



Broadcasting Decision CRTC 2006-668

Ottawa, 11 December 2006

Canadian Broadcasting Corporation
Across Canada

Complaints regarding the broadcast by the Canadian Broadcasting Corporation of *Sex Traffic* and *Old School* prior to the watershed hour

In this decision, the Commission addresses two separate complaints regarding the broadcast by the Canadian Broadcasting Corporation (CBC) of two programs containing scenes intended for adult audiences. The Commission finds that, by airing Sex Traffic and Old School at 8:00 p.m., the licensee did not meet the Canadian broadcasting policy objective set out in the Broadcasting Act that programming should be of high standard. The Commission further finds that the broadcast of Sex Traffic at 8:00 p.m. was a violation of the watershed provision of the Canadian Association of Broadcasters' Voluntary code regarding violence on television, to which the CBC must adhere by condition of licence.

Background

1. The Commission received two complaints regarding the broadcast by the Canadian Broadcasting Corporation (CBC) of programming intended for adult audiences before 9:00 p.m. The first complaint concerned the broadcast on 17 April 2005 at 8:00 p.m. of the docu-drama *Sex Traffic*, a two-part drama series about the trafficking of Eastern European women in the sex-slave trade. The second complaint concerned the broadcast on 15 August 2005 at 8:00 p.m. of the U.S. blockbuster movie, *Old School*, a comedy targeting mature audiences.

Sex Traffic

The program

2. *Sex Traffic* is a Canada-United Kingdom co-produced docu-drama that explores the notorious trafficking of hundreds of thousands of young Eastern European women into sexual slavery in cities throughout Europe and North America. The program reveals a billion dollar global business where victims are lured with the false promise of a good job in another country and then forced into prostitution and servitude and subjected to sexual abuse and other forms of violence and coercion. The program follows two young Moldovan sisters who are trafficked through Romania, Serbia, Albania, Bosnia, and Italy to the dark side of London, and portrays how they are betrayed along the way by pimps, police and politicians.

The complaint

3. The complainant wrote to the Commission on 22 April 2005 expressing concern about the broadcast of *Sex Traffic*, objecting in particular to the graphic portrayal of rape. He argued that “while the message the CBC was trying to get across needs attention and awareness, there is no excuse for putting that kind of content to the public.” The complainant was of the view that such content was entirely inappropriate for broadcast on television, especially when aired by a public broadcaster. Finally, the complainant emphasized his concern that the program had been broadcast in prime time.

Licensee’s reply

4. The licensee responded to the complaint on 9 May 2005. The CBC submitted that *Sex Traffic* explored an issue important to all Canadians, because “[we] should be aware of this shameful and criminal practice that affects all of us.” It stated that, generally speaking, programs intended for adult viewers are broadcast later in the evening, but advisories are employed if a program dealing with mature subjects is aired in an earlier time slot. The CBC explained that in this case “there were very clear oral and visual advisories prior to the beginning of the program. We also frequently repeated those warnings during the program, specifically when the program returned from commercial breaks.”

Commission’s analysis and determinations with respect to *Sex Traffic*

5. The Commission’s analysis of the complaint took into account the concerns raised by the complainant, the licensee’s reply, and the program’s content. The Commission conducted its analysis against the licensee’s condition of licence which requires adherence to the Canadian Association of Broadcasters’ (CAB) *Voluntary code regarding violence on television* (the Violence Code), as well as the Canadian broadcasting policy objectives of the *Broadcasting Act* (the Act), including the high standard provision set out in section 3(1)(g).
6. The Commission considers industry codes such as the Violence Code to be useful benchmarks for establishing community standards for overall broadcast ethics. In the present case, as a key measure of high standard, the Commission assessed the broadcast in light of articles 1.1, 3.1.1, 5.1, and 5.2 of the Violence Code, which specify the following.

Article 1.1

Canadian broadcasters shall not air programming which contains gratuitous violence in any form, or which sanctions, promotes or glamorizes violence. (“Gratuitous” means material that does not play an integral role in developing the plot, character or theme of the material as a whole.)

Article 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 p.m. to 6 a.m.

Article 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.

Article 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.

7. Based on its review of the program's content, the Commission finds that *Sex Traffic* deals with its subject matter in a detailed, poignant, sometimes shocking and often heart-wrenching manner. In the Commission's view, the program is not overtly violent, with the exception of a very graphic rape scene that could be disturbing to many viewers. The violent elements of the program are clearly within the context of the broadcast and therefore, in the Commission's view, the broadcast did not breach Article 1.1 of the Violence Code.
8. With respect to the viewer advisory provisions of the Violence Code (Articles 5.1 and 5.2), the CBC clearly advised viewers about the explicit, sometimes violent, adult nature of the program. The CBC provided detailed viewer advisories throughout the broadcast as well as a detailed introduction to the program by actress and guest host Cara Pifko, who commented on *Sex Traffic*'s complex and disturbing content. The Commission considers that the CBC's efforts to fully inform viewers about *Sex Traffic*'s content are consistent with the Violence Code's viewer advisory provisions.
9. Given the complainant's concern about the time of the broadcast, the Commission asked the CBC to explain its scheduling policy in light of the scheduling provision of the Violence Code concerning the watershed hour (Article 3.1.1). In a letter dated 24 November 2005, the CBC responded that it "has a long-standing commitment to broadcasting its major national news program at 10 p.m. six nights a week, in the heart of television's prime time. We are the only North American broadcaster to do this. We believe it is another important part of our role as the country's national public broadcaster."

10. The CBC acknowledged, however, that some scenes in *Sex Traffic* contain violence “which could be understood as intended for adult audiences.” The CBC also stated that it would be “putting additional measures in place to ensure that our program review and decision-making procedures better take into account of the provisions of the CAB’s Violence Code.”
11. While the CBC’s use of advisories was an important tool to inform prospective viewers of the potential risks associated with viewing the program in question, the Commission is of the view that the use of advisories does not excuse the potential harm of broadcasting material, which is clearly intended for adult audiences, prior to the watershed hour. The Commission acknowledges the CBC’s commitment to implement additional measures to ensure that the provisions of the Violence Code are respected. However, the Commission notes that the CBC did not specify what measures it would put in place.
12. In light of the above, the Commission finds that, by failing to broadcast *Sex Traffic* after the watershed hour, the CBC breached its condition of licence with respect to Article 3.1.1 of the Violence Code. As a result, the CBC also failed to meet the Canadian broadcast policy objective set out in section 3(1)(g) of the Act, which states that programming should be of high standard.

Old School

The program

13. *Old School* is a comedic feature film that revolves around the antics and exploits of a group of men in their 30s, who, following relationship mishaps and tribulations, decide to open a fraternity at a local college in hopes of re-living their youth. The version provided by the CBC was in DVD format and is rated 18A¹ by its distributor, Dreamworks Pictures, due to coarse language, mature themes and sexual content. The Ontario Film Review Board rated *Old School* as 18+.²

The complaint

14. The complainant in this case wrote on 15 August 2005 to express concern about the broadcast of this feature film because the material to which he objected was aired between 8:00 p.m. and 8:30 p.m. In his view, the material was “totally inappropriate” because it contained “total nudity (front and back) and inappropriate language.” The complainant stated that the program’s content compelled him to turn off the television when his children entered the room.

¹ Persons younger than 18 must be accompanied by an adult

² Intended for viewers 18 years and older

Licensee's reply

15. The licensee responded to the complaint on 31 August 2005. It acknowledged that the content of *Old School* might be upsetting to some viewers. Due to this concern, the CBC stated that it had broadcast advisories at the start of the film and following commercial breaks during the film.
16. On 6 September 2005, the Commission asked the CBC to provide a more detailed response to the complainant and to supply the Commission with a logger tape of the broadcast in question. Despite two reminders for a response to this request, the CBC did not provide any additional written response. It was not until February 2006 that CBC provided the Commission with a DVD version of the movie, rather than a logger tape of the broadcast, as requested.

Commission's analysis and determination with respect to *Old School*

17. As in the previous case discussed above, the Commission's analysis of the complaint concerning *Old School* took into account the concerns raised by the complainant, the licensee's reply, and the program's content. The Commission conducted its analysis against the Canadian broadcasting policy objectives of the Act, including the high standard provision set out in section 3(1)(g) of the Act.
18. Clause 10 (Scheduling) of the CAB's *Code of Ethics* specifies that programming containing sexually explicit material or coarse or offensive language intended for adult audiences must not be broadcast before the late viewing period, defined as 9:00 p.m. to 6:00 a.m. This clause mirrors the watershed provision originally established in the Violence Code to ensure that programs containing scenes of violence intended for adult audiences are not broadcast at times when young children are most likely to be watching television. While the CBC is not bound to adhere to the *Code of Ethics* by condition of licence, the Commission is of the view that, for the purposes of assessing high standard as set out in the Act, the watershed provision reflects a broad community standard for broadcast ethics that is equally applicable to Canada's private and public broadcasters.
19. Based upon its review of the program's content, the Commission finds that *Old School* is clearly intended for adult audiences. The Commission further finds that, given the combination of the use of language, nudity and other mature themes, including pornography, group sex, and excessive drinking, it was inappropriate for the CBC to broadcast *Old School*, presumably unedited, prior to the watershed hour. The licensee's efforts with respect to providing viewer advisories were insufficient to justify a pre-watershed broadcast of such a film, which was rated 18+ and 18A by other authorities.

20. The Commission is unable to assess whether the broadcast was accompanied by ratings, because a logger tape was not provided. Nevertheless, the Commission notes that on-screen ratings and viewer advisories do not obviate the need for broadcasters to respect the watershed hour. Rather, all of these mechanisms are meant to work together to ensure that adult audiences are able to make informed viewing choices and to assist families in ensuring that young children are not exposed to inappropriate programming.
21. The Commission therefore finds that, by broadcasting *Old School* before the watershed hour, the CBC did not meet the high standard policy objective set out in section 3(1)(g) of the Act.

Conclusions

22. The Commission expects the CBC to ensure that the scheduling of programs containing scenes of violence, sexually explicit material or other mature subject matter intended for adult audiences is consistent with the broadcast industry standard that such material must be scheduled after 9:00 p.m. The Commission will review with the CBC, at licence renewal, its compliance with this obligation.
23. Furthermore, the Commission reminds the licensee of the importance of keeping accurate logs and of providing the Commission with accurate logger tapes upon request at all times in accordance with section 10 of the *Television Broadcasting Regulations, 1987*. The Commission expects the CBC to take the necessary steps to ensure that logger tapes are provided to the Commission in a timely fashion and to inform the Commission, within thirty (30) days of the date of this decision, of the measures the CBC has put in place in this regard.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>