

**Oral Presentation  
of the  
Canadian Broadcast Standards Council**

**to the  
CRTC Hearing re NPH 1995-5**

**"Self-Regulation in Canada:  
Building on a Uniquely Successful System"**

**(18 October 1995)**

**CBSC Presentation**

Good morning, Mr. Chairman and Commissioners. Thank you for the opportunity you have given the CBSC to appear before the Commission. Our British Columbia and Prairie Regional Council Chairs have attended your Regional Hearings in Vancouver and Edmonton. We are grateful to have the opportunity of completing those presentations with this National CBSC perspective here in Ottawa.

I am Ron Cohen, National Chair of the Canadian Broadcast Standards Council. With me is Tara Rajan, Executive Director of the CBSC.

The Council is one of only several Broadcast Standards Councils in the world and we are certainly an active representative of that community. Those in England and New Zealand are, however, statutorily endowed and publicly funded. We are in some respects a hybrid entity. We are technically and financially the creation of the private broadcasters. Yet our existence and the terms under which we operate are endorsed by the Commission, which oversees our actions on an annual basis via our reports and on a more frequent basis via our decisions.

We were not the originators or creators of our role as overseers of the *CAB Violence Code* and we believe that those who created the mandate may be justifiably proud of *their* role in that regard. The broadcasters and, of course, the CRTC were carrying out the will of the people (nearly 2 million Canadians) in dealing with violence on television, their effective choice being the establishment of a voluntary *Violence Code* with strong mandatory provisions.

Mr. Chairman, it is hardly necessary to emphasize to you that the pillar of the *Violence Code* for which you have led the charge is the Children's Section of the Code. In your Notice relative to *this* Public Hearing, the Commission reiterated that the *main* objective of the Commission's approach to violence on television has been to protect children from its harmful effects. I must confess that there have been moments in the last three days when I fear that this goal has been lost sight of.

Thus, we begin our presentation today by confessing that we are proud to be part of a significant Canadian success story, one almost unique in international terms. We are the administrators of a *self-regulatory* code which covers violence more thoroughly than any other such instrument in the entire world. None of us should forget that "the projection of Canadian values and culture" is one of the three pillars of our government's foreign policy. The adoption

of our values "internationally will also be essential to our ensuring that they are viable in our own country." (*Canada in the World*, Ottawa, 1995, p. 1)

And yet we are at the same time sniped at as being insufficiently potent, on the one hand, and censors, on the other. With such detractors on *both* sides, we conclude that we must be doing something right.

I would like to ask our Executive Director to tell you something about our complaints and our decisions. Tara.

## **The CBSC Structure and Presence**

To understand our statistics and the allegations made about the CBSC by some groups at these Hearings, we should outline our complaint handling distinctions. The CBSC *carefully* distinguishes general complaints from those which point their finger at specific programs. It always has.

In our 1992-93 *Annual Report*, approximately 9% of total complaints related to the *general problem* of violence on television while 8% related to specific clauses in the 1987 Code. In last year's *Annual Report*, just about 11% of complaints related to Code-specific matters. In addition, however, there were 54 general complaints (or just about 30%) about violence on television which did not relate to any specific program.

For the fiscal year just ended, for which the *Annual Report* will only be available in a few months, Violence Code program-specific complaints soared to 28%, while general complaints not related to named programs remained high at 24%.

But you should note, Mr. Chairman, that *one* specific complaint is ultimately far more important to the process than a multitude of general complaints. It is only a specific program-related complaint which can lead us to a program requiring a Regional Council adjudication.

You should be aware that we now receive far more telephone calls and complaints *directly* than before the *Power Rangers* decision. People *know* that we are there. Ironically, we actually receive *many* complaints by telephone and by letter which concern broadcasters or services which are not members of the CBSC, presumably because people believe that we are the body which is responsible for all sectors of the broadcasting industry.

Over 35% of the complaints received by the CBSC this past year did not even relate to us and were obviously sent to us because people out there in television-land believed that we were the body to contact for such problems. On Monday this week, we received a call from a citizen concerned about the C-PAC telecast of the Airborne tapes. We have to re-route this despite the fact that we are already dealing with an Airborne news story broadcast by one of our members. Last week, it was a CBC radio complaint which we had to re-direct. And so on.

In terms of its decisions, the CBSC itself currently functions through its five Regional Councils, which represent the Atlantic Region, Quebec, Ontario, the Prairie Region and British Columbia. Each Regional Council is made up of three public representatives and three broadcast industry representatives. Each Regional Chair and Vice-Chair, one a public

member and one an industry member, meet together with the National Chair from time to time as the National Executive. Hitherto, decisions have only been rendered by the Regional Councils and national policy has been formulated by the National Executive.

We are very pleased that there is a mix of public and broadcaster members. Of the 26 decisions rendered in the past two years, whether in favour of or against the broadcaster, *every one* was unanimous. (Indeed, this is historically true of *all* past CBSC decisions.) This is not to say that we would have any difficulty with a split decision or the public release of a dissenting opinion. It is, however, striking that *every* matter to date has resulted in a coalescing of public and industry perspectives. Even our deliberations regarding the popular and commercially successful children's television series (*Mighty Morphin Power Rangers*) were quickly unanimous. The CBSC constantly balances the public's right to freedom of expression with the public's right to high standards from the broadcasters licensed to share the limited resource which the airwaves are. Ron.

## Post-Power Rangers

It would not be unfair to observe that the *Power Rangers* case changed the landscape in so far as the CBSC is concerned. Before that decision, despite the important steps taken to establish the Council, we had been, as I wrote in the *Globe & Mail*, "a well-kept secret". We had secured the adherence of 95% of Canada's private broadcasters. We had structured a successful complaint handling mechanism. We had rendered a number of, we believe, significant decisions on a range of issues of concern to Canadians at large, the broadcasters and the Commission. Almost none was broadly publicized despite the fact that we released them on an overnight basis to the important Canadian media, print and electronic.

That changed with the *Power Rangers*. Perhaps it was the renown of the program, perhaps the fact that the decision was negative, perhaps the previous news of the poor little Norwegian girl who died after being beaten by youngsters *allegedly* influenced by a television series.

Whatever the cause, the result was the recognition of the empowerment of the people, as *Maclean's* described the story. You will remember, Mr. Chairman, even in this context, the presence at the Shaw intervention, of Mrs. Dechambre from Edmonton, who said so meaningfully: "I didn't know what I had to say was important." The mothers involved in the *Power Rangers* complaints which had gone to the Ontario Regional Council were also surprised at their muscle. We were not. After all, the system had not changed an iota from what it had been in the previous 20 decisions relating to both radio and television programs. Only the *media* reaction changed.

[May I, in an aside, point out that *many* referred to the *number* of complaints which had gotten the ball rolling. There were, they said, only two complaints. In fact, there had been five letters representing 88 persons (two were mini-petitions) but counting heads is a mug's game. A complaint is not the more valid because 100 persons share that view nor the less so because but a single Canadian has been concerned enough to write.]

Among other things, that decision made us acutely conscious of the fact that the system only worked in part. Despite the fact that our decision had a notable impact in the conventional broadcasting area, it did not extend beyond a small part of the remote control device options.

Hence, it did not apply to YTV much less to Fox, the then newly arrived American network. For technical structural reasons, it did not apply to one of our own members, TVA, either but, as everyone knows, YTV and TVA dealt with the problem *instantly*.

## **The Problem of Fragmentation of Self-Regulatory Oversight**

As an example, here in Ottawa, of the 56 programming choices on the Rogers "clicker", the CBSC has only 7 as its members, important though they may be. The 17 specialty services and the 11 pay/ppv services (including the pay and ppv promo channels) fall within the bailiwick of the Commission. There are 3 public provincial educational channels and 4 public channels, also answerable to the CRTC. There are also 2 Parliamentary channels and 2 Community channels (which fall within the bailiwick of the CTSC). The American cable channels in the Ottawa area currently include: 5 networks, 3 superstations and 5 specialties, all of which currently answer only to their American CEO's.

We were struck, during the presentation of the Coalition for Responsible Television, by their reference to the *apparent* receipt by them of *hundreds* of complaints while, they alleged, the CBSC had received only *five*. Such information is, unfortunately, at best unhelpful and at worst misleading. More to the point, it tells us something about the nature of violence-related complaints and about fragmentation of self-regulatory responsibility.

It *may* be that the Coalition received as many "complaints" as they say. The key questions, however, are: whether they were program-specific; and whether they related to private broadcasters for, at this time, that is the extent of our jurisdiction. In fact, of the alleged hundreds of complaints, a total of only 23 were sent to the CBSC. And, of these, only 14 concerned our members; 6 concerned the CBC, 2 YTV and one an American service.

If it is difficult for an issue-specific group like the Coalition to realize that the CBC, YTV and other services do not fall within our purview, how possible is it for the general public to be aware of that fact?

The only way, we believe, is to put all of the *Violence Code*-related complaints (indeed, all programming-related complaints, whether dealing with violence, sex role portrayal, news, human rights or other matters) in a *single* place. It is the *only* way to be certain that the Canadian *people* will know where to go. It is not *their* job to ascertain whether this complaint should go to the CBSC, that one to the CRTC, another nowhere at all.

It was the Commission which invited the self-regulatory process, first in 1988 when it declared its intention "of streamlining the process and increased reliance on a supervisory approach and self-regulation" (PN CRTC 1988-159), then in 1991 by offering "its whole-hearted support to the CBSC" (PN CRTC 1991-90), and then again in 1993 when the *Violence Code* was put in place (PN CRTC 1993-149).

Although the Commission has consistently declared, as it must, that it has not relinquished any of its authority to deal with any matters treated by the CBSC, the Council believes that it has performed its responsibilities regarding program content in a way consistent with Commission expectations. In its response to the Council's last two *Annual Reports*, the CRTC has acknowledged the careful and thoughtful approach to the CBSC's program evaluations. It

only makes sense that these decisions be applicable to all sectors of the broadcasting industry.

## The Level Playing Field

The anomaly which was created by our having rendered a decision applying only to Global, TVA and the independent syndicators of *Power Rangers* in Alberta without our being able to affect YTV and cable-delivered Fox signals endangered the entire self-regulatory system. That danger has not passed. YTV did not *have* to pull the series. That it did so was to its credit. Such a situation could recur with another Canadian programming licensee. It would, after all, be just as anomalous for a series to be in breach of the Code for a private conventional broadcaster and *not* for a specialty service or a public conventional broadcaster such as the CBC. That both services are home-grown does not change that problem. It only makes the licensees easier to reach.

And if the CBSC were the adjudicator with respect only to the private broadcaster and another entity bore that responsibility with respect to the specialty service or the public broadcaster, we could be left with contradictory decisions *at the same level*. That the CBSC might render a decision which could be "reversed" by the Commission is not problematic, as long as it is a *single* decision affecting all licensees with which the Commission must deal.

During these Hearings, you, Mr. Chairman, have invited numerous services to become members of the CBSC, including cable. All seem to have accepted that invitation. And the CAB has itself removed all impediments to that possibility. It remains to be seen whether all do join and, more importantly, whether the mechanism will, one way or another, be in place for our decisions to have effect among all Canadian programming services.

There is also good news for all of us by *some* of the distribution services. We are pleased by Cancom's announcement at these Hearings of their intention to play the game by *Canadian* rules. They are prepared to apply CBSC decisions and to black out programming in consequence. I am further pleased to be able to tell you that ExpressVu also sees matters this way. We have noted their commitment, in their DTH application, to black out foreign-originating programming, where a CBSC or CRTC decision concludes that a program contravenes Canadian standards.

Cancom's and ExpressVu's willingness to take the lead among *service distributors* in applying Canadian violence standards to *all* programming delivered by them into Canadian homes, regardless of source, is a welcome step. The Commission must, of course, ensure that they do not stand alone. It should, for example, be an absolute bottom line requirement for *all* distribution undertakings, including, needless to say, all other DTH licensees.

The *ultimate* level playing field issue of greatest difficulty relates to the cable systems. Mr. Chairman, if we emerge from these Hearings without the regulatory protection for Canadian children for which you have put the foundation blocks in place during the past three years, Canada will have lost the battle and perhaps the war. The additional tools which you are so correct to encourage will not be a substitute for the *rules* which are clearly *essential* to level the ground on which 2 million Canadians have asked you to walk. The rest of us can do no more. The ball, to mix metaphors, is in your court.

## CBSC Structural Changes

We are also pleased to report to you that we have taken the necessary steps to put in motion certain important changes to our structure which will level our own playing field. The changes are as follows and you have heard the CAB state to you yesterday that these changes have been approved by their Board:

1. All CBSC decisions involving a program of one CBSC member which is also available on the service of another member will have effect with respect to that member's broadcast of the same program; and
2. The CBSC is establishing a National Council to deal with programming which is clearly national, rather than regional, in scope. It will be made up of equal numbers of public and broadcaster members and the National Chair and decisions will, of course, be binding on all CBSC members.

As you know, we have already removed the waiver form, which some public interest advocates as well as you, Mr. Chairman, viewed as unnecessarily unfriendly. It is gone. Since May 1994, we merely request that a dissatisfied viewer sign his or her name to a paragraph requesting that the relevant Regional Council adjudicate the matter complained of. There is no thesis to write, no quasi-legal argument to construct. A viewer need only say, "I saw *Power Rangers* on station CABC at 7:30 January 5th and the show was too violent for me." A self-addressed stamped envelope is provided for further ease of despatch. We take the matter from there.

The process of pursuing the complaint rests entirely with the complainant, whom we do not influence one way or the other. If the viewer ultimately decides to proceed to a Regional Council adjudication by signing the form and returning it in the post-paid envelope, we do not only treat the concerns expressed by the complainant. We add those others which we consider merit review in terms of the relationship of the challenged program to any of the codes we administer. When, for example, we were asked to consider the edited version of the film *Silence of the Lambs* as a potential breach of the provisions of the Code relating to violence against women, we also treated the question of gratuitous violence although it had not been raised by the complainant.

Mr. Chairman, these very Hearings are taking place because the self-regulatory system *has* worked and not because it hasn't. Two women, one from Metcalfe and one from Toronto, were able to trigger the best self-regulatory system that exists to deal with television violence. In the result, this demographically small country was able to provoke an American producer to change its commercially successful series and ultimately, in the next season, the program is no longer available on Canadian broadcast services. Through their concerns, the country became conscious of the need to have the same television violence standards applied for the benefit of *all* Canadians. Due to those two women, in large measure, we are before you today. Who can possibly say that the system has failed?

We thank the Commission for giving us the time to make this presentation to you and would be glad to answer your questions.