
CANADIAN BROADCAST STANDARDS COUNCIL

NATIONAL SPECIALTY SERVICES PANEL

CP24 re 30th Annual Pride Parade

(CBSC Decision 09/10-1834)

Decided February 11, 2011

R. Cohen (National Chair), M. Bulgutch (*ad hoc*), F. Niemi, C. Sephton, L. Todd, D. Ward

THE FACTS

CP24 is a 24-hour news station that, as its Vice President and General Manager explains in his letter cited more fully below, “regularly broadcasts live cultural festivities taking place across the Greater Toronto Area.” The Toronto Pride Parade is a part of *Pride Week*, which is one of the largest Pride festivals in the world. It brings together about a million people from around the world. As a part of the 2010 festival, CP24 aired a live broadcast of the 30th Annual Toronto Pride Parade, which is the final event of the week, on July 4, 2010. This three-hour program, which originally aired at 2:00 pm, was also rebroadcast at 8:00 pm.

The following viewer advisory appeared in audio and visual format at the beginning of the broadcast and coming out of every commercial break:

The following is a live event and may contain scenes of nudity. Viewer discretion is advised.

The report began with an aerial view of the large crowd attending the Pride Parade in downtown Toronto. People were cheering loudly, the sun was shining and the parade was about to begin. The hosts were interviewing people on the streets, asking their thoughts pertaining to *Pride Week* and previous parades. There were many people in their bathing suits, countless shirtless men and numerous colourful outfits. If there was

any nudity at all during the CP24 coverage, the Adjudicators were unable to discern *any* in the broadcast reviewed by the Panel.

Shortly after the start of the broadcast, the principal hosts, Melissa Grelo and Steve Anthony, welcomed a group of friends to the parade.

Melissa: And you, fine sir?

Man: My name is [Caroon?], and I am from Edmonton as well.

Melissa: Well, welcome to Toronto. Happy Pride!

Man: Thank you. This is fucking awesome!

Melissa: [Quickly removing the microphone] Wow, wow, don't drop those "F"-bombs.

About ten minutes later, one of the hosts, Gurdeep Ahluwalia, interviewed a woman on the street.

Gurdeep: I just want to talk to some friends here. How are you guys doing?

Woman: [With some distance from the microphone] Yay, Gay's the place.

Gurdeep: Happy Pride! What brought you down to Pride this year?

Woman: I just want to see everything and enjoy. It's my first time. I am finally old enough and I just love it. It's amazing. It's very fun.

Gurdeep: Are you from Toronto?

Woman: I am from Toronto.

Gurdeep: I am glad you came down. Enjoy the show.

Woman: I am glad too. It's really fun. It's really amazing. I love it.

Gurdeep: The heat is not bothering you?

Woman: Not at all actually. I enjoy it so much. Fuck the heat. I am sorry.

Gurdeep: Apologies, live TV, that is what happens [walking away from the interviewee rather quickly].

Throughout the parade, the hosts provided viewers with background information regarding the passing floats. Here is one description of a float that supported sex trade workers.

Melissa Grelo: Next in line, the Grand Marshalls of the 2010 Pride Parade, it is none other than Mandy Goodhandy and Todd Klinck, the proud owners of GoodHandy's and Toronto Police representing as well. So Goodhandy's is an institution here in the city of

Toronto. Hey cameras over here, you're on TV. So Goodhandy's representing. There is definitely an activist side to both Mandy and Todd's work. They are former sex trade workers and they wanted to make a safe place that was inclusive to everyone, whether you were a sex trade worker, whether you were a nudist, if you were gay, lesbian, bisexual. They wanted a safe place for everyone to converge and that's what they have done with GoodHandy's.

There was another bit of information offered by co-host Melissa Grelo about a passing float:

Melissa Grelo: This next float is called the "Fag Bug", a word we would never say on television, but we need to tell you a story about this. The driver is Erin Davies, she had a little sticker on her bug, one day she came back to her car, with all kinds of homophobic slurs, graffiti all over her car, she decided to go on this expedition, a 58-day trip around Canada and the US trying to spread awareness about homophobia.

Later in the broadcast, another of the CP24 roving reporters, Nneka Elliot, interviewed parade attendees on the street.

Nneka: Oh boy, Steve, I tell ya, it's an awesome opportunity, and everybody is making friends. [crowd is yelling in the background]. We're all a big family out here. You know there have been so many people coming out on to the streets here, from around the world. We got a bunch here who, you guys know each other from high school?

Group: Yep!

Nneka: You've been seeing all these great... but *you* have been excited, I got to give you a shout out.

Woman: I love Pride because everybody is fuckin'.

Nneka: [swiftly pulling the microphone away before the woman can finish her sentence]. Oooh! See, you promised me, you promised me. But anyway it's Pride on CP24. We continue to show live coverage here.

When the coverage was rebroadcast at 8:00 pm, the same viewer advisory that had run at 2:00 pm appeared in audio and visual format: "The following is a live event and may contain scenes of nudity. Viewer discretion is advised". The advisory appeared at the beginning of the broadcast and coming out of every commercial break. The 2:00 and 8:00 pm broadcasts were fundamentally identical, save that an effort was made to deal with the coarse language in the later broadcast. Of the three instances in which the f-word was heard in the original live broadcast, two were edited in the later broadcast. In the first instance, CP24 muted the coarse language.

Melissa: And you, fine sir?

Man: My name is [Caroon?] and I am from Edmonton as well.

Melissa: Well welcome to Toronto. Happy Pride!

Man: Thank you, this is [muted word "fucking"] awesome!

Melissa: [quickly removing the microphone away from the man]. Wow, wow, don't drop those F-bombs.

In the second instance, namely, the interview by Gurdeep Ahluwalia, the dialogue was unedited and the sentence "Fuck the heat" was repeated. Then, in the final interview by Nneka Elliot, the f-word was muted:

Nneka: Oh boy, Steve, I tell ya, it's an awesome opportunity, and everybody is making friends. [crowd is yelling in the background]. We're all a big family out here. You know there have been so many people coming out on to the streets here, from around the world. We got a bunch here who, you guys know each other from high school?

Group: Yep!

Nneka: You've been seeing all these great... but *you* have been excited, I got to give you a shout out.

Woman: I love Pride because everybody is [muted word "fucking"]

Nneka: [swiftly pulling the microphone away]. Oooh! See, you promised me, you promised me. But anyway it's Pride on CP24. We continue to show live coverage here.

On July 4, 2010, the following complaint was sent to the CRTC, which forwarded it to the CBSC in due course (the full text of all the correspondence can be found in the Appendix):

At 14:00 on Sunday, July 4, 2010, CP24 broadcast a live program of the Pride Parade in Toronto and repeated this program at 20:00 that evening. Although the program was preceded by a warning of nudity, I feel that it was an inappropriate program to be broadcast live at 14:00 on Sunday and also that the rebroadcast at 20:00 is also too early in the TV schedule for this type of programming.

On July 22, the Vice President and General Manager of CP24 responded to the complainant in pertinent part as follows:

CP24 is a 24-hour news station that regularly broadcasts live cultural festivities taking place across the Greater Toronto Area (GTA). The Pride Toronto Festival is an annual event attended by over a million people that exists to celebrate the history, courage, diversity, and future of Toronto's LGBTTIQQ2SA* communities. (*Lesbian, Gay, Bisexual, Transsexual, Transgender, Intersex, Queer/Questioning, 2 Spirited, Allies.) It is a positive and inspiring event held in the spirit of diversity and acceptance.

Anticipating that some in the community attend wearing provocative attire, a viewer advisory was aired at the beginning of the program, coming out of each commercial break, and leading into the live segment that stated: "The following is a live event and may contain scenes of nudity. Viewer discretion is advised."

Care was taken by our live television crew to minimize the amount of nudity shown. However, as it is a prevalent component of the event and arguably of Pride culture, some

brief shots were included in our coverage. We do not feel that nudity in this context is problematic as brief shots are not exploitative or gratuitous, but are aired in the context of a specific culture's celebration. As stated above, the coverage was accompanied by an appropriate viewer advisory alerting our viewers of material they may find offensive.

The CBSC has also ruled in previous decisions that nudity alone (without sexual contact or activity) is not problematic for viewing outside of the Watershed period which runs from 9 pm to 6 am.

The complainant responded to the broadcaster on the same date, clarifying the reason for her concern.

Thank you for your response. My complaint focused on the time the program was broadcast (weekend afternoon live at 14:00 and taped version at 20:00) and not the content. Even with the station's viewer advisory I do not feel that it was appropriate to be shown at those times.

On August 9, she filed her Ruling Request with the following explanation:

I had initially contacted the station directly; however, I did not receive a response until the CBSC was contacted. The program not only included visual concerns for the viewer but also verbal discussion by the presenters, for example, discussing sex trade workers. My concern was the time the live program was aired at 14:00 and a taped version at 20:00.

THE DECISION

The National Specialty Services Panel examined the complaint under the following provisions of the *CAB Code of Ethics*:

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. Broadcasters shall refer to the *CAB Violence Code* for provisions relating to the scheduling of programming containing depictions of violence.

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.

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.

The Panel Adjudicators read all of the correspondence and watched the challenged broadcasts. The Panel concludes that CP24 did not violate Clause 10(a) in the 2:00 pm broadcast of the Pride Parade coverage, but that it did breach that Clause in its 8:00 pm rebroadcast. The Panel also considers that CP24 breached the requirements of Clause 11 regarding viewer advisories in the broadcasts of 2:00 pm and 8:00 pm.

Nudity and Sexually Explicit Content

The CBSC has dealt with the issues of nudity and sexually explicit material in television broadcasts on numerous occasions. The general principle most relevant to the matter at hand that has emerged from those decisions is as follows. When the broadcast simply contains nudity or merely alludes to sexual themes (which it does not depict or explain in great detail), there is no breach of Clause 10. See, for example, the following early CBSC decisions dealing with the visibility of female breasts in fashion news or magazine show programming: *CITY-TV re Fashion Television* (CBSC Decision 93/94-0021, February 15, 1994), *CITY-TV re Fashion Television* (CBSC Decision 93/94-0176, June 22, 1994), and *CITY-TV re Fashion Television* (CBSC Decision 94/95-0089, March 26, 1996). See also the decisions of this Panel in *WTN re the movie Wildcats* (CBSC Decision 00/01-0964, January 16, 2002) and *Showcase Television re the movie Destiny to Order* (CBSC Decision 00/01-0715, January 16, 2002). In both cases, the nudity was brief and without a connection to any sexual activity. This was also the conclusion of the Quebec Regional Panel in *TQS re Strip Tease* (CBSC Decision 98/99-0441, February 21, 2000), the dubbed version of the theatrical motion picture, which included a number of scenes of strip tease performances during which bare breasts were in plain view.

In the matter at hand, the National Specialty Services Panel considers that the challenged broadcast did not display any nudity or discuss any sexual activity. In the circumstances, it concludes that there was no breach of Clause 10(a) of the *CAB Code of Ethics*.

Coarse Language

The CBSC has maintained a consistent policy regarding the broadcast of the f-word and its family of derivatives on television (as well as on radio). Acceptable for broadcast on television after 9:00 pm with appropriate viewer advisories, the f-word has been consistently determined to be unacceptable outside of the Watershed period (defined as 9:00 pm to 6:00 am). This was the case whatever the nature of the programming (with one exception not directly pertinent to the Panel's conclusions in the present decision). (As the principle has been extended to the same essential period in the case of radio, although the shorthand term "Watershed" is not applied to radio broadcasts, precedents from that medium will be cited here as well.) See, for example, the following CBSC precedents dealing with dramatic programming: *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), among many others; awards shows: *CTV re a segment featuring Eminem at the Junos* (CBSC Decision 02/03-1130, January 30, 2004); concerts: *CTV re the Green Day performance during Live 8* (CBSC Decision 04/05-1753, January 20, 2006); live interviews: *TSN re 2007 World Junior Hockey Championships (Interview)* (CBSC Decision 06/07-0515, May 1, 2007) (with two Adjudicators dissenting), *CKNW-AM re Warren on the Weekend* (CBSC Decision 01/02-0721, January 14, 2003), *CFNY-FM re the Show with Dean Blundell (David Carradine Appearance)* (CBSC Decision 03/04-1305, October 22, 2004), and *CFGQ-FM (CKIK-FM) re a live Tragically Hip concert and interview* (CBSC Decision 03/04-1850, November 1, 2004); and songs: *CIOX-FM re the songs "Livin' It Up" by Limp Bizkit and "Outside" by Aaron Lewis and Fred Durst* (CBSC Decision 00/01-0670, June 28, 2001), *CFNY-FM re the song "Cubically Contained" by the Headstones* (CBSC Decision 01/02-0456, June 7, 2002), *CHOM-FM re the song "Locked in the Trunk of a Car" by the Tragically Hip* (CBSC Decision 04/05-0324, April 4, 2005), among others.

The National Specialty Services Panel sees no reason to question the long-applied principle of ensuring a "safe haven" for audiences uncomfortable with the use of coarse or offensive language on broadcasts outside of later evening hours. It considers that the policy relating to the broadcast of such language applied by the CBSC strikes an appropriate equilibrium between freedom of expression and respect for the values of those viewers (or listeners) concerned by such content. The securing of a pre-9:00 pm safe haven for the more conservative sector of society is nicely balanced against a more liberal post-9:00 pm policy, which imposes virtually no limitations on the use of coarse or offensive language.

The foregoing being said, the Panel does have concerns regarding the application of such sweeping limitations on the use of coarse language in a *journalistic* context. It also notes that this very Panel (with different Adjudicators sitting) presaged the possibility of an evolution in the coarse language area. In the above-noted *TSN* decision, this Panel anticipated

that the public's standards relating to content issues are constantly evolving and that such evolution is likely to affect the coarse language area as much, if not more, than any other. In *CHOM-FM re the song "Locked in the Trunk of a Car" by the Tragically Hip* (CBSC Decision 04/05-0324, April 4, 2005), for example, the Quebec Regional Panel anticipated such evolution in the following language:

The CBSC has consistently ruled that broadcast of the f-word on radio during daytime and early evening hours constitutes a breach of the *CAB Code of Ethics*. The Quebec Panel is aware of the fact that language usage is constantly in a state of evolution, both on the French and English sides of Canada's heritage. Formerly unacceptable language gradually but invariably insinuates itself into more common usage and a review of the old and new practice is merited from time to time. That is likely the case with respect to the f-word and its derivatives, which, after all, appear in noun, verb, adjective, adverb and interjection forms in English.

Until such time, though, as that evolution is deemed by thoughtful, reflective CBSC Panels to be nigh, there is that above-described fairly predictable set of rules pursuant to which the coarse language spectral environment can be shared.

The Panel considers that the circumstances under consideration in the matter at hand provide the opportunity for just such a thoughtful reflection on a narrow area of the coarse language discussion. The views of the Panel that follow are limited to a live news broadcast. In such an instance, the Panel considers that a confluence of circumstances may render the use of extremely coarse language justifiable. That said, the Panel begins with the expectation that broadcasters recognize that, as this Panel observed in the *TSN* decision, "there are viewers (and listeners) who are genuinely disturbed or offended by such language on the airwaves." For that reason, the Panel believes that, wherever it is reasonable to do so and the context for the inclusion of the language is not compelling, broadcasters should employ the inexpensive techniques that exist to filter out such language. Those techniques include reminding individuals not to use such language when it seems possible or probable that it might slip into answers to questions in an interview environment. The use of a simple tape delay to bleep or mute offensive language is another possibility. Moreover, if, as occurred in the challenged broadcast of the Annual Pride Parade, the response of the reporter *clearly* indicates the unacceptability of the language both in his/her words and by the removal of the microphone from the apparently innocent speaker, that will be an important additional mitigating factor. The B.C. Regional Panel had declared its hope for just such a reaction in *CKNW-AM re Warren on the Weekend* (CBSC Decision 01/02-0721, January 14, 2003), on which one caller managed to get on air with the following comment, "I'm married to a queer and you can tell these religious bastards to fuck off." The host, Peter Warren, responded with some exasperation, "All right, thank you very much." While finding a breach for the station's failure to prevent the f-word from being aired at a time of day when children could be listening, the Panel added:

In this case, the Panel is of the view that its conclusion would likely have been different had the host made the effort to say something appropriate to indicate that such

statements as were made by Bob were unacceptable, rude, foolish or otherwise not acceptable to him, the station or his audience. This host does not hesitate to resort to his extensive verbal toolkit on other occasions. Access to it on this occasion to defuse the effect of the call would have been appropriate and, depending on the words chosen, would, from the viewpoint of the Panel, likely have sufficed, in terms of the broadcaster's responsibility.

Applying those principles to the present live broadcast (that is to say, the 2:00 pm broadcast), the Panel appreciates that the interviewers alerted their interviewees *not* to use extremely coarse language and responded appropriately, that is to say, disapprovingly, to the inclusion of the f-word in the dialogue. While the broadcaster did not incorporate a tape delay in its coverage, the Panel considers that the innocent enthusiasm of the reactions, the infrequent inclusion of the f-word in an unaggressive way in the lengthy event coverage, the contextual basis for the usage, the journalistic nature of the program, and the reaction of the reporters serve as a fair explanation for the use of the f-word during *this* live broadcast. The Panel finds no breach of Clause 10(a) of the *CAB Code of Ethics* on this occasion. Moreover, the Panel considers that the inclusion of such language in a *similar* set of journalistically-contextual circumstances could be reasonably understood as justifiable, and thus excusable, on future occasions.

It is clear that the foregoing criteria do not apply to the 8:00 pm rebroadcast, for which the broadcaster had every opportunity to excise the one remaining example of the f-word which it presumably accidentally failed to remove when it eliminated the other two usages of such language. It follows that the Panel finds a breach of Clause 10(a) of the *CAB Code of Ethics* with respect to the 8:00 pm rebroadcast of the Pride Parade coverage.

Viewer Advisories

For the reasons indicated in the section of this decision dealing with coarse language, the Panel found no breach of Clause 10(a) of the *CAB Code of Ethics* in the case of the 2:00 pm broadcast of the 30th Annual Pride Parade. Part of the Panel's conclusion reflected the significant efforts made by the reporters to curtail the occurrences. While those efforts were laudatory, it was clear that the reporters in the field had *anticipated* the possibility of such coarse interventions. Although they dealt with them well, the Panel considers that the broadcaster ought to have alerted the public to the *possibility* that coarse language could have been broadcast during the coverage. Thus, although the Panel notes that the advisories that were included with the report advised of potential nudity and were aired with the required frequency, the Panel concludes that the failure to include any reference to the potential use of coarse language in the 2:00 pm broadcast constituted a breach of Clause 11(b) of the *CAB Code of Ethics*. Since, as discussed above, the broadcaster failed to eliminate every one of the uses of the f-

word in the 8:00 pm rebroadcast of the program, the presence of that single usage of the f-word required the inclusion of a viewer advisory referring to coarse language on the later rebroadcast. The failure to include that viewer alert constituted a further breach of Clause 11(b) 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 and General Manager was candid and thoughtful regarding the issue of nudity that had concerned the complainant in the context of a parade of the nature of the Gay Pride event. He also explained to the viewer the careful steps that the broadcaster had taken to advise potential viewers of content that they might wish to avoid. He could not have done more. The Panel is satisfied that CP24 has fully met its membership obligation of responsiveness in this instance.

ANNOUNCEMENT OF THE DECISION

CP24 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 the rebroadcast of the coverage of the 30th Annual Gay Pride Parade was aired, 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 CP24.

The Canadian Broadcast Standards Council has found that CP24 breached Clauses 10 and 11 of the Canadian Association of Broadcasters (CAB) *Code of Ethics* in its rebroadcast of coverage of the 30th Annual Toronto Pride Parade on July 4, 2010 at 8:00 pm. During that rebroadcast, one of the interviews included the use of coarse language in breach of Clause 10 of the *CAB Code of Ethics*. Although CP24 correctly included viewer advisories alerting audiences to certain potentially offensive content during both the 2:00 pm live coverage and the 8:00 pm rebroadcast, the broadcaster failed to advise viewers of the offensive language that was included in both broadcasts, contrary to the requirements of Clause 11 of the *CAB Code of Ethics*.

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

APPENDIX

CBSC File 09/10-1834 CP24 re 30th Annual Pride Parade

The Complaint

The following complaint was sent to the CRTC on July 4, 2010 and forwarded to the CBSC in due course:

At 14:00 on Sunday, July 4, 2010, CP24 broadcast a live program of the Pride Parade in Toronto and repeated this program at 20:00 that evening. Although the program was preceded by a warning of nudity, I feel that it was an inappropriate program to be broadcast live at 14:00 on Sunday and also that the rebroadcast at 20:00 is also too early in the TV schedule for this type of programming.

Broadcaster Response

The broadcaster replied to the complainant on July 22:

Dear Ms. S.,

I am responding to your email, forwarded to CP24 by the Canadian Broadcast Standard Council (CBSC) on July 14, in which you express concern about nudity shown during our live broadcast of the Pride Parade on Sunday July 4, 2010.

Before I address your specific concern it should be noted that CP24 follows the Canadian Association of Broadcasters' (CAB) *Code of Ethics*, *Code of Violence* and the Radio Television News Directors Association (RTNDA) of Canada's *Code of Ethics*. (If you would like to review the CAB and RTNDA codes, you may do so at www.cbsc.ca).

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Anticipating that some in the community attend wearing provocative attire, a viewer advisory was aired at the beginning of the program, coming out of each commercial break, and leading into the live segment that stated: "The following is a live event and may contain scenes of nudity. Viewer discretion is advised."

Care was taken by our live television crew to minimize the amount of nudity shown. However, as it is a prevalent component of the event and arguably of Pride culture, some

brief shots were included in our coverage. We do not feel that nudity in this context is problematic as brief shots are not exploitative or gratuitous, but are aired in the context of a specific culture's celebration. As stated above, the coverage was accompanied by an appropriate viewer advisory alerting our viewers of material they may find offensive.

The CBSC has also ruled in previous decisions that nudity alone (without sexual contact or activity) is not problematic for viewing outside of the Watershed period which runs from 9 pm to 6 am.

I hope this response has been helpful. CP24 is proud to be a member in good standing of the Canadian Broadcast Standards Council and adheres to its policies and guidelines.

Additional Correspondence

The complainant responded to the broadcaster on July 22 with the following:

Thank you for your response. My complaint focused on the time the program was broadcast (weekend afternoon live at 14:00 and taped version at 20:00) and not the content. Even with the station's viewer advisory I do not feel that it was appropriate to be shown at those times.

She then filed a Ruling Request on August 9:

I had initially contacted the station directly; however, I did not receive a response until the CBSC was contacted. The program not only included visual concerns for the viewer but also verbal discussion by the presenters, for example, discussing sex trade workers. My concern was the time the live program was aired at 14:00 and a taped version at 20:00.