
CANADIAN BROADCAST STANDARDS COUNCIL

QUEBEC REGIONAL PANEL

TVA re La Série Montréal-Québec

(CBSC Decision 10/11-0781)

Decided July 14, 2011

D. Meloul (Chair), S. Charbonneau, T. Porrello, A. H. Caron

THE FACTS

TVA aired an episode of *La série Montréal-Québec* (The Montreal-Quebec City Series) at 7:30 pm on January 16, 2011. The program is part of a reality TV series that attempts to recreate the historic rivalry between the Montreal Canadiens and the Quebec Nordiques. Following a series of assessments, thirty-two hockey players aged 18 or older were selected to form the line-up for the Montreal and Quebec City teams. Each team was made up of 16 individuals including two women, a player over 40 years of age and a player over 50. These two teams confronted each other last winter during four games (two in Montreal and two in Quebec City). The episode in question, namely “Les recrues contre les vétérans: la sélection des joueurs” (Recruits vs. Veterans: Player Selection), was divided into two parts. The first part consisted of the process leading to the selection of players for the Quebec City team, and the second part followed the selection process for the players on the Montreal team. A description of the episode, with relevant dialogue transcribed, follows.

Philippe Gauvin, a veteran on the Quebec City team, was frustrated because his doctor had told him, even before he had reached the player selection stage, that he must quit playing hockey given his heart condition. When he came off the ice and before entering the locker room to get medical help, Gauvin put his stick down on a table and said “calice”.

During the second game, veteran Ken Arsenault injured his knee at the end of the second period. Some time later, Ken said [translation] “This kind of hockey game is the

kind that puts you in the ground, 'ostie. Calice I'm sore." On his return to the locker room, Ken threw his stick and yelled "calice, [pause] 'ostie tabarnac'." The trainer for the Quebec City team, Bob Hartley, had a conversation with fifty year-old veteran Ghislain Dubé. That conversation went as follows :

[Translation]

Hartley: What can I count on from you if I say to you "Ghislain, you'll keep your jersey", because you know you want to keep it. You know, last year you wanted as much ice time as a young player, and I don't blame you for wanting to play, but can I count on you?

Dubé: Yes!

Hartley: Can I count on you to be a unifying force?

Dubé: It's important to me [Hartley intervened: Perfect. Perfect.] to have the jersey, it is important, Christ Almighty ["crissement" in French].

Hartley: That's great!

Dubé: I had a shitty year and I want a second chance.

Later, Bob Hartley announced his choice of players for the 2011 Quebec City team, following which the announcer explained [translation] "Veteran Ken Arsenault, who scored five goals in the ultimate game last year, can't get over the fact that he was rejected." In the locker room, Ken Arsenault expressed his frustration:

[Translation]

Arsenault: Right now, I feel like a loser for not being part of the team.

Ève Grandmont-Bérubé [a player who was not chosen to be on the team, says while crying]: Totally!

Arsenault: Playing hockey is what I do best in life and now they're telling me that, that I'm not good enough to be part of a team; that pisses me off ["décalice" in French].

During the second part of the episode, which took place in Montreal, the Montreal veterans proved that they were determined to give the recruits astonishing competition. In an attempt to motivate his team in a speech he gave before one of the games, the former captain of the Montreal team said [translation] "Coach expects us to take a goddamn hit ["crisse" in French], he said they're good and look, he just wanted to lay it on thick, lay it on thick to scare us. Well, calvaire, we have to react to that."

On the bench, following a goal scored by the veterans that led to a tie score, the trainer for the recruits, Enrico Ciccone said [translation] "If you truly think that you're going to take the place of those guys there, the way it's going, 'ostie it's two-two [...]" Some time later, the trainer yelled "Let's go, [translation] we're waiting for them. Ciboire." At the end of that game, the players in the veterans' locker room were jubilant. Boileau, one of

the players, yelled “Good job, tabarnac’! [translation] Those who thought, ’ostie, that we weren’t in it, fuck off, ’ostie, you’re goddamned [“crisse” in French] nuts.”

The trainer for the Montreal team, Patrice Brisebois, was very disappointed with his recruits. After losing one of the games, he expressed his disappointment in the locker room, [translation] “It’s embarrassing, embarrassing! I have a good mind to take back the same ’ostie team from last year.”

The following complaint, dated January 16, 2011, was sent to the Canadian Radio-television and Telecommunications Commission (CRTC) and forwarded to the CBSC:

[Translation]

As I watched an episode of the program *La série Montréal-Québec* this Sunday, January 16th, on TVA, I found it surprising that no warning was given as to the use of vulgar language. No “beep” was used to cover the innumerable swear words coming out of the mouths of all the participants. In prime time, what a great example to give the many young people watching this program. I would like to see a warning included prior to the airing of each segment and also want the language deviations edited.

Other stations already do this and I would thank you to apply the same requirements to the TVA network.

TVA replied the next day. The relevant section of that letter is as follows (the full text of all correspondence can be found in the Appendix, available in French only):

[Translation]

In your complaint, you condemn the level of language used by certain players on the teams and more specifically the use of swear words.

This program is part of a reality TV series featuring two hockey teams that square off week after week.

As with any reality TV show, the objective of this program is to show participants on television as they really are, in a particular setting, which is the world of hockey in this case (locker rooms, games, post-game, etc.).

It is true that certain players in the episode you condemn did deviate somewhat in their language, but these are relatively isolated incidents and not a constant practice. You would like to know why the production staff did not beep out the swear words. As this is a reality TV show, we believe that the nature of the players should not be altered. The language used by the players, and notably the swear words, constitute a form of expression used by the players that allows the viewers to understand their state of mind, whether it be frustration, disappointment, bitterness or even joy at times. While we do not promote or encourage the use of this type of language at any time, the reality is that this language is frequently used in the world of hockey.

For the foregoing reasons we consider that none of the Codes administered by the CBSC have been violated. We thank you for taking the time to write to us and we assure you that we take all the comments made by our viewers very seriously.

THE DECISION

The Quebec Regional Panel examined the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Violence Code* and *Code of Ethics*:

CAB Violence Code, Article 4.0 – Classification

[As provided in P.N. CRTC 1997-80, "classifications should be applied, at a minimum, to children's programming (programs intended for children under 12 years of age), drama, 'reality-shows' (reality-based dramatic programs), feature films, promotions for any of these programs and advertisements for theatrical releases". They must be selected in accordance with the following levels and be applied in accordance with the Icon Use Protocols and Technical Specifications approved by the CRTC in June 1997 and implemented by the broadcasters in September 1997.]

E – Exempt

Programs exempt from classification.

This classification applies to:

- information programming: news, current affairs, public affairs
- sports programming: sporting events, sports news
- variety programming: performance programs, talk shows, game shows, music videos
- magazine programming
- documentaries
- infomercials

Exempt programming does not require an on-screen classification icon and broadcasters are not required to encode a rating into the broadcast signal.

8+ (General – Not Suitable for Young Children)

These programs are suitable for the general public but could contain mild or occasional violence that may disturb young children. Viewing with adult supervision is therefore recommended for young children (age 8 and under) who are less able to distinguish between real and make-believe programming.

13+

The program may be viewed, purchased or rented only by persons 13 years of age or older. Children under 13 may be admitted only if accompanied by an adult.

The Régie classifies in this category programs that require a certain level of judgement. These programs contain passages or sequences that may offend the sensibilities of younger viewers.

Teenage viewers are more aware of the fact that a program is not reality and are therefore better psychologically prepared to follow more complex or dramatic programs. Violence, eroticism, coarse language or horror may be more developed and may constitute a dominant characteristic of the program. However, it is important that the program allow viewers to discern the meaning that should be attributed to the various characters and their actions, because teenagers are not necessarily prepared to face everything. This is why certain themes (drugs, suicide, troubling situations, etc.) and their treatment are carefully examined.

16 +

The program may be viewed, purchased or rented only by persons 16 years of age or older.

At the age of 16, young people enter a transition period between the end of adolescence and the beginning adulthood. They are more independent, and have usually attained a certain level of psychological maturity.

Programs with this rating present troubling themes, situations or behaviours and adopt a more direct point of view about things. They may therefore contain scenes where violence, horror and sexuality are more graphic.

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 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 Panel Adjudicators read all of the correspondence and viewed the broadcast in question. The Panel concludes that the broadcaster violated all of the above-referenced Clauses.

Classification

Television broadcasters are required to display a rating icon at the beginning of all programs, except those that fall into one of the exempt categories listed above. In previous decisions, the Quebec Panel has determined that reality programs of the nature of *La Série Montréal-Québec* do require classification under the *CAB Violence Code* and the proscriptions set forth by the CRTC on classification. In *TQS re an episode of Scrap Metal* (CBSC Decision 08/09-1711, August 11, 2009) the Quebec Panel said:

As Article 4 of the *CAB Violence Code* anticipates, there are certain types of programming that are exempt from the requirement to post a ratings icon. In *Classification System for Violence in Television Programming*, 18 June 1997, P.N. CRTC 1997-80, which approved the classification system, the Commission stated that “classifications should be applied, at a minimum, to children’s programming (programs intended for children under 12 years of age), drama, “reality-shows” (reality-based dramatic programs), feature films, promotions for any of these programs and advertisements for theatrical releases.”

In that decision, this Panel reviewed its conclusions in an earlier decision regarding the distinction between documentary and information programming, which are the only other categories into which both *Scrap Metal* and *La Série Montréal-Québec* could conceivably fall, on the one hand, and reality programming, on the other. In that earlier decision, namely, *TQS re an episode of the program Faut le voir pour le croire* (CBSC Decision 99/00-0460, August 29, 2000), this Panel said:

As is perfectly clear from the Commission’s Public Notices, the establishment of the classification system has a *considerable* amount to do with *children* and what parents may wish their families to see *and* not to see. Moreover, from all of the foregoing, it is clear to the Council that it was the intention of the broadcasters and of the Commission that *all* programming was intended to be classified *except for those types of programming included in the Exempt category*. It remains for the Council to determine whether the programming under consideration in *this* decision falls into any of the types of programming listed in the Exempt category. It concludes that this is *not* the case.

The question turns on what is meant by “documentaries and information programming”. The Council has no doubt that it does not include *all* non-dramatic programming. Apart from anything else, the Commission’s policy criteria on violence establish that “reality-shows” *are* included in their anticipated list of types of programming *requiring* classification. There is, in other words, a spectrum of reality-based programming running from that which is intended to be exempt, namely, documentaries and information programming, to that which is intended to be rated, namely, reality shows programming. The Council considers that a method of describing this distinction in simple terms would be to say that such non-dramatic programming ranges between enlightening and entertaining. This is not to suggest that enlightening programming cannot be entertaining or that entertaining programming cannot be enlightening. It is only to say that that programming which is *primarily enlightening* is what the broadcasters and the CRTC expected would be exempt and that which is *primarily entertaining* which the broadcasters and the industry expected would be subject to classification.

The Panel, on this occasion, considers that the application of the conclusion it reached in *Faut le voir pour le croire* and followed in the *Scrap Metal* decision is correct, namely, that the episode of *La Série Montréal-Québec* under consideration was a reality show, which was “intended as unadulterated entertainment and was subject to the requirement that it be classified in accordance with the rating system applied by the Quebec Régie du Cinéma.”

The next question is, of course, which level of classification would be correct. On that issue, the Panel considers that 13+ would be appropriate due to the language present in the program. The Panel considers that teenagers of 13 years have the judgment to be able to view such programming with discernment, and that that rating would have been the appropriate one. In conclusion, the Panel finds that, by not having included a 13+ classification icon at the beginning of the program, TVA has breached Article 4 of the *CAB Violence Code*.

Viewer Advisories

Programs with potentially offensive content, such as coarse language, are also required to be accompanied by viewer advisories. Viewer advisories alert audiences members to the fact that a program contains material that they might find objectionable, either for themselves or for the younger members of their households. The Quebec Panel can do no better in this instance than to refer to its conclusion on this issue in the aforementioned *Scrap Metal* decision, in which it explained:

Viewer advisories play an essential role in providing audiences with the information they require in order to make informed decisions regarding the appropriateness of potentially problematic programming for their households. That is why their wording is meant to be simple, straightforward and to-the-point. The nature of the potentially inappropriate content should be clear; it should refer, for example, to easily understood terms like violence, coarse language, sexual content, nudity, mature themes or the like. It is also important that the advisories be provided before the program begins and at each opportunity thereafter, as indeed the complainant himself suggested. That conforms to the Code and means “following each commercial break”. After all, people will not always tune into a program at its very beginning. For those who arrive late, there should still be a warning, advising late arrivals of potentially problematic content.

While in the *Scrap Metal* decision TQS did broadcast an initial advisory at the start of the program (although no others following the commercial breaks), in the matter at hand, TVA included no advisories at all. The Panel acknowledges that some viewers might wish to avoid the type of coarse language found in *La Série Montréal-Québec*. In the circumstances, the Quebec Panel concludes that the broadcaster has breached the provisions of Clause 11 of the *CAB Code of Ethics* for failing to provide advisories.

The Program Content and Scheduling of Coarse Language

The Panel has some observations to make regarding the overall nature of the program and the presence of coarse language within that context. The Panel of course recognizes that the subject of the challenged program, namely, hockey and, at that, a hockey competition between two old Quebec-based hockey rivals, was, in principle, solid *family* fare. It also observes that the words “calice”, “tabarnac”, “ostie”, “crisse” and the like used by the players and coaches were *very* typical of the language that would be heard in any arena or dressing room during a hockey match. The program simply reflected the reality of that environment. The Panel understands that some individuals, such as the complainant, continue to be uncomfortable at hearing those words, particularly in the presence of children; however, it does consider that the words in question have largely lost their religious meaning and thus their offensive impact for the majority of the secular population of Quebec. As the Quebec Panel pointed out on the first occasion on which it dealt with such language in a radio program, namely, *CKAC-AM re a Comedic Sketch by Michel Beaudry* (CBSC Decision 01/02-0966, December 20, 2002),

The words quoted above were merely used as expletives without any intended reference to things religious.

[...]

In the case at hand, the Québec Regional Panel agrees with the broadcaster that the words in question have slipped into common and marginally acceptable usage, whether or not the broadcaster's characterization of them as "patois" is justified. [...] The Panel understands, and is sensitive to, the perspective of the complainant. It concludes, however, that, while the words may be unacceptable in some households and are certainly not tasteful, they are not today so severe as to restrict their usage on radio [...] between the hours of 4:00 and 5:00 am.

While that decision acknowledges the evolution of language and the growing acceptability of swear words, it also suggests that broadcasters should exercise caution when choosing the *time* at which such language will be broadcast. The Quebec Regional Panel notes that, with one recent exception, all of the complaints about coarse language with which it has dealt over the years have been on radio rather than on television. Whatever the platform, the Panel has had considerable experience in dealing with swear words, which in Quebec French-language broadcasting have included both French words, such as “ostie”, “tabarnac”, “chrisse”, “calice” and “ciboire”, and English phrases, such as “fuck off” and “don’t fuck around”.

In the one television decision related to French coarse language, namely, *TQS re an episode of Scrap Metal* (CBSC Decision 08/09-1711, August 11, 2009), this Panel said that

the CBSC has consistently determined that the threshold for coarse language acceptability on radio is not dissimilar from that used in the television context. For radio, the issue has been whether the broadcast occurred at a time of day when children could have been expected to be listening. Neither the CBSC itself nor any of its Panels have yet attempted to define that hour with precision, although an hour as late as 8:51 pm has been accepted as a time of day when children could be expected to be a part of the audience. The Quebec Panel considers that, even in the absence of an hour as precise as the television Watershed (9:00 pm), its coarse language radio decisions can reasonably be understood as having established in the radio context the equivalent of television's pre- and post-Watershed. In other words, coarse language not suitable for broadcast on radio at times of the day when children could be in the audience would need, in the television context, to be broadcast post-Watershed.

This Panel concluded that the broadcast by TQS of both the French curse words and the English f-word on French-language television prior to 9:00 pm was in breach of the Scheduling provision of the *CAB Code of Ethics*.

Applying that *Scrap Metal* precedent to the matter at hand, the Panel's conclusion is straightforward. It has been determined that the use of the words "calice", "ostie", "ostie", "tabarnac", "crissement", "ça m'décalice", "qu'on en mange une crise", "en crise", "ciboire", and "fuck off" cannot be broadcast before 9:00 pm. TVA, in this case, therefore had two options: broadcast *La Série Montréal-Québec* at or after 9:00 pm and leave the language intact; or broadcast the program at its original 7:30 pm choice but edit out the questionable words. Consequently, the Quebec Regional Panel concludes that the broadcast of *La Série Montréal-Québec* at 7:30 pm in its *unedited* form constitutes a breach of Clause 10(a) 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 Senior Legal Counsel was thoughtful and responded directly to the issues raised by the complainant. That the complainant disagreed was to be expected in the sense that no matter comes to a CBSC Adjudicating Panel without such dissatisfaction on the part of the complainant. The Panel considers that the broadcaster has fully met its membership obligation of responsiveness on this occasion.

ANNOUNCEMENT OF THE DECISION

TVA 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 *La Série Montréal-Québec* 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 TVA.

The Canadian Broadcast Standards Council has found that TVA violated the Canadian Association of Broadcasters' *Violence Code* and *Code of Ethics* in its broadcast of an episode of *La Série Montréal-Québec* on January 16, 2011. By failing to include a 13+ classification icon at the start of the program, TVA breached Article 4 of the *Violence Code*. By failing to include viewer advisories alerting audiences to the presence of coarse and offensive language at the start of the program and following each commercial break, TVA breached Clause 11 of the *Code of Ethics*. By airing unduly coarse and offensive language prior to 9:00 pm, TVA breached Clause 10(a) of the *Code of Ethics*, which prohibits the broadcast of such language prior to 9:00 pm.

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

ANNEXE

Décision du CCNR 10/11-0781 TVA concernant *La Série Montréal-Québec*

La plainte

La plainte suivante en date du 16 janvier 2011, a été envoyée au CRTC et acheminée au CCNR:

Bonjour mon nom est [V. L.]. Lors de l'écoute d'un épisode de l'émission *La série Montréal-Québec* ce dimanche 16 janvier, sur les ondes de TVA, j'ai trouvé surprenant qu'aucun avertissement ne soit présenté concernant l'utilisation de langage vulgaire. Aucune censure « bip » n'ait utilisé [sic] pour masquer les innombrables « sacres » sortant de la bouches [sic] de tous les participants. À l'heure de grande écoute, quel bel exemple pour bien des jeunes qui écoute [sic] cette émission. J'aimerais qu'un avertissement précède l'entrée en onde de chaque séquence et que le les écarts de langages soient censurés.

D'autres stations le font déjà, merci d'appliquer les mêmes exigences au réseau TVA.

Merci de considérer ma demande.

Le 31 janvier le plaignant a ajouté cette information additionnelle :

Suite à votre demande, j'ai validé l'heure de diffusion de l'épisode en question (16 janvier); 19 h 30.

J'ajouterais qu'à heure [sic] d'aussi grande écoute, bon nombre d'enfants ou d'adolescents se trouvent très exposés à des modèles un peu douteux de savoir vivre.

Merci de me tenir au courant des suites de vos démarches.

La réponse du télédiffuseur

TVA a répondu au plaignant le 17 février :

Monsieur,

Le Conseil Canadien des Normes de la Radiotélévision (« CCNR ») nous a transmis pour analyse et réponse votre plainte du 16 janvier 2011, concernant l'épisode de la *Série Montréal-Québec* diffusée à la même date.

Dans votre plainte, vous dénoncez le niveau de langage utilisé par certains joueurs des équipes et plus spécifiquement l'utilisation de « sacres ».

La série est une émission de télé-réalité mettant en vedette deux équipes de hockey qui s'affrontent semaine après semaine.

Comme toute émission de télé-réalité, son objectif est de montrer à la télévision des participants sous leur vrai jour, dans un cadre particulier, en l'occurrence dans le monde du hockey (vestiaires, matchs, après-match, etc.)

Il est vrai que dans l'épisode que vous dénoncez, certains joueurs ont commis quelques écarts de langage. Il s'agit cependant de cas assez isolés, et non une pratique constante. Vous vous demandez pourquoi la production n'a pas masqué les sacres par des bips. Comme il s'agit d'une télé-réalité, nous croyons qu'il ne faut pas dénaturer les joueurs. Le langage utilisé par les joueurs et notamment les sacres, constitue une forme d'expression par les joueurs qui permet de comprendre leur état d'esprit – que ce soit la frustration, la déception, l'amertume ou même quelque fois la joie. Cependant, en aucun temps, nous ne prônons ou n'encourageons l'utilisation de ce type de langage. Cependant, la réalité est que ce langage est fréquemment utilisé dans l'univers du hockey.

Pour toutes ces raisons, nous considérons qu'aucun des codes supervisés par le CCNR n'a été enfreint. Nous vous remercions d'avoir pris le temps de nous écrire et sachez que nous prenons très au sérieux tous les commentaires de nos téléspectateurs.

Correspondance additionnelle

Le plaignant a déposé sa Demande de décision le 17 février :

Bonjour

La réponse obtenue du télédiffuseur, ne me convient pas du tout. Sous le prétexte que c'est une « télé-réalité », ils considèrent qu'une censure des écarts de langage (sacres) des participants (joueurs, entraîneurs, etc...), dénaturerait la « réalisme » recherché dans une « télé-réalité ». J'ajouterais même, qu'à heure [*sic*] de grande écoute, un simple avertissement avant la diffusion des épisodes aurait été un minimum de bon sens. Finalement, contrairement à leur dires, ces écarts se sont poursuivis tout au long du reste de la série (qui a prit fin dernièrement).

Afin d'appuyer mes dires, j'aimerais pouvoir vous transmettre la réponse du diffuseur: « Québecor Média ».