

The Canadian Broadcast Standards Council has found that G4 Tech TV violated provisions of the Canadian Association of Broadcasters' *Violence Code* in its broadcast of two episodes of *Superjail!* on September 8, 2009. G4 Tech TV violated Article 4 of the Code by rating the program PG when the violent content in the first episode required an 18+ rating and the violent content of the second episode required a 14+ rating. G4 Tech TV also violated Article 5.1 of the Code by failing to broadcast any viewer advisory at the beginning of the first episode and then by failing to broadcast an advisory in both video and audio formats prior to the second episode. It also violated Article 5.3 of the Code, as well as Clause 11 of the *CAB Code of Ethics*, for its failure to mention the presence of violent and sexual content in the program in the one advisory it broadcast.

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

APPENDIX

CBSC Decision 09/10-0078 G4 Tech TV re *Superjail!*

The Complaint

The CBSC received the following complaint via its webform on September 9, 2009:

station: G4 Tech TV

program: *Superjail!*

date: Sep 8, 2009

time: 9:00 pm

concern: The program, *Superjail!*, only had a mild advisory that it may not be suitable for younger children and is given a rating of PG.

The show is about a huge jail located in a volcano with a Willy-Wonka-like warden. The jail is an extremely violent place where graphic killings by inmates, staff, catastrophes and various monsters are commonplace. One of the main themes of the program is to explore innumerable ways people can be killed.

Clearly the advisory should be stronger and more specific and the rating should be 18+.

Another program, *The Venture Bros.*, which is shown Thursdays at 9:30 pm has the same advisory and rating. This program occasionally has violent scenes.

These two programs are part of the station's new ADd block <<http://www.g4techtv.ca/tv/ADd/>>. I haven't watched any of the other shows, but they probably all should be reviewed.

I emailed info@g4techtv.ca about this a couple times, but got no reply.

The complainant wrote back to the CBSC on October 22 indicating that he had not yet received a broadcaster response, but noticed that G4 had changed its classification and advisory for the program in question:

I have not received a response from this complaint.

The broadcaster has changed the rating from PG to 14+. It's arguable since the violence is so pervasive and intense it should be rated 18+. The code gives very little guidance on what constitutes violence that should be rated 18+.

The disclaimer at the beginning of the episode has not changed, although it is now read aloud.

Broadcaster Response

The broadcaster responded to the complainant with a letter dated October 21 but sent via email on October 22:

We have received your complaint to the Canadian Broadcast Standards Council (CBSC) regarding the broadcast of *Superjail!* on G4techTV at 9:00 pm on September 8, 2009.

The CBSC is an independent organization created to administer codes and standards proposed by the Canadian Association of Broadcasters (CAB), and approved by the CRTC. G4techTV is owned and operated by Rogers Broadcasting. We are a member in good standing at the CBSC and we welcome the opportunity to respond directly to your concerns.

As noted above, the CBSC administers a number of codes and standards, including the *CAB Violence Code* (the Code). As a member of the CBSC, G4techTV is subject to the Code. Relevant clauses are reproduced below for your reference:

3.0 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.

3.1.3 In order to provide viewers with the benefit of Canadian program classification and viewer advisories not available on foreign distant signals, broadcasters who have CRTC-permitted substitution rights over programming which is imported into their markets before the late evening viewing period, may employ substitution, notwithstanding article 3.1.1.

3.1.4 Broadcasters shall exercise discretion in employing substitution in accordance with article 3.1.3 and shall at no time avail themselves of substitution rights over programming which contains gratuitous violence in any form or which sanctions, promotes or glamourizes violence.

3.1.5 Broadcasters shall take special precautions to advise viewers of the content of programming intended for adult audiences which is telecast before 9 pm in accordance with article 3.1.3.

(Note: To accommodate the reality of time zone differences, and Canadian distant signal importation, these guidelines shall be applied to the time zone in which the signal originates.)

5.0 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.

5.2 Broadcasters shall provide a viewer advisory at the beginning of, and during programming telecast outside of late evening hours, which contains scenes of violence not suitable for children.

Clause 3.1.1 states that programming which contains scenes of violence intended for adult audiences shall not be telecast before the late evening viewing period, defined as 9:00 pm to 6:00 am. As further set out in Clause 5.1, broadcasters must also provide a viewer advisory at the beginning of each program, and during the first hour of programming telecast in late evening hours which contains scenes of violence intended for adult audiences.

Superjail! is an animated series that takes place in a rather unusual prison. *Superjail!* is characterized by its psychedelic shifts in settings and plots and outrageous behaviour by its prisoners. Animated programming is very different from real-life comedies and dramas. By its very nature, animation includes the element of the fantastic or surreal. As a result, animation can push the envelope a bit more in terms of character situations and graphic storyline depictions.

While we fully appreciate this program may not be to your taste, we believe *Superjail!* does fall into that characterization. While the show does carry violent scenes, the violence is intended to be humouristic in nature, and specifically unreal in its approach.

In your complaint, you stated that this program “only had a mild advisory that it may not be suitable for younger children and is given a rating of PG.”

We have reviewed the logger tape of the episode in question and discussed the matter with our programming department and learned that the PG rating was a technical error. *Superjail!* is rated 14+. However, in and around the time that you watched the program, a technical error in our traffic department caused some shows to carry an incorrect rating. That technical issue has since been corrected and all of the programs on G4 have been running with correct ratings.

Under the Canadian rating system 14+ is defined as follows:

Programming with this classification contains themes or content elements which might not be suitable for viewers under the age of 14. Parents are strongly cautioned to exercise discretion in permitting viewing by pre-teens and early teens without parent/guardian supervision, as programming with this classification could deal with mature themes and societal issues in a realistic fashion.

Violence Guidelines

While violence could be one of the dominant elements of the storyline, it must be integral to the development of plot or character; might contain intense scenes of violence

Given the fact that this program is scheduled after the watershed hour of 9:00 pm, included a viewer advisory and what we thought was an accurate rating, we believed at the time that any concerns with respect to the content were addressed.

However, given the concerns you raised, we revisited the issue and will adjust our practice with respect to the advisory in response to your feedback. Therefore, going forward we intend to broadcast a more restrictive advisory as follows:

The following program contains scenes of violence and mature subject matter, which may not be suitable for young children. Viewer discretion is advised.

We hope we have addressed your concerns. Thank you for bringing this matter to our attention. We value the opinion of all our viewers.

Additional Correspondence

The complainant filed his Ruling Request on October 22:

I don't know if it was a coincidence, but a couple of hours after I submitted my first ruling request I received a response from Rogers media.

The response said, "*Superjail!* is rated 14+. However, in and around the time that you watched the program, a technical error in our traffic department caused some shows to carry an incorrect rating."

It had been rated PG since *Superjail!* started airing. It only changed to 14+ a couple of weeks [after] the complaint was submitted.

They propose a new advisory: "The following program contains scenes of violence and mature subject matter, which may not be suitable for young children. Viewer discretion is advised."

I'm not sure a 13-year old would be considered a young child.

Does the cartoon nature of the violence on this show make it not so bad?

I want the CBSC to make a decision.