

**SOMEONE HAS TO SAY "ENOUGH"**

**SUBMISSION TO THE  
STANDING COMMITTEE ON CANADIAN HERITAGE  
STUDY ON THE STATE OF THE CANADIAN BROADCASTING SYSTEM  
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**SUBMITTED BY**

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## I. INTRODUCTION

*"Someone has to say, "Enough" -- because this is disaster, we are destroying ourselves. Successive societies have destroyed themselves by the failure of their leadership to say, "I know in many respects that's what you'd like to see, but you know what? It's bad for us; we're damaging ourselves. We are untying the fabric of our society."*

David Puttman, former President of Columbia Pictures  
From *Television Violence: Fraying Our Social Fabric*  
Report of the Standing Committee on Communications and Culture, 1993

The Committee is to be commended for undertaking this study of the Canadian broadcasting system to determine how successful it has been in meeting the objects of the *Broadcasting Act*. Few could argue with the assertion in the Terms of Reference that "there is a pressing need for the Standing Committee to review key aspects of the *Broadcasting Act*", especially this objective from Section 3 (d) of the *Act*:

**The Canadian broadcasting system should: Serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada**

Of the key themes identified in the Terms of Reference, the focus of this submission will be on (3) Broadcasting Policy. Hopefully, information provided herein will assist the Committee in considering the:

- Development of Canada's broadcasting policy
- Role of the federal government
- CRTC's role
- Potential elements for new or revised legislation

While there are many positive and pro-social aspects to the broadcasting system, there are unfortunately many harmful and anti-social aspects as well. Problems highlighted herein will include gratuitous violence, the degradation and demeaning of women, and exposing children to grossly age-inappropriate as well as violent and deviant sexual activities through broadcast of programs such as the *Howard Stern Show*, *The Jerry Springer Show*, and *World Wrestling Federation*, during hours when children are listening and watching. The failure of self-regulation will also be documented and recommendations for improving the situation provided.

## II. BACKGROUND

I became involved in the issue of media violence in 1990 as a result of my concern over the explosion of violent and sexually degrading material contained in, and promoted by, various

media outlets. Over the past decade, I have worked with the Coalition for the Safety of Our Daughters, Coalition for Responsible Television, and Canadians Concerned About Violence in Entertainment. For the past two years, I have also assisted both the Ontario Office for Victims of Crime and CAVEAT on media violence issues.

In the course of these activities, I have written or co-authored several briefs and interventions to the Canadian Radio-television and Telecommunications Commission (CRTC), appeared at CRTC license renewal and violence hearings, and filed what must now, regrettably, be acknowledged as countless meaningless complaints with the Canadian Broadcast Standards Council (CBSC). As such, I have learned more than I ever wanted to about the various public regulatory schemes supposedly enacted to protect and promote the public interest in relation to the media industry in Canada. Put bluntly, the current "safeguards" do not work.

It is incumbent on the Committee to carefully and factually explore the content of broadcasting programming available in Canada today under the current CRTC regime, and then determine whether the legislative intent and public interest have been protected or betrayed by the industry and those charged with its regulatory oversight. Unfortunately, I believe the answer is clear and obvious. The real issue is whether the political will exists to remedy this ever-encroaching public danger.

The report of the Standing Committee on Communications and Culture, *Television Violence: Fraying Our Social Fabric* (1993), stated that "Hundreds of studies have shown that there is a positive correlation between television violence and aggressive and antisocial behaviour in individuals". Dr. Brandon Centerwall, an epidemiologist who studied the epidemic of violence in the United States stated that "... long-term childhood exposure to TV is a causal factor behind approximately one-half of the homicides committed in the United States, or approximately 10,000 homicides committed annually..." He said "... if, hypothetically, TV technology had never been developed, there would today be 10,000 fewer homicides each year in the United States."<sup>1</sup>

In *Television Violence*, the Committee noted that "... the current public concern over this issue is not a new phenomenon. What is needed is for government, the federal regulator and broadcasters to act." While neither the government nor federal regulator have acted in any meaningful way, broadcasters have.

A recent study on Canadian television carried out by Professors Jacques de Guise and Guy Paquette of Laval University (1999) indicates that the quantity of violence shown on dramatic programs carried by the non-specialist Quebec and Canadian networks has grown markedly.

- Between 1995 and 1998, the quantity of violence shown went up by almost 50%;
- The quantity of violence accessible to children (on programs broadcast before 9:00 p.m.) also went up markedly. In 1998, 92% of violent acts were shown before 9:00 p.m.;

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<sup>1</sup> *Television and Violence: The Scale of the Problem and Where to Go From Here*, Brandon S. Centerwall, MD, MPH, Journal of the American Medical Association, June 10, 1992

- The study found that approximately one violent act out of two is gratuitous or unnecessary for comprehension of the storyline.<sup>2</sup>

While the influence of violence has been extensively examined, another area is in urgent need of study -- the effect of exposing children and youth to grossly age-inappropriate, violent and deviant sexual activities. Lyba Spring, a sexual health educator with the Toronto District Public Health Department, has noted a profound change in the kinds of questions children in grade 5 or 6 are asking about sex, and credits shows such as *Jerry Springer* and *Howard Stern* as well as the Internet. Several years ago, Ms Spring says, a standard question would have been "What is oral sex?" but "These days it's questions about bestiality and several people having sex together" and notes "There's a precocious sexuality that's disturbing."<sup>3</sup> Disturbing questions indeed, considering the age of the children involved.

Paul Robertson, a youth culture specialist with Youth Unlimited, provided the following incident as an example of the harmful effect the sexual violence and degradation of women depicted by the WWF is having on teenagers:

"I was speaking at the Crisis Pregnancy Centres in the Southwestern Ontario area. At the end, I did a questions and answer time. One of the ladies asked me what I was hearing about kinky sex. I told her I hadn't heard anything in particular but if they were, it was probably because kids were seeing things on the Internet.

"Afterwards, I asked her where the question really came from. She told me she had counseled two twelve-year-old girls in the last three months who came in for pregnancy tests. They told her separate but similar stories about how their boyfriends would put dog collars and leashes on them, lead them upstairs to his bed or her bed, tie their hands and wrists to the bed, and then do whatever they wanted to them before they had sex. When the worker asked the girls where their boyfriends had learned this, they both answered 'WWF wrestling'."

We are social creatures and the ability to form healthy relationships is essential to human flourishing. The broadcast industry, by introducing children to deviant and violent sexual activities when they are just developing their attitudes towards sex, is subverting and degrading this ability, and for no reason more important or pressing than "profit". The consequences for children and youth of this disturbing development are in urgent need of examination.

A study released in the *Journal of the American Medical Association* on August 1, 2001, indicates that one in five high school girls have been physically or sexually abused by a dating partner, abuse which significantly increases their risk of drug abuse, suicide and other harmful behaviour, and that a disturbing number of adolescent boys have adopted attitudes that men are entitled to control their girlfriends through violence.<sup>4</sup> Those attitudes are being spread through popular culture, including television.

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<sup>2</sup> Violence on Television, Policy Statement by the MP for Rosemont, Bernard Bigras, April 2000

<sup>3</sup> *Puberty strikes hard and early in the '90s*, Toronto Star, July 10, 1998

<sup>4</sup> *Dating violence a threat to teens*, Toronto Star, August 1, 2001

An additional concern, is the normalization of criminal sexual conduct through broadcast of so-called "reality" series like *U8TV: The Lofters*. This Canadian series brings together eight young people who live together in a Toronto loft equipped with 21 cameras including ones trained on the shower stall and bedrooms. In commenting on *U8TV*, broadcast on the Life Network, "Atlantis Alliance president Phyllis Yaffe predicted there will be some sexual activity, acknowledging that 'if there's more than smooching, that's okay.'"<sup>5</sup>

Input from mental health experts on the ramification of normalizing voyeurism should be sought. While it is illegal to creep up to windows and spy on people in their own bathrooms and bedrooms, series like this one and the American program, *Big Brother* and *Big Brother 2*, present the activity as entertainment. Sex offenders who start out as "Peeping Toms" can progress to more violent crimes including rape and murder. We need to examine the consequences for society when deviant, illegal sexual behaviour is normalized and encouraged -- and, for no reason more important or pressing than "profit".

Writing in the Toronto Star about the reality phenomenon, television columnist Antonia Zerbisias said "So, brace yourself for more money, more masochism, more violence, more starvation, more humiliation, more hanky-panky, more shock, more live larvae lunches."<sup>6</sup> This alarming trend of featuring real people engaging in real violence, degradation, sexual activity, etc., has nowhere to go but down, and Canadian broadcasters have enthusiastically hopped on the bandwagon with their American counterparts. During the Summer 2001 television press tour, critics savaged network representatives over this trend, but criticism will have no effect as long as the programming proves profitable.

The *Broadcast Act* mandates broadcasters to **safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada**. By promoting violence, exposing children and youth to completely age-inappropriate sexual activities, broadcasting programming that degrades women and encourages violence against them, normalizing sexually deviant behaviour, etc., broadcasters are undermining, not safeguarding and strengthening the social fabric of Canada. This cannot be viewed as anything other than a direct contravention of the *Act*.

The CRTC, tasked with regulating broadcasting in the public interest, has failed abysmally. This failure is underscored by two situations described in more detail later in this submission:

- The discovery that Bell ExpressVu had broadcast violent and degrading pornography on its pay-per-view channels<sup>7</sup> as revealed by the *Fifth Estate* in March. This appalling situation was made more abhorrent by the CRTC actually "commending" Bell after the company had been caught red-handed not only flouting the conditions of their licence, but broadcasting criminally obscene material.<sup>8</sup>

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<sup>5</sup> *Camera crew, like, candid about naked ambition*, Globe and Mail, January 10, 2001

<sup>6</sup> *Brace for more 'reality'*, Toronto Star, May 6, 2001

<sup>7</sup> Letter to Valerie Smith from Toronto Police Service, June 11, 2001, re Bell ExpressVu

<sup>8</sup> *CRTC to monitor Bell ExpressVu after porn incident*, Toronto Star, August 8, 2001

- The CRTC's granting of a license to Corus Entertainment Inc. and Alliance Atlantis Broadcasting Inc. for an all-horror channel, Scream TV, that the company has said will broadcast slasher films, a particularly brutal genre of film.

Clearly, the wishes of federal politicians as expressed through the *Broadcast Act* and various initiatives directed at reducing televised violence, are at odds with the practice of the federal regulator.

### **III. RESEARCH ON THE EFFECTS OF MEDIA VIOLENCE**

In a 1999 position paper, *Children and the Media*, the Canadian Paediatric Society stated that "The influence of the media on the psychosocial development of children is profound." In the United States, which has been at the forefront of research into the influence of media violence, UNESCO, the American Medical Association, American Psychiatric Association, American Academy of Pediatrics, American Academy of Child & Adolescent Psychiatry, American Psychological Association, National Institute of Mental Health, American Academy of Mental Health, and the U.S. Surgeon General, have all made definitive statements over the years about the relationship between childhood exposure to visual violent images and later manifestation of real-world aggression and violent criminal acts. For example:

- **2000:** *Joint Statement on the Impact of Entertainment Violence on Children* made by the American Academy of Pediatrics, American Psychological Association, American Academy of Child & Adolescent Psychiatry and the American Medical Association at a Congressional Public Health Summit on entertainment violence stated that "... the conclusion of the public health community, based on over 30 years of research, is that viewing entertainment violence can lead to increases in aggressive attitudes, values and behavior, particularly in children. Its effects are measurable and long-lasting."
- **1993:** American Psychological Association's *Commission on Violence and Youth* stated: "There is absolutely no doubt that higher levels of viewing violence on television are correlated with increased acceptance of aggressive attitudes and increased aggressive behavior. Three major national studies... reviewed hundreds of studies to arrive at the irrefutable conclusion that viewing violence increases violence."
- **1984:** U.S. attorney general's *Task Force on Family Violence* stated that evidence is overwhelming that TV violence contributes to real life violence.
- **1982:** National Institute of Mental Health (U.S.) issued an extensive report stating that there is a clear consensus on the strong link between TV violence and aggressive behavior. The American Medical Association reaffirmed "... its vigorous opposition to television violence and its support for efforts designed to increase the awareness of physicians and patients that television violence is a risk factor threatening the health of young people."

#### IV. POLITICAL AND REGULATORY INITIATIVES

*"I'm sending you this letter because I am very agitated about violence on TV. I think that TV violence influences little children, because my little brother was trying to puncture the wall with a knife because he saw this being done on TV. TV violence is one thing that something should be done about. I am bewildered why more is not being done to get rid of TV violence."*

Jasmine, grade four student, Dartmouth NS<sup>9</sup>

The murder of students at Columbine High School in Colorado in April 1999 prompted a renewed examination and heightened awareness of media violence as a contributing factor in youth violence. In the United States, high-level government hearings were held and the Federal Trade Commission, at the request of the President, launched an investigation into whether entertainment companies were deliberately marketing violent products to youth in contravention of their own rating systems. The FTC report, issued in September 2000, indicated that all segments of the industry were doing just that.

Here in Canada, the Attorney General of British Columbia last year introduced legislation to classify video games, a first in Canada, and convinced Canadian justice ministers to form a Federal-Territorial-Provincial Working Group on Media Violence at their annual meeting in September 2000. A month later, Ontario Attorney General Jim Flaherty took the unprecedented step of attempting to have ultra-violent rap performer, Marshall Mathers (Eminem), barred from entering Canada because his misogynist lyrics so blatantly promote hatred and violence against women. It's important to point out that Mr. Flaherty was unsuccessful because the federal Liberal government has refused to amend the *Criminal Code* hate propaganda law to include gender, which is not only an affront to half the population, but contrary to the Charter equality guarantee.

The concern about media violence is not new and has been consistent over decades. In the past ten years, for example, the federal government and the CRTC have examined the problem extensively. The CRTC held hearings and commissioned research into television violence, while the federal government identified media violence as a major issue requiring national action in 1991. Health Canada was tasked with leading the initiative and reportedly developed a Media Violence Action Plan with the goal of addressing media violence and its affects on children.

In 1993, a national conference on television violence was hosted in Toronto by the C.M. Hincks Institute for Children's Mental Health in conjunction with the CRTC. Writing in the *Globe and Mail* following the conference, Keith Spicer, then Chairman of the CRTC, noted that experts who attended the conference confirmed that "research overwhelmingly proves that excessive TV violence hurts children by contributing to desensitization, aggression, impaired learning abilities, increased bullying and weapons use".<sup>10</sup>

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<sup>9</sup> *VISION 'Action Today for a Safer Tomorrow', Youth Safety Strategies Report 2000 on Youth Violence in Ontario Schools and Communities, CAVEAT, 2001.*

<sup>10</sup> *Excessive TV violence harms children, Globe and Mail letter to the editor from Keith Spicer, CRTC Chairman, March 24, 1993*

The same year, the House of Commons Standing Committee on Communications and Culture held public hearings into media violence and produced *Television Violence: Fraying Our Social Fabric*, a report containing 27 recommendations for action to reduce media violence which said:

- What is needed is for government, the federal regulator and broadcasters to act.
- We have come to the conclusion that an amendment to the *Criminal Code* is needed to control extremely violent forms of entertainment such as slasher and snuff films and videos.

As a follow-up to this report, the federal Standing Committee on Justice and Legal Affairs recommended that the obscenity provisions of the *Criminal Code* and *Customs Tariff* be amended to prohibit media that have as a dominant characteristic, "the undue exploitation of horror, cruelty or violence". To date, legislation has not been introduced although it is desperately needed.

American politicians have engaged in similar bouts of studies and recommendations since 1952, but none of it has resulted in **any** reduction in the level of media violence. Quite the contrary; explicit and brutal violence has escalated steadily and infected all aspects of popular culture with the result that the American Academy of Pediatrics in 1997 stated:

*"The level of violence to which [children] are exposed through the media has reached such horrific proportions, health professionals, parents, legislators and educators agree that something has to be done."*

While Canadian broadcasters have for years pointed the finger of blame at the United States, the Laval University study indicating an increase in violence on Canadian television shows that Canadian broadcasters are just as guilty as their American counterparts. Violence has increased on this side of the border in spite of assurances from the industry that they would reduce violence.

## **1. RATING SYSTEM AND VIEWER ADVISORIES**

At the insistence of the CRTC and federal politicians, Canadian broadcasters introduced a classification system which was eventually supposed to work in conjunction with the V-chip to permit parents to prohibit violent shows. The industry in both Canada and the United States hasn't embraced this process because of concern that advertisers would avoid programs classified as violent. In a CBC interview in September 1999, Keith Spicer, former Chair of the CRTC, admitted that American broadcasters told him several years ago they were going to do everything they could to weaken the classification system and not make it work and therefore discredit the V-chip.<sup>11</sup>

In Canada, each broadcaster rates their own programs and the rating is flashed briefly on the screen for a few seconds before the program begins. Viewer advisories may also be broadcast which supposedly "alert" parents to violent or sexual content. Unfortunately, however, a study

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<sup>11</sup> *Whatever happened to the V-chip*, CBC radio on line, November 18, 1999

conducted by the University of Western Ontario's Richard Ivey School of Business<sup>12</sup> and released in 1997, indicates the warnings act as advertisements that can attract children and teenagers to violent programs. So, while the industry touts viewer advisories as an important part of the solution, the advisories can actually be counter-productive.

## **2. MYTH OF PARENTAL RESPONSIBILITY**

Historically, the entertainment industry has put the onus on parents to control what their children are exposed to. In a perfect world, parental responsibility could be relied on to form a prominent part of the solution. However, we are very far from living in a perfect world, and society is placed at risk by unduly emphasizing the role of parents in controlling children's exposure to media violence because there are:

- **Uninformed parents** - Many parents are unaware of the research proving the harmful effects of exposure to media violence and so do not monitor or restrict what their children watch.
- **Irresponsible parents** - Some parents are irresponsible, so that even if they did know about the research, they wouldn't care.
- **Abusive parents** - Studies indicate that children most at risk to be influenced by violent media and to adopt violent role models, are children living in dysfunctional, non-nurturing, and/or abusive homes.
- **Children at risk** - The Centre for Studies of Children at Risk, Chedoke-McMaster Hospitals, estimates that 20%, or one and a half million Canadian children, are coping with at least one emotional or behavioral disability.

The rest of us have to share the same planet with the children of uninformed, irresponsible, and abusive parents. And this is how it plays out in the real world: Columbine High School. The parents of children shot to death at Columbine could have done everything in their power to protect their own children from media violence, but that would not have prevented them from being shot by Dylan Klebold and Eric Harris who, in a videotape they prepared before the massacre, said "It's going to be like f---king *Doom*", a notoriously violent video game.

Klebold and Harris morphed the faces of their classmates from the Columbine yearbook onto the bodies of virtual humans they practiced shooting, and created a level of the game *Doom* called "Columbine" whose hallways replicated visually those of their school,<sup>13</sup> and then they acted out their murderous fantasy. If we rely solely on parental responsibility, the result will be more Columbines.

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<sup>12</sup> *TV violence warnings tune teens into ads*, Globe and Mail, May 1, 1997

<sup>13</sup> April 20, 2001 letter to Id Software from Jack Thompson, lawyer for the family of Evan Todd, shot at Columbine High School

## V. FAILURE OF SELF-REGULATION

Broadcasters insist the industry can self-regulate through voluntary adherence to various codes developed by the Canadian Association of Broadcasters (CAB), and the CRTC has given them approval to do so. The CAB developed their own codes on, among other things, violence and sex-role portrayal, and administers them through the Canadian Broadcast Standards Council (CBSC), an industry-run body. The CBSC has no means of enforcing the codes, other than moral suasion, and has taken up to 18 months to process a complaint from the public. If the CBSC finds on behalf of the complainant, they issue a press release and the broadcaster has to make an announcement on the air (months after the offending program was broadcast) saying they have contravened the CAB code. There are no financial penalties and ejection from the CBSC is the most dire consequence they face for continued non-compliance. Understandably, punishment by press release has had little effect on the industry's behaviour.

The purchase by Global Television, CHUM Ltd., Western International Communications (WIC), and The Sports Network (TSN) of programming such as *Mighty Morphin Power Rangers*, *Howard Stern Show*, *Jerry Springer Show*, *World Wrestling Federation*, programming that clearly violates CAB codes, is an indication of their complete disregard for the codes. The gratuitously violent, misogynist, sexually-deviant and sexually-explicit content of these programs was a matter of public record before they were purchased, yet they were not only purchased, but scheduled for broadcast during hours when children would be watching television and listening to radio.

Not surprisingly, following public complaints adjudicated by the CBSC, the programs were variously found in breach of both the violence and sex-role portrayal codes, with the CBSC saying that, in their opinion, the series would be in ongoing breach if they continued unchanged. For instance:

- *Mighty Morphin Power Rangers*: CBSC Decision 93/94-0270 and 0277 (1994) stated "that their [CBSC panel members] observations entitle them to take the generalized position that the approach of the entire series is such that it would likely be in breach of those articles of the Violence Code in the same manner as the episodes which the Council members viewed in order to render this decision."
- *Howard Stern Show*: CBSC Decisions 97/98-0001+ and 0015+ (1997) stated "The Councils are of the view that, while the subject matter of the daily *Howard Stern Show* episodes of course varies from day to day, the presentation of the content which is the principal subject matter of this decision remains systematically similar in approach from one day to the next."
- *Jerry Springer Show*: CBSC Decision 98/99-0294 and 446 (1999): Panel members felt that the episodes viewed were representative of the program and ongoing breaches of the violence code could be anticipated if it continued in that format.

Surely, if the breaches were so glaringly obvious to the CBSC panel members, they must also have been glaringly obvious to the broadcast buyers, who bought them anyway.

In spite of the research findings and entreaties from medical and mental health experts for broadcasters to reduce televised violence, the industry continues to increase the level, intensity and realism. The success of the so-called "reality" series *Survivor*, has spawned a host of increasingly bizarre and dangerous reality shows. Even people within the industry are sounding the alarm as the situation deteriorates. Judd Apatow, producer of the critically-acclaimed NBC teen show, *Freaks and Geeks*, predicts someone will be killed<sup>14</sup>.

In July 2001, a contestant on *Big Brother 2* (CBS) was ejected because he held a knife to a woman's throat and the footage of this event was available on the program web site. During the summer press tour at which American networks showcase their Fall programs, Les Moonves, president and CEO of CBS, got defensive when a critic suggested that CBS was fuelling aggressive behaviour by supplying alcohol to participants on *Big Brother 2*, and refused to answer a question about what his network would do should physical harm befall any of the competitors<sup>15</sup>.

Self-regulation has been an abject failure. Dr. Centerwell stated the obvious when he said only a "frankly deranged" person would expect broadcasters to reduce violence through an appeal to their social conscience. He also said: "There are no recommendations to make to the television industry. To make any would not only be futile, but create the false impression that the industry might actually do something constructive."<sup>16</sup> Public interest groups have never believed in nor advocated self-regulation at the hearings held by the CRTC, yet it is the one adopted by the regulator.

The predictable results are evidenced by the Laval University study which was echoed by an American study, *Merchandizing Mayhem: Violence in Popular Culture*, released in September 1999 by the Center for Media and Public Affairs. This study also highlighted the generally irresponsible presentation of violence and stated that "Violence was not only a staple of popular entertainment, it was often portrayed as a laudable, necessary, or relatively harmless activity."<sup>17</sup> When it comes to entertainment violence, our border is almost completely porous, so much of the American experience can be extrapolated to Canada.

Indeed, the failure of self-regulation was considered by the Standing Committee on Communications and Culture and reflected in Recommendations 22 and 23 of *Television Violence: Fraying Our Social Fabric*:

**Recommendation No. 22** - The Committee recommends that, in the event industry self-regulation is unsuccessful, the Canadian Radio-television and Telecommunications Commission, giving due regard to the rights and freedoms guaranteed by the Canadian Charter of Rights and Freedoms, should devise a regulatory scheme to govern the broadcast of programs with violent content,

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<sup>14</sup> *The unpleasant realities of reality TV*, Globe and Mail, July 13, 2000

<sup>15</sup> *Holier than thou? Get real*, National Post, July 25, 2001

<sup>16</sup> *Television and Violence: The Scale of the Problem and Where to Go From Here*, Brandon S. Centerwall, MD, MPH, Journal of the American Medical Association, June 10, 1992

<sup>17</sup> *I'm Okay, You're Dead! TV & Movies Suggest Violence is Harmless*, Center for Media and Public Affairs press release, September 22, 1999

including a universal television program classification system and strict penalties for violating the regulatory scheme.

**Recommendation No. 23** - The Committee recommends that, if industry self-regulation is unsuccessful, and if the Canadian Radio-television and Telecommunications Commission does not respond effectively within a reasonable period of time, the Minister of Communications introduce legislation to achieve the same effect as proposed in Recommendation No. 22.

Due to the failure of the industry to effectively self-regulate, Bloc M.P., Bernard Bigras, drafted a private member's bill (*Bill C-470 An Act to amend the Broadcasting Act*) in April 2000. A copy of the Bill and Mr. Bigras Policy Statement are attached. Self-regulation was an experiment that failed; it should be abandoned.

## VI. CAB CODES AND CODE VIOLATIONS

### 1. GRATUITOUS VIOLENCE

The CAB, CBSC and CRTC continually say that the CAB violence code "bans" gratuitous violence. This is misleading to the public because they are using the CAB definition of gratuitous ("material which does not play an integral role in developing the plot, character or theme of the material as a whole") instead of a dictionary definition of gratuitous ("without good reason or cause; unjustifiable, unwarranted").

The CAB definition means that if a program is **about** a serial killer, then showing the horrible crimes of a serial killer is integral to the plot and therefore not gratuitous (CBSC decisions on *Millennium*, *Silence of the Lambs*). If a show is **about** the Mafia, which is notorious for engaging in brutal violence and murder, then brutal violence is integral to the plot and therefore not gratuitous (CBSC decision on *The Sopranos*). Under the CAB definition, it seems very little violence would be considered gratuitous.

In responding to concerns about the launch of Scream TV, a channel that will broadcast slasher films (e.g., *Nightmare on Elm Street*, *Friday the 13th*), Paul Robertson, President of Corus Television said that "Scream will be programmed in a manner to comply with the ... programming codes administered by the CBSC" including the code on violence which, according to his letter "prohibits the exhibition of programming which contains gratuitous violence in any form"<sup>18</sup>

This is risible, but illustrative of the perceived flexibility of the "gratuitous violence" definition crafted by the CAB. Slasher films are, by definition, gratuitously violent, i.e., the violence is unjustifiable and unwarranted. Gratuitous violence is not a secondary feature in slasher films, it is the reason they exist, to showcase over-the-top, hideous violence, quite often perpetrated against women and teenaged girls. An article in *Time Magazine* on youth violence described

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<sup>18</sup> Letter to Valerie Smith from Paul Robertson, President, Corus Television, July 9, 2001

slasher films as "among the most offensive purveyors of brutality to women" with the main features being "graphic and erotic scenes of female mutilation, rape or murder"<sup>19</sup>.

However, given the CAB definition of "gratuitous", it is entirely possible they will not fall afoul of the CAB violence code. If the movie is **about** a killer who murders and dismembers women, then showing that violence could be considered integral to the plot, and therefore not gratuitous under the CAB code. As for the possibility of the CBSC hearing complaints about the channel, who would file such complaints? If someone subscribes to an ultra-violent channel, it's unlikely they would turn around and complain about it.

## **2. WATERSHED HOUR - 9:00 PM**

The CRTC approved 9:00 pm as a so-called "watershed" hour after which violent programming intended for adults is supposed to be shown. This was incorporated into the CAB violence code under Section 3.11: "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 pm". It should be noted, however, that televised violence does not only have harmful effects on children and youth, so moving graphic violence to later broadcast does not render it harmless. For example, in a study cited by Professor Wendy Josephson, a University of Winnipeg psychology professor who has studied the link between television violence and aggressive behaviour, more than a quarter of men convicted of violent acts said they copied ideas they saw on television<sup>20</sup>.

Nevertheless, the CRTC adopted this watershed hour as a means of providing some protection to children and youth, but many broadcasters ignore even this small safeguard. Violent, as well as sexually deviant programs are, or have been, broadcast throughout the day. CHUM Ltd. (on CHOM-FM in Montreal) and WIC (on CILQ-FM in Toronto) both broadcast the *Howard Stern Show* from 6 am to 10 am; Global broadcast *The Jerry Springer Show* at 2 pm in Halifax/Dartmouth and 5 pm in Montreal; TSN broadcast *WWF Raw* from 3 pm to 5 pm in Winnipeg; CKVR in Barrie broadcast *Walker Texas Ranger* at 4:00 pm.

The Showcase channel broadcast the adult British crime dramas *Cracker* and *Prime Suspect* at 4 pm and 6 pm respectively in Ontario. Last September, Showcase added another violent series, *Touching Evil* to their Sunday line up, which elicited these comments from John Doyle, television reporter for the *Globe and Mail*:

"I'm astonished that Showcase is airing the grim, often grisly *Touching Evil* at this time on a Sunday afternoon (2:00 pm). This is adult drama that relies heavily on menace. Sometimes the details are deeply disturbing -- in the first new episode today the serial killer hunted by the cop characters preys on young women, murders them, removes their hearts and leaves the hearts in a garbage bag beside the bodies. That's nighttime viewing, not material for a weekend afternoon. I rarely protest this kind of scheduling shenanigan, but we're not talking hard-to get

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<sup>19</sup> *Our Violent Kids: A rise in brutal crimes by the young shakes the soul of society*, Time Magazine, June 12, 1989

<sup>20</sup> *Becoming what they behold*, *Globe and Mail*, May 20, 1993

premium cable or pay-TV here. Besides, *Touching Evil* is good crime drama for grown-ups and, to show it on a Sunday afternoon is simply a bad tactic...."<sup>21</sup>

Some broadcasters have also interpreted the acceptance of the 9:00 pm watershed hour as meaning they can show brutally-violent programming in an unedited form. For example, CTV purchased *The Sopranos* for broadcast, although it was rejected as too violent by all the American non-discretionary networks and purchased by speciality channel HBO. Commenting on the graphic content of the series, Trina McQueen, CTV Vice President, said *The Sopranos* wouldn't fall afoul of the CAB code on violence because the bloody assaults and murders are "absolutely essential to the telling of the story and completely ungratuitous".<sup>22</sup> She was right.

The *World Wrestling Federation*, *Howard Stern Show*, *Jerry Springer Show*, and the newly-launched MOJO radio offer examples of just how unconcerned some of Canada's largest broadcast conglomerates are about adherence to the *Broadcast Act*, the voluntary CAB codes, the harmful impact of their programming on society, particularly children, and the possibility of receiving any meaningful penalties from the CRTC.

### **3. WORLD WRESTLING FEDERATION (WWF)**

There has been significant Canadian press coverage of the trend to sado-masochism, adult sexual themes, negative stereotyping of women, profanity and excessive violence in televised wrestling. In March 1999, the Toronto Sun reported on a study by Indiana University of 50 episodes of *WWF Raw* that found 128 examples of simulated sexuality activity, 434 times when people either made a sexually charged remark or displayed one in a sign, 157 instances of wrestlers making obscene gestures, 1,658 instances of wrestlers or managers pointing to their crotch<sup>23</sup>. One of the WWF star's -- Road Rage Al -- carries around a female doll's head with the words "help me" scrawled on the forehead. This offensive accessory was actually offered in the toy department of Wal-Mart in Canada and the United States until it was taken off the shelves following protests<sup>24</sup>.

There have been several deaths in the United States and many injuries attributed to the influence of televised wrestling:

"In Fort Lauderdale, Fla, a 12-year-old boy stands accused of murdering a six-year-old girl by using simulated wrestling moves. ...There have been other cases, too. New York chiropractor Victor Dolan says he sees a lot of kids injured by mimicking professional wrestlers. They come in with strained backs and necks and broken bones."<sup>25</sup>

In response to complaints from a Winnipeg school board about the broadcast of *WWF Raw* in a 3:00 pm to 5:00 pm timeslot on The Sports Network, the CRTC dealt with the complaint (at the

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<sup>21</sup> *Critical List*, Broadcast Week, August 26 - September 1, 2000

<sup>22</sup> *CTV takes on the Olympics with the Sopranos*, Globe and Mail, June 8, 2000

<sup>23</sup> *The Last Word*, Toronto Sun, March 5, 1999

<sup>24</sup> *WWF doll wrestled off shelves*, Toronto Star, November 3, 1999

<sup>25</sup> *Ring fever*, Post TV, November 13 - 19, 1999

time TSN did not belong to the CBSC) and issued a decision in December 1999. Bob Davies, principal of Fort Rouge School, raised objections to the show after seeing children mimicking the language and gestures of pro wrestlers. He suspended one eight-year-old who confronted a teacher, grabbed his crotch and said, "Suck it".<sup>26</sup> Issues raised with the CRTC included excessive violence, adult content, simulated sexual activities, vulgar gestures, profane language, and the offensive portrayal of blacks and women. The CRTC decision read, in part:

"... the Commission strongly encourages TSN to reconsider its scheduling practices, particularly with respect to afternoon time slots when young viewers are likely to be watching. Further, the Commission is also concerned about the portrayal of women on WWF Raw, particularly in light of existing regulations prohibiting abusive comments and displays of women."<sup>27</sup>

Acknowledgment of their responsibility in copycat behaviour can be found in the public-service announcements broadcast by TSN and the WWF informing fans not to try WWF-style stunts at home<sup>28</sup>.

Since that decision, the WWF has not improved its abusive treatment of women or scaled back the violence. Nevertheless, the Canadian cable channel Headline Sports signed a three-year agreement in November 2000 with the WWF to broadcast *Smackdown* wrestling as well as the games of the XFL (XFL has since folded.) The WWF also purchased a 10% share of the Canadian parent company.<sup>29</sup> Jeff Marek, host of the radio and Internet show *The Law: Live Audio Wrestling*, said this establishes "... the World Wrestling Federation as a major presence in Canadian television".<sup>30</sup> WWF programming is expanding, not shrinking, in spite of the CRTC decision.

After TSN joined the Canadian Broadcast Standards Council, the Council adjudicated additional complaints. A CBSC decision relating to WWF *Raw Is War* contained the following regarding the treatment of women which it termed "demeaning and degrading":

"... the broadcaster has, on at least three occasions, made references to women which the Panel considers demeaning and degrading and in violation of the provisions of the *Sex-Role Portrayal Code*. On one occasion, one of the wrestlers calls Stephanie, one of the cast of characters, 'a two-dollar walking slut'. On another, one of the commentators describes one of the scantily clad women 'that horny little she-devil, Terry' and on another, Stephanie is admonished to 'stop being a filthy, dirty, disgusting, brutal, skanky, bottom-feeding, trashbag ho.'"<sup>31</sup>

It was also found in contravention of the violence code:

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<sup>26</sup> *TSN pulls wrestling from afternoon slot*, National Post, December 17, 1999

<sup>27</sup> CRTC decision File 00SP10-3, December 14, 1999

<sup>28</sup> *Sex, gore put good taste on the ropes*, Toronto Star, April 24, 1999

<sup>29</sup> *Fledgling sports network, WWF deal 'imminent'*, Financial Post, November 12, 2000

<sup>30</sup> *The Arts Report*, CBC Radio, November 17, 2001

<sup>31</sup> CBSC decision 99/00-0607, January 31, 2001

"In this respect, the Panel has no hesitation in concluding that, in its airing of *WWF Raw Is War*, the broadcaster is promoting or glamorizing the use of dangerous objects or weapons in wrestling, something which is egregious in terms of its reasonable expectation and which, consequently, falls outside of the allowable or sanctioned extent of the sport in violation of the provisions of Article 10.1 of the *CAB Violence Code*."

A study by researchers at Wake Forest University School of Medicine found that the "frequency of viewing wrestling on TV was positively associated with date fighting and other health risk behaviors" in teenagers. A press release that accompanied release of the study at the Pediatric Academic Societies meeting on April 28, 2001, stated:

"Adolescents who watch wrestling on TV are exposed to a high frequency of violence between men and women, alcohol use and hearing women referred to in derogatory terms such as "bitch," according to the study. In addition, the scenarios played out in the TV dramas often present violence as a solution to a problem.

"The level of vulgar language, verbal abuse and physical abuse modeled, with unrealistic outcomes, is astonishing," [Robert] DuRant [Professor and Vice Chair of Pediatrics, Wake Forest University] said. "For example, during one wrestling match a man dangled a woman upside down and then dropped her on her head, knocking her unconscious. In reality, I know this act would have broken her neck and probably would have killed her. In addition, the announcer of the program, speculating on what the wrestler was going to do with the woman, stated that she 'deserved it' because she had cheated on this wrestler earlier. This teaches an adolescent that it is OK to use violence to resolve conflicts and that women deserve abusive treatment."<sup>32</sup>

Another hazardous spinoff from WWF has been the development of "backyard wrestling" in which teenagers "beat each other over the head with steel folding chairs and draw blood with baseball bats wrapped in barbed wire".<sup>33</sup> An estimated 1,000 federations have sprung up around the United States in the last two years. Videos of the events are Webcast, traded and sold online.

#### **4. HOWARD STERN SHOW**

Howard Stern's misogynist attacks on women (routine use of words such as "pieces of ass, horny cow, dumb broads, slut"), constant references to sexual activities, the featuring of pornographic stars as regular guests, and his habit of making degrading comments about minorities were a matter of public record when the program was purchased by CHUM Ltd. for broadcast in Montreal and by Western International Communications for broadcast in Toronto commencing September 2, 1997. The response was predictable as described in the first CBSC decision on Stern (CBSC Decision 97/98-0015+):

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<sup>32</sup> *Watching Wrestling Positively Associated with Date Fighting, Say Researchers at Wake Forest University Baptist Medical Center*, News Release, April 28, 2001

<sup>33</sup> *Bloody backyard bouts*, Toronto Star, January 6, 2001

"As a result of that initial episode, complaints began flowing in to the Canadian Broadcast Standards Council ("CBSC") and the Canadian Radio-television and Telecommunications Commission ("CRTC") by e-mail, fax and letter from the very first day, namely, September 2. In due course, all Code-related complaints directed initially to the CRTC were forwarded to the CBSC.

"Due to the great quantity of complaints, the chain of events which began with responses from the CRTC and the CBSC to complainants and continued with the remittance of those letters to the broadcaster and the broadcasters' responses, occurred over an extended period of time. Moreover, complaints about the Howard Stern Show as a whole, as well as numerous other individual episodes, during and following the first two weeks, have continued to arrive, all of which has resulted in the return to the CBSC of Ruling Requests on a staggered basis. As of the date of the meetings of the Quebec and Ontario Regional Councils, and continuously thereafter, Ruling Requests were still reaching the CBSC's offices and it is the CBSC's expectation that they will continue to arrive after this decision."

"Stern's remarks relating to French-Canadians were, in fact, only an example of his casual attitude toward abusive commentary directed at identifiable groups by virtue of their race, gender or sexual orientation. There is a regular flow of racial, homophobic or gender-related offensive comments, some of which are brief digs, and others of which extend to longer discussions. In the period reviewed by the Regional Councils, he has targeted Japanese, gays, Poles, Sikhs, blacks and Arabs among others. For example, on September 3, he referred to Sikhs by saying "smack the guy on the back of his turban" and, on the following day, he mocked the Arabs."

"One of the most continually recurring categories of Stern comments reflects his on-air commentaries regarding women. It is clear to the members of the Regional Councils that Stern portrays adolescent, puerile, crude attitudes toward many sex and gender-related issues.

"Those comments which exceed bad taste and violate Sex-Role Portrayal Code provisions fall into the area of words and expressions used, degrading remarks regarding individual callers, and comments reflecting on the intellectual and emotional equality of women generally.

"In addition to terms such as "pieces of ass", "horny cow", "dumb broads", "dikes" (referring to women with even moderately feminist views), and "sluts", which sprinkle the dialogue on the Stern Show, he frequently deals with female guests on the basis of their physical attributes and sexual practices rather than, or occasionally in addition to, the skills or talents which are the reason for their common recognition. In the case of callers, he regularly avoids the subject with respect to which they have called in order to seek details of their bust size and weight as well as their sexual practices, despite the fact that this information is *utterly* irrelevant to the subject of interest."

CHUM Ltd. eventually cancelled the show in Montreal, but CILQ-FM (Q107) in Toronto continues to broadcast it with the addition of editing equipment. (The station has since been purchased by Corus Entertainment Inc.) Given the sheer volume of material identified by the CBSC as contravening various codes, it would be impossible to edit this program to conform to the CAB codes, particularly with regard to the treatment of women. As the CBSC noted in their first decision "One of the most continually recurring categories of Stern comments reflects his on-air commentaries regarding women."

In August 2000, MediaWatch, a national feminist organization that monitors the portrayal of women and girls in the media, wrote to the CBSC once again relating degrading statements made by Stern on CILQ-FM. For instance, he referred to one woman as a "money sucking whore, she's a slut". Regarding a proposed appearance on the show of a *Playboy* model, one of the cast members asked: "Could we put a carrot in Howard's lap and she would have to eat it while she's naked. And, would she be willing to get naked and eat food out of a dog dish."

Stern's vile attitude towards women is also illustrated by some of his favourite web sites which he occasionally identifies during the show. Two of these, a bestiality site and one which featured the violent sexual abuse of "teenage" runaways, were the subject of a complaint filed by me with Toronto Police and the CRTC in March 1998<sup>34</sup>. Access to these two sites, one of which was identified by police as criminally obscene, were provided by CILQ-FM through a Howard Stern section on their own web site. Because of this, the complaint filed with Toronto Police alleged distribution of obscene material, an offence under the Criminal Code. After consulting an obscenity expert with the Ontario Ministry of the Attorney General, however, a decision was made not to prosecute, although a Staff Inspector with the Toronto Police told me in a telephone conversation that the police had wanted to lay charges<sup>35</sup>. The CRTC declined to take any action against CILQ-FM once the station eliminated the links.

Indeed, so odious are Stern's views about women, that following the massacre of students at Columbine high school in April 1999, Colorado legislators passed a resolution asking the local broadcaster to drop the Stern show after Stern asked on the air if the two gunmen had tried to have sex with female students during the attack.<sup>36</sup>

The CRTC has stated that if people are not satisfied with a CBSC decision, they can appeal to the CRTC to deal with the problem. However, the complaints process is so nebulous and ill-defined with regard to ongoing programming like the Stern show, that people are at a loss to know when the CBSC process is finished and the CRTC should be approached to take over. There have been *six* CBSC decisions issued on *Howard Stern show* since it launched in September 1997, but his abusive comments directed at women continue.

Not only is the Stern show continuing to flout the voluntary sex-role portrayal code because of this, but the broadcaster is in contravention of the *Broadcast Regulations*:

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<sup>34</sup> *Stern radio shuns Web link to sex*, Toronto Star, March 26, 1998

<sup>35</sup> Telephone conversation between Valerie Smith and Staff Inspector Paul Gottschalk, Toronto Police

<sup>36</sup> *Jock shocks*, Toronto Star, April 29, 1999

*5(1) A licensee shall not broadcast (b) any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;*

## **5. JERRY SPRINGER SHOW**

The following excerpts from CBSC decisions on the *Jerry Springer Show* summarize the deviance and gratuitous violence that characterized the show, a conclusion reached by the CBSC in the first decision quoted here:

### **CBSC Decision 97/98-1277, May 28, 1999 & Decision 98/99-0294 and 446, June 23, 1999:**

"The *Jerry Springer Show* is syndicated in the Canadian market and plays at different times in different cities across the country. In the markets affected by this decision and in the relevant time frame related to the following complaints, the show aired at 2 p.m. on CIHF-TV in Halifax/Dartmouth and at 5 p.m. on CKMI-TV in Montreal.

"The five episodes watched by the Atlantic and Quebec Regional Councils are sufficiently structurally similar to permit some generalized observations regarding the show. In the view of the two Councils, the show deals primarily with relationships in which there is a personal issue to be resolved, with some emphasis on the bizarre. Nor is there any lofty purpose to be attributed to the word "relationship" for, generally speaking, relationship, in this context, signifies sexual relationship and the public revelation of such matters as cheating, threesomes, and behaviour of less than broad social acceptance. More specifically, in the episodes in question, this involved sexual issues such as adults sleeping with the partners of their children, unfaithfulness, cheaters cheating on their cheating partners, disturbing secrets, and prostitution; these invoked feelings of jealousy, hatred, bitterness and nastiness, often at an intense level. The titles of the programs themselves reveal the orientation of their content: "I'm Sleeping with My 13-Year-Old's Ex"; "I Hate Your Lover!"; "Update: Outrageous Guests"; "Clash of the Angry Lovers"; and "Bizarre Betrayals".

"It is not useful to describe in great detail the content of each of the five episodes screened by the Councils. As an example of the Nova Scotia broadcast, the August 3 show, entitled "I'm Sleeping with My 13-Year-Old's Ex", involved the customary physical disputes and, in the promos for the show at the first two commercial breaks, the emphasis was on forthcoming fighting on the show. The show of the next day, "I Hate Your Lover!" opened with extensive fighting before the host made his first statement. The Quebec broadcast of January 29, entitled "Clash of the Angry Lovers", was divided into three segments with different invitees, each segment including one individual who had come onto the show to confess that he or she had been unfaithful to his or her partner. All three segments were characterized by the physical fighting and coarse language referred to above. The second segment also included nudity and some sexual activity between two women, who removed each other's tops while kissing and fondling each other. The nudity was blurred out and all spoken profanities were bleeped.

"The result of each of the episodes, if not of almost each of the segments within the episodes, in addition to the hurling of verbal insults, profanities and obscenities, was kicking, punching, grappling, wrestling, or other forms of fighting among the guests. The fights are always broken up by Springer's own bouncers, but only *after* the invitees are into the melee. The guests are not, in other words, confined to their seats by the same individuals *before* they are into the fray."

**CBSC Decision 98/99-1092, November 19, 1999:**

"As is customary, the various guests on this episode of the show had sexual or relationship stories to recount. Since the accounts of three of the four guests were neither the subject of the complaint nor raised any particular concerns for the Regional Council, they will not be described here or dealt with in the decision. Suffice it to say that they generally raise bizarre, abnormal and antisocial behaviour patterns on the part of the show's guests.

"Insofar as the particular issue which was the subject of the complainant's letter is concerned, "Jessica", the guest, is "disgusted by her boyfriend's fetish". Apparently, "Lance" gets aroused by throwing up on Jessica during sex. Although she is disgusted by the practice, she claims not to want to leave Lance because she loves him. Then Lance comes onto the stage and describes how and why he throws up. The audience is then introduced to "Octavia", Lance's new lover, who apparently shares Lance's fetish. She is greeted on stage by Lance who proceeds to vomit on her. The two lovers are seen covered in green bile. As the three guests talk, the camera periodically focuses on the green bile splattered on the set."

As noted previously, the show was found in contravention of the CAB violence code and the CBSC expressed the opinion that the show would continue to be in breach of the code if it continued in that format.

**6. "SEX-PLOITATION" RADIO - CORUS ENTERTAINMENT INC.**

The introduction of Howard Stern to Canadian radio has inspired other broadcasters to plumb the sewer in order to compete. In Ontario, Corus Entertainment Inc. has been leading the way. The conglomerate recently purchased two Toronto radio stations -- CILQ-FM (Q107), already airing Howard Stern, and AM 640, a station it re-named MOJO Radio and launched as "talk radio for guys". Corus already owned another Toronto station, CFNY-FM, and now all three are appealing to the same male demographic with programming that includes the demeaning, degradation and exploitation of women, in contravention of the CAB *Sex-Role Portrayal Code*:

*Sex-Role Portrayal Code*, Article 4 (Exploitation)

Television and radio programming shall refrain from the exploitation of women, men and children. Negative or degrading comments on the role and nature of women, men or children in society shall be avoided. Modes

of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex.

Guidance: "Sex-ploitation" through dress is one area in which the sexes have traditionally differed, with more women portrayed in scant clothing and alluring postures.

MOJO Radio has been unabashed in its "sex-ploitation" of women. According to Toronto Star entertainment reporter, Betsy Powell, who attended the MOJO launch, the station rolled out a massive ad campaign featuring the station's "MOJO models", "...lingerie-clad blondes reclining on satin sheets and cozing up to stereotyped symbols of men's favourite things: power tools, baseball gloves and hot dogs."<sup>37</sup> They also distributed cardboard coasters with a picture of a MOJO model that said "She'll be anything you want her to be. Even a coaster."

In an interview with Rick Loewen, host of *Ripkin!* which airs on MOJO weekday mornings, Toronto Star columnist, Vinay Menon, said that "... *Ripkin!* doesn't fit with the station's deliberately sexist marketing." The article also says that the station's format initially troubled Loewen, and if he had known how they were going to present the station, he wouldn't have taken the job.<sup>38</sup>

Toronto Star columnist, Joey Slinger, described the MOJO television commercial this way:

"On the TV commercial, the camera trails up a long, bare leg. It trails. And it trails. It is a very long, bare leg. It trails across the satined peaks and valleys, lingering on the pouting lips, then languidly out a bare arm to a hand that grips a power drill. She gives the trigger a little squeeze. The drill goes *bzzt*. Is this too subtle for you, Dr. Freud?"<sup>39</sup>

Not content to merely exploit women, they also had this degrading Joke of the Day posted on the MOJO radio web site when the station first launched:

*Sally went to her new gynecologist for her first exam. The doctor got her in the stirrups and spread her legs.*

*Then the doctor said, "Oh My God!!! In my all of my career, I have never seen such a huge vagina!! ... huge vagina!!"*

*She said, "Doctor, I know - I'm very self-conscious about it, but I don't think it was necessary for you to repeat yourself!"*

*The doctor replied, "I didn't. It was an echo!"*

Other sections on the MOJO web site that made reference to women were so offensive, they are not included here. Based on media coverage, that appears to be the level of sexist humour and

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<sup>37</sup> *On MOJO 640, it's all guys, all the time*, Toronto Star, April 20, 2001

<sup>38</sup> *MOJO's Ripkin rising*, Toronto Star, June 10, 2001

<sup>39</sup> *Celebrating babes, beer and bucks with guy abandon*, Toronto Star, May 26, 2001

discussion that distinguishes this station's on-air material. MOJO features a "sex advice" columnist from *Hustler* magazine, a publication well known for blatant misogyny. Topics reportedly covered during daytime broadcast on MOJO have included a graphic description of anal sex by the *Hustler* columnist, and a phone-in show on oral and vaginal sex discussed using degrading, locker-room language<sup>40</sup>. Even Toronto Star columnist, Rosie DiManno, who is anything but feminist in her attitudes, has commented on the "unapologetic misogyny" of MOJO radio<sup>41</sup>.

Corus Entertainment has indicated their desire to spread the sexploitation MOJO format to other radio stations across Canada (they own 49), a situation that illustrates their "commitment" to CAB codes, something to keep in mind since this is the conglomerate launching Scream TV and expressing their "commitment" to the violence code as a means of reassuring the public.

CFNY-FM, a brother station to MOJO and CILQ-FM, has joined in this sexist programming with their new morning show. On May 22, 2001, host Dean Blundell described a live contest they were holding in the studio in which a 21-year-old woman, naked except for a tank top, was having her "bare ass pelted with cold cuts" by the show's staff. He invited listeners to come down to the studio and see it. For several days afterward, the station played excerpts from this contest throughout the day to advertise the morning show.

The CAB *Code of Ethics* Clause 11 on Radio Station Contests and Promotions states that "all station contests and promotions should be conceived and conducted in good taste..." A contest involving pelting a half-naked woman with meat would seem to contravene that Code as well.

## **VII. EXAMPLES OF REGULATORY FAILURE**

### **1. BELL EXPRESSVU BROADCAST OF CRIMINALLY OBSCENE MATERIAL**

On March 28, 2001, the CBC television program, *Fifth Estate*, reported on an investigation they conducted into the broadcast of sexually explicit material on Canadian pay-per-view television channels. Emphasis was given to the movies carried by Bell ExpressVu. In previewing the piece for CBC's *The National*, reporter Hana Gartner stated:

"It is a competitive marketplace, and in the race for the raciest, Bell ExpressVu has broken the rules. It is running the raunchiest hard-core porn on two twenty-four hour channels which it is picking up from a distributor in Boulder, Colorado. Some of their movies are sexually violent, and would not be approved by the provincial censor boards."<sup>42</sup>

During the program, Ms Gartner further stated:

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<sup>40</sup> 'Guy radio' is giving me a headache, Toronto Star, May 10, 2001

<sup>41</sup> Radio's MOJO won't work on me - or real guys, Toronto Star, June 1, 2001

<sup>42</sup> CBC *The National*, March 27, 2001

"... the harder the porn, the higher the profits, so when Bell ExpressVu came shopping, they bought the raunchiest stuff on the shelf. Two networks called Extasy and True Blue.

"For \$15.95 a day, Bell ExpressVu will deliver your fantasy: anal sex, sadomasochistic sex, group sex, penetration, ejaculation -- nothing is left to your imagination.

"They signed on with New Frontier just last spring. Now, nearly three-quarter of a million Canadian homes have access to these channels."

(At \$15.95 per day x 365 days a year x 375,000 subscribers, the figures are staggering.)

The Toronto Star carried the following description of some of the activities shown during the program and which had been broadcast by Bell ExpressVu:

"... reporter Hana Gartner introduced clips that showed painful-looking bondage and simulated rape and torture, including hot wax being poured onto the breasts of a seemingly helpless bound woman and clothes pins and other clamps attached to nipples.

"In one scene, a woman protests while being tied up and lashed to a door, with the doorknob in her mouth; others are hogtied while their bare buttocks and breasts are whipped."<sup>43</sup>

In closing the segment, Ms Gartner said that the images shown on *Fifth Estate* were only a "tiny sample, carefully chosen and edited to reveal the least possible" which seems to indicate that movies containing even more violence and degradation had been broadcast.

The CRTC spokesman stated that it is a condition of license for pay-per-view channels to have sexually explicit films approved by a provincial film review board prior to broadcast. Bell reportedly assured *Fifth Estate* that all such movies had been approved by the Ontario Film Review Board. However, Robert Warren, Chair of the OFRB was shown examples of movies broadcast on Bell ExpressVu's two channels, movies the satellite company said had been cleared by the OFRB. Mr. Warren had not heard of many of the movies and some of them he said the Board would never approve because of the violent and degrading content.

### **Complaint Filed With Toronto Police Service**

On April 2, 2001, I filed a complaint against Bell ExpressVu with the Toronto Police Service alleging contravention of Criminal Code Section 163 that makes it an offence to distribute, circulate or possess for the purpose of distribution or circulation "any obscene written matter, picture, model, phonograph record or other thing whatever", which is defined as "any publication a dominant characteristic of which is the undue exploitation of

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<sup>43</sup> *Bell satellite TV pulls porn in wake of CBC expose*, Toronto Star, March 29, 2001

sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty and violence".

The complaint claimed that the sexually-explicit movies broadcast by Bell ExpressVu contravened Section 163 due to the combining of sex with cruelty and violence, and noted that even when violence was not overt in the films, women were subjected to degradation. In *Regina v Butler*, the Supreme Court of Canada said:

"There has been a growing recognition in recent cases that material which may be said to exploit sex in a "degrading or dehumanizing" manner will necessarily fail the community standards test.

"Subsequent decisions... held that material that "degraded" or "dehumanized" any of the participants would exceed community standards even in the absence of cruelty and violence.

"In the appreciation of whether material is degrading or dehumanizing, the appearance of consent is not necessarily determinative. Consent cannot save materials that otherwise contain degrading or dehumanizing scenes. Sometimes the very appearance of consent makes the depicted acts even more degrading or dehumanizing.

"This type of material would, apparently, fail the community standards test not because it offends against morals but because it is perceived by public opinion to be harmful to society, particularly to women. "

The Toronto Police Service sought a legal opinion from Assistant Crown Attorney David Butt, an obscenity expert with the Ontario Ministry of the Attorney General. A letter to me from Detective Staff Inspector Roy Pilkington stated:

"It is the opinion of Mr. Butt that the materials allegedly distributed by Bell ExpressVu are obscene under the Criminal Code. However, it is his opinion, in all the circumstances, that at present it would not be in the public interest to prosecute Bell ExpressVu.

"Mr. Butt bases his opinion in part upon the careful steps apparently taken by Bell ExpressVu to avoid any further broadcast of similar material, as outlined in their letter to you dated May 7, 2001."<sup>44</sup>

And these comments were included in a letter sent by Detective Staff Inspector Pilkington to David McLennan, President and Chief Operating Officer, Bell ExpressVu:

"I have advised Valerie Smith that if you have not been forthright in your May 7 letter to her or you continue to be involved in the distribution of obscene material,

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<sup>44</sup> Letter dated June 11, 2001 to Valerie Smith from Toronto Police Service

then the Toronto Police Service and Mr. Butt would certainly be prepared to reconsider a prosecution against Bell ExpressVu.

"I hope that the response you received as a result of your Adult Programming has left you with an indication of not only the manner in which the public holds you accountable but also of the measures that the Toronto Police Service are willing to take to uphold community standards."<sup>45</sup>

Copies of above-noted correspondence are attached.

### **Complaint Filed With CRTC**

On April 9, 2001, I filed another complaint with the CRTC under the *Broadcast Act, C.R.T.C. Act* and regulations pursuant to both statutes against Bell ExpressVu for its broadcast of programming in contravention of its license and the above-noted statutes and regulations.

It appears that Bell ExpressVu either chose to, or was negligent in permitting, sexually violent and degrading material to be broadcast to Canadian viewers. This situation was only possible because of it holding a broadcast license issued by the CRTC. The issuance of a license is neither unconditional nor absolute, and the CRTC possesses both the authority and statutory obligation to ensure licensees are in compliance with the terms of their license and the governing statutes and regulations.

The following legislation and regulations appeared to indicate that the CRTC must review the conduct of the licensee in these circumstances and determine, after a public hearing, whether its license should be suspended and/or revoked.

### **Broadcast Act**

3. (1) *It is hereby declared as the broadcasting policy for Canada that...*

*(h) all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast; ...*

9. (1) *Subject to this Part, the Commission may, in furtherance of its objects...*

*(e) suspend or revoke any licence;*

12. (1) *Where it appears to the Commission that*

*(a) any person has failed to do any act or thing that the person is required to do pursuant to this Part or to any regulation, licence, decision or order made or issued by the Commission under this Part, or has done or is doing any act or thing in contravention of this Part or of any such regulation, licence, decision or order, or*

*(b) the circumstances may require the Commission to make any decision or order or to give any approval that it is authorized to make or give under this Part or under any*

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<sup>45</sup> Letter dated June 12, 2001 to David McLennan, President & COO, Bell ExpressVu

*regulation or order made under this Part, the Commission may inquire into, hear and determine the matter.*

*16. The Commission has, in respect of any hearing under this Part, with regard to the attendance, swearing and examination of witnesses at the hearing, the production and inspection of documents, the enforcement of its orders, the entry and inspection of property and other matters necessary or proper in relation to the hearing, all such powers, rights and privileges as are vested in a superior court of record.*

*17. The Commission has authority to determine questions of fact or law in relation to any matter within its jurisdiction under this Act.*

*18. (1) Except where otherwise provided, the Commission shall hold a public hearing in connection with...*

*(b) the suspension or revocation of a licence;...*

*(3) The Commission may hold a public hearing, make a report, issue any decision and give any approval in connection with any complaint or representation made to the Commission or in connection with any other matter within its jurisdiction under this Act if it is satisfied that it would be in the public interest to do so.*

*24. (1) No licence shall be suspended or revoked under this Part unless the licensee applies for or consents to the suspension or revocation or, in any other case, unless, after a public hearing in accordance with section 18, the Commission is satisfied that*

*(a) the licensee has contravened or failed to comply with any condition of the licence or with any order made under subsection 12(2) or any regulation made under this Part;*

*32. (2) Every person who contravenes or fails to comply with any regulation or order made under this Part is guilty of an offence punishable on summary conviction and is liable*

*(a) in the case of an individual, to a fine not exceeding twenty-five thousand dollars for a first offence and not exceeding fifty thousand dollars for each subsequent offence; or*

*(b) in the case of a corporation, to a fine not exceeding two hundred and fifty thousand dollars for a first offence and not exceeding five hundred thousand dollars for each subsequent offence.*

*33. Every person who contravenes or fails to comply with any condition of a licence issued to the person is guilty of an offence punishable on summary conviction.*

### **CRTC Rules of Procedure**

*9. Where a person wishes to lodge a complaint with or make any representation to the Commission with respect to any matter within the powers of the Commission that is not directed to any application, he shall mail or deliver to the Secretary a brief written submission signed by him setting out the nature of his complaint or representation.*

10. Where the Commission determines that a complaint or representation made pursuant to section 9 constitutes an application or an intervention, it may require the person who made the complaint or representation to comply with the procedure relating to applications or interventions, as the case may be.

11. Where the Executive Committee is satisfied that it would be in the public interest to hold a public hearing in connection with a complaint or representation made pursuant to section 9, the Secretary shall notify the person who made the complaint or representation and the person against whom it is made of the date and place of the hearing.

### **Pay Television Regulations**

3. (2) No licensee shall distribute programming

(a) that contains anything in contravention of the law;

(b) that contains any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;

### **Specialty Services Regulations**

3. No licensee shall distribute programming that contains

(a) anything in contravention of the law;

(b) any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;

(c) any obscene or profane language or obscene or profane pictorial representation

### **Broadcasting Regulations**

5. (1) A licensee shall not broadcast

(a) anything in contravention of the law;

(b) any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;

(c) any obscene or profane language or pictorial representation;

Clearly, there is ample authority for the CRTC to hold public hearings to determine whether Bell ExpressVu should have its broadcast license revoked as a result of its deliberate or negligent broadcast of the channels described in the *Fifth Estate* program.

There is also a mandated consideration of the public interest in determining whether to hold public hearings following a complaint such as this. The CRTC was therefore urged to consider the following factors that pertain to the public interest inherent in this case:

- **The credibility of the CRTC as a regulatory body:** Bell ExpressVu only obtained its ability to broadcast as a result of a CRTC review and decision. Such egregious circumstances thus call into question the credibility of the CRTC process.
- **The self-regulatory nature of the broadcasting industry:** Over some objections, Canada has chosen a self-regulatory mode of enforcement for the broadcast industry which is especially challenged in consideration of the impugned material. Equally, the manner by which such material was broadcast, having been purchased from a foreign producer, merits public scrutiny.
- **The purported involvement of the Ontario Film Review Board:** By invoking the regulatory authority (or failure to employ it) of another important public institution, the licensee's actions have necessitated a public review of the process and deficiencies within the current arrangements.
- **How the material came to be broadcast:** The CRTC should explore this important factual issue to assess future procedural improvements which may be warranted.
- **The multiplicity of channels, providers and licensees:** Canada has seen an explosion of available broadcast material and this case provides an excellent opportunity to review the sufficiency of procedural safeguards in this environment.
- **The nature of the broadcast material:** As Canada redoubles its public efforts to eradicate violence against women, the broadcast of this material by a major industry player licensed by a public institution is a stark and disturbing incident that merits public review lest Canadians conclude that such actions and material are acceptable.<sup>46</sup>

As a result of this complaint, the CRTC requested that Bell ExpressVu respond to me, and their letter is the one referenced by Detective Staff Inspector Roy Pilkington as containing the "careful steps apparently taken by Bell ExpressVu to avoid any further broadcast of similar material". Although the CRTC conducted their own investigation into the situation, they have not, to date, indicated any intention to hold a public hearing as requested.

### **Research on Harm Caused by Obscene Material**

The Ontario Attorney General's factum to the Supreme Court of Canada on *Butler* refers to "obscenity's causal role in the commission of acts of violence against women."

Research on the effects of violent pornography indicate that "... in some cases exposure to scenes of forced sex initiates a process that eventually culminates in an overt sexual attack". That statement is from *Criminal Neglect: Why Sex Offenders Go Free*, co-written by Dr. W.L. Marshall, Professor of Psychology at Queen's University in Kingston, Ontario and Co-director of

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<sup>46</sup> Letter dated April 9, 2001 to Secretary General, CRTC, from Valerie Smith

the Kingston Sexual Behaviour Clinic. At the time of publication (1990), Dr. Marshall had been treating sex offenders for twenty years. The book further states:

"Fernand Robinson told the jury at his murder trial in 1984 that he had flipped through the pages of rape and bondage magazines as he fondled a young Toronto lawyer in the basement of her apartment building immediately before stabbing her repeatedly and slashing her throat. (pg 128)

"When James Patrick Jones, a former television cameraman, was arrested in 1987 in Kamloops, British Columbia, for sexually assaulting and brutally beating to death the three-year-old daughter of close friends, police searching his home found a locked case containing a selection of sex toys and pornographic materials dealing with bondage. (pg 129)

"In a survey of eighty-nine sex offenders who attended the [Kingston Sexual Behaviour] clinic over a six-year period, one-third reported that they had used pornography immediately prior to at least one of their crimes. Although these men were all out patients, they nevertheless included some rapists and child molesters who had injured their victims in a sadistic manner. (pg 129)

"After viewing scenes of rape, the proportion of men who admit at least some likelihood that they would commit a sexual assault if they were sure not to be caught is rarely less than thirty-five percent and has been as high as sixty-five percent. Furthermore, the increased tendency occurs irrespective of social class, intellect, or educational attainment. (pg 143)

"Neil Malamuth, a psychologist now working in the United States who did much of his early work at the University of Manitoba, has repeatedly found that even brief exposures to violent pornography can lead to a more callous attitude towards rape and women in general. (pg 134)

"A fifteen year old boy who was referred to the Kingston clinic after being incarcerated for raping a girl two years his senior, said he was simply duplicating what he had seen in one of several X-rated videotapes he watched at a friends' home." (pg 135)

During the year those channels were on the air, one wonders how many women and children were sexually assaulted because of the rape and bondage material broadcast by Bell ExpressVu. Given the research, it seems very unlikely that the answer would be "none". Furthermore, while Bell ExpressVu was engaging in this destructive behaviour, they were collecting millions of dollars in revenue. As mentioned previously, the situation is made all the more abhorrent by the CRTC "commending" Bell ExpressVu for the changes they made after Bell was caught blatantly flouting their license conditions *and* broadcasting illegal material.<sup>47</sup>

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<sup>47</sup> CRTC to monitor Bell ExpressVu after porn incident, Toronto Star, August 8, 2001

## 2. LICENSING BY THE CRTC OF SCREAM TV - CORUS ENTERTAINMENT INC.

During the June 2001 Canadian Television Press Tour, Corus Entertainment Inc. promoted an all-horror channel called Scream TV which will broadcast what the company termed "good, old-fashioned" slasher films like *Nightmare on Elm Street*, *Friday the 13th* and *Prom Night*. Scream TV is a joint venture with Alliance Atlantis Broadcasting Inc.

Corus played a highlights reel at the media launch on June 4. Writing in the Toronto Star, television columnist Antonia Zerbisias said she "... was nearly blown out of my chair by the violence. Even The Star's Rob Salem, who has a higher tolerance for this stuff than I, agreed the tape was excessive."<sup>48</sup>

In June 2001, the Corus web site listed the following slasher films for broadcast:

Slasher film classics

*Jason Goes to Hell* and *Nightmare on Elm Street I - IV*

Campy cult classics

*Prom Night I - IV*

At that time, they had nine films scheduled. Considering the sheer volume of programming hours they have to fill, the situation can only deteriorate.

### Content of Films Scheduled for Broadcast

The following describe the content of slasher films of the type Scream TV has indicated will be broadcast this fall. Your attention is drawn to the age and gender of the victims:

"By the late 1970s, the psychopath movies had virtually taken over the horror genre and almost invariably, their victims were marginally-wayward suburban American teenage girls."

*Fear in the Dark*, documentary broadcast on TV Ontario,  
September 24, 1992

"[Kane] Hodder figures that he'll be retiring Jason [*Friday the 13th* killer] with a career total of 101 maimed and murdered teenagers."

*The man behind the mask*, Toronto Star, August 13, 1993

"In one instance, a young girl 'described in considerable detail her memory of the image of a young woman being dismembered by Freddy Krueger [*Nightmare on Elm Street* killer], starting with the shredding of her breasts.'"

*Toxic culture*, Lorrie Goldstein, Toronto Sun, January 19, 1993

Description of *Jason Goes to Hell: the Final Friday* - "A frenzied pathologist stuffs a slimy, still-pumping human heart into his mouth and black blood oozes

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<sup>48</sup> *Just try to contain my excitement*, Toronto Star, June 5, 2001, D7

everywhere. A naked young woman in the throes of sexual ecstasy is sliced in half by a blade thrust through her torso. A living-dead cop tries to thrust his grotesquely engorged black tongue down the throat of a writhing woman."

*Graphic scenes of violence in some of the new videos*

Guelph Mercury, January 18, 1994

Description of *A Nightmare on Elm Street* - "Memorable moments: Krueger slices girl before dragging her up the bedroom wall and across the ceiling: Krueger dragging girl's body-bagged corpse around school: Nancy's bathtub encounter with Krueger."

*Freddy Krueger returns to spread screen terror*, Ottawa Citizen

October 14, 1994

Corus maintains that *Scream* TV is intended to reach adults 18 - 49. However, statements from industry representatives and commentators over many years have consistently identified the audience for slasher and horror films as being much younger than that. The slasher films which Corus identified on their web site as "teen screamers", and the ones they have listed for broadcast (*Nightmare on Elm Street*, *Friday the 13th*), were unquestionably designed for and marketed to youth; that's why they're called "teen screamers"; they also appeal mainly to male youth.

For instance, a recent *Washington Post* article noted that slasher and horror films appeal "mainly to teenage boys"<sup>49</sup>. A senior vice president with New Line Films, the company responsible for the *Nightmare on Elm Street* series, said in a 1990 interview that successful horror films "need to grasp an audience aged 10 to 24 in order to break into profits"<sup>50</sup>; 10 to 24 is a long way from the 18 to 49 demographic identified by Corus.

The appeal to youth and graphic violence of this genre of film were described in an article on youth violence printed in *Time* magazine after the infamous "wilding" incident in New York's Central Park in 1989 in which a gang of teenagers attacked and nearly killed a female jogger:

"Among the most offensive purveyors of brutality to women are slasher films. The movies that inaugurated the trend, including *Friday the 13th*, *Halloween* and *Nightmare on Elm Street*, are now tame compared with such opuses as *I Spit on Your Grave* or *Splatter University*. The main features: graphic and erotic scenes of female mutilation, rape or murder...

"Slasher films are widely shown on cable TV, and video shops do a booming business in rentals, especially among eleven to 15-year-olds. Youngsters watch three or four at a clip at all-night "gross-out" parties...

"Many experts believe that such films may be a contributing factor in date rape, one of the most common adolescent sexual crimes. "Teenagers are only doing

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<sup>49</sup> *Rating Enforcement Changes Hollywood's Picture*, Washington Post, May 31, 2001

<sup>50</sup> *The shock is wearing off*, Globe and Mail, November 30, 1990

what they are told to do." says sociologist Gail Dines-Levy of Boston's Wheelock College. "They are being conformists, not deviants."<sup>51</sup>

### **Research on Harm Caused by Slasher Films**

Should Corus be sincere about marketing this violent channel to adults aged 18 - 49, that is no cause for complacency. Targeting graphic violence to an adult audience does not render the material benign, nor does scheduling it for broadcast after 9:00 pm; once material is deemed harmful, it is not rendered harmless through broadcast later in the evening.

At the Hincks Institute conference on television violence in 1993, Dr. Edward Donnerstein spoke about the desensitization that occurs even in "very healthy" people when exposed to brutally violent media. He said:

"In the research that we've done for many, many years, we found that if we expose very healthy individuals to ten hours over two to three weeks of very graphic forms of violence, particularly violence against women, and then have them, for instance, act as a juror in a rape trial and ask them their evaluations of a real victim of violence, we find changes in their perceptions. They don't see as much injury, they don't see as much pain, they don't see as much suffering to a real victim of violence after exposure to media and fantasy violence; desensitization has occurred.

"That doesn't mean these people are going to go out and commit a rape; it doesn't mean they're going to go out and commit violent acts; but how they view violence is much different. They're not as sympathetic, they're not as empathetic, and their perceptions about reality for some transient time, have been altered. That's a real affect and it occurs in study after study, and I think it's something important to think about."<sup>52</sup>

That's the effect on *healthy people*. It's worth noting that Dr. Donnerstein was speaking about slasher films when he made those comments, and he pointed out that they weren't available on television. It can hardly be considered *progress* that these films *will* become available on Canadian television starting in the fall of 2001, and with the blessing of the CRTC.

But, there is much more to worry about than desensitization. Former FBI agent, Robert Ressler, who founded the agency's criminal profiling program, and noted forensic psychiatrist, Dr. Park Elliot Dietz, a consultant to the FBI on serial criminals, believe that slasher films are contributing to the increasing number of serial murderers.<sup>53</sup> Dietz put it this way:

*"If a mad scientist wanted to find a way to raise a generation of sexual sadists in America, he could hardly do better, at our present state of knowledge, than to try*

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<sup>51</sup> *Our Violent Kids: A rise in brutal crimes by the young shakes the soul of society*, Time Magazine, June 12, 1989

<sup>52</sup> Hincks Institute Conference, February 1993, transcript of proceedings

<sup>53</sup> *Sex and violence in media said to be volatile combination for troubled youth*, Psychiatric News, September 20, 1991

*to expose a generation of teenage boys to films showing women mutilated in the midst of a sexy scene.*<sup>54</sup>

### **Political Initiatives Directed at Curtailing Slasher Films**

On 1993, Dianne Poole, the Ontario Liberal Women's Issues Critic, introduced a resolution in the Ontario Legislature urging the provincial NDP government to "... enact policy initiatives and, if necessary, introduce legislation to ensure the protection of women and society against the proliferation of slasher films in this province". Ms Poole read from a letter written by Debbie Mahaffy to Premier Bob Rae, criticizing him for inaction on the issue:

*"How can you not realize that the real victims, their families and loved ones in Ontario pay the ultimate price of the free expression to make profits from the pain and deaths these violent, hateful, obscene films bring with them? Slasher films do not advocate, illustrate nor do they demonstrate any positive social values. The preciousness of life is clearly irrelevant, and torture and murder is portrayed as entertainment and excitement."*

The resolution was supported by all three parties. When *Scream TV* was brought to the attention of Ontario politicians, Marie Bountrogianni, the current Liberal Women's Issues critic again raised the issue in the Ontario Legislature, and a letter was sent to The Hon. Sheila Copps protesting the licensing of the channel. Federal Liberal M.P., Janko Peric, also wrote to the Minister.

Information on this brutal and dangerous genre of film was provided to the Standing Committee on Communication and Culture and resulted in specific recommendations in *Television Violence: Fraying Our Social Fabric*:

**Recommendation No. 26 - The Committee recommends that the federal Minister of Justice, in collaboration with his provincial counterparts, study the matter of extremely violent forms of entertainment, such as slasher and snuff films, to determine the criminal legislative measures needed to control them and to design such legislation to conform to the Canadian Charter of Rights and Freedoms.**

Eight years later, the CRTC licensed a channel to broadcast these films.

Members of the Standing Committee might wish to note that both the Heritage Ministry and Ministry of Health, through membership in the organization "Concerned Children's Advertisers" appear to be in a partnership with Corus Entertainment Inc., the company which is both introducing this violent channel and responsible for the sexist MOJO radio format.

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<sup>54</sup> ~~Don't~~ *Touch That Dial: The Impact of the Media on Children & the Family*, Barbara Hatemer & Robert Showers, 1993

### **3. RADIO STATIONS - COUNSELLING TO COMMIT AN OFFENCE**

Another example of regulatory failure is illustrated by radio stations that have offered people prize money to commit crimes, e.g. appear nude in public, vandalism and shoplifting. That, in itself -- counselling someone to commit an offence -- is a crime under the *Criminal Code*:

#### **Person Counselling Offence**

22 (1) Where a person counsels another person to be a party to an offence and that other person is afterwards a party to that offence, the person who counselled is a party to that offence, notwithstanding that the offence was committed in a way different from that which was counselled.

(2) Every one who counsels another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling that the person who counselled knew or ought to have known was likely to be committed in consequence of the counselling.

(3) For the purposes of this Act, "counsel" includes procure, solicit or incite.

#### **CJKR-FM, Winnipeg**

On December 7, 1999, the CBSC released a decision concerning a radio station contest promoted by CJKR-FM in Winnipeg, in which a woman rode a bicycle in the nude on a main street in Winnipeg at rush hour for a chance to win \$10,000. The 18-year-old contestant was charged with public nudity and committing an indecent act, but the charges were later dropped. The CBSC decision stated "It is perfectly obvious to the Council that a nude woman... cycling down the principal avenue of one of the nation's largest cities could reasonably be expected to constitute a distraction for drivers."<sup>55</sup>

The irresponsibility of this station is staggering; car accidents caused by "distractions" can result in injury and death; the young woman could have been left with a permanent criminal record; and the radio staff themselves incited a person to break the law which is a *Criminal Code* offence.

The CBSC found the station in breach of both the *Code of Ethics* and the *Sex-Role Portrayal Code*. Being slapped with a news release didn't seem to be suitable punishment for a station that had engaged in such reprehensible behaviour and I wrote to the CRTC about the situation. The letter received from Jean-Pierre Blais, Acting Executive Director Broadcasting, stated:

"It is clear from your comments that you are not satisfied with the outcome of the CBSC's review of this incident.

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<sup>55</sup> "Nude Bicycle Ride" Contest Stunt Found In Breach of Broadcast Standards, CBSC news release, December 7, 1999

"Thank you for taking the time to share your views with the Commission."<sup>56</sup>

### **CFNY-FM, Toronto**

In Spring 2000, the morning show hosts on Toronto radio station CFNY-FM held what they called a "Really Tough" contest. People had to perform a variety of challenges in order to qualify for a grand prize of \$25,000. Two of the stunts involved breaking the law: one was to vandalize a Weather Network billboard and the other was to shoplift food from a supermarket.

A complaint was filed by me with the Toronto Police and a response was received from Gerry Wylie, legal counsel to Chief Julian Fantino. Mr. Wylie had consulted a Crown Attorney who felt there was insufficient evidence to lay a charge, but he also stated that if there had been solid evidence, a charge would have been laid.

Clearly, when radio station personnel engage in behaviour like this, they have no fear of the federal regulator.

## **VIII. PUBLIC FUNDING OF VIOLENT TELEVISION AND FILMS**

Through direct funding and also through a system of provincial and federal tax credits, Canadians fund the production of film and television programs, some of which are brutally violent. The dollar figures involved are staggering, while public input appears to be non-existent.

### **1. DIRECT FUNDING**

Funding provided by the taxpayer to the television industry includes a federal government allocation of \$100 million to the Canadian Television Fund. Film companies have access to another \$137 million from Telefilm Canada. Through Telefilm, Canadians contributed directly to the production of violent films like *Crash*, *Cube* and the S & M documentary, *Tops & Bottoms*, *Sex*, *Power & Sadomasochism*. Reference to film funding is included here because Canadian movies quite often wind up on television to help meet Canadian-content requirements.

While taxpayers fund film and television companies, some of these companies repay our generosity with productions that are ethically bankrupt as well as harmful.

For instance, Norstar Filmed Entertainment applied to Telefilm Canada for funds to produce *Invisible Darkness*, a movie based on the crimes of Paul Bernardo and Karla Homolka. While Telefilm refused the request, a spokesperson said the decision had nothing to do with censorship -- the script just wasn't up to par compared to other projects. In other words, if the script had been better, the taxpayer could have been forced to fund this movie. Vigorous opposition to the film was expressed by elected officials in both Ontario and Manitoba.

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<sup>56</sup> Letter dated December 20, 1999 to Valerie Smith from Jean-Pierre Blais, A/Executive Director Broadcasting, CRTC

## 2. TAX CREDITS

Like personal income tax filings, tax credit applications made by film and television companies are confidential, so the public cannot even access information relating to individual productions. And, once again, the figures are considerable. For instance, in 1998-99, total production costs of projects certified by the federal government's Canadian Audio-Visual Certification Office amounted to \$1.29 billion, meaning that \$118 million in tax credits could have been doled out by the government.<sup>57</sup> Some of these productions also receive provincial tax credits that match or exceed the federal program.<sup>58</sup>

Another irresponsible company, Lions Gate Films, made a movie out of the ultra-violent book *American Psycho* -- a favourite of Paul Bernardo -- and applied for, and very probably received, federal tax credits. Over the years, the company has benefited from the receipt of \$59.3 million dollars from Telefilm Canada<sup>59</sup>. Lions Gate has since decided to turn *American Psycho* into a franchise (like the *Hallowe'en* series), and put *American Psycho II* into production in Spring 2001. This company's film division grew to prominence with help from the taxpayer and is now repaying us by producing brutally-violent films.

Ottawa also hands out about \$60 million a year in tax credits to American producers<sup>60</sup> who come to Canada to take advantage of the low dollar and tax incentives. As a result, we are very probably underwriting violent television programs (*Millennium*, *La Femme Nikita*, *Robocop - The Series*) and brutally violent movies (*Urban Legend*, *Urban Legend 2: Final Cut*, *Bride of Chucky*, *The Corruptor*, *Reindeer Games*, *Jason X: Friday the 13th Part Ten*, *Halloween: The Homecoming*). We can't know for certain that they received tax credits because of tax record confidentiality, but it seems unlikely they chose Canada for the weather.

It is unconscionable that people concerned about violence, as well as actual victims of violence, are forced to fund the promotion of violence through subsidization of film and television.

## IX. CONCLUSION

Freedom of expression is enshrined in the Canadian Charter of Rights and Freedoms and, all would agree, is a critically important right. But so too is the right to life, liberty and security of the person, a right never mentioned by those who advocate unrestricted freedom of expression. While the latest crime figures released by Statistics Canada indicate violent crime has fallen to about the level it was in 1990, it is "54% higher than it was 20 years ago and more than double the rate of 30 years ago"<sup>61</sup>.

There are, of course, many factors contributing to violence, with media violence being just one. But both the pervasive nature of the media and extraordinary advances in technology, make it

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<sup>57</sup> *Do taxpayers belong in showbiz?*, Financial Post, July 6, 2000

<sup>58</sup> *Trouble in Hollywood North*, Globe and Mail, May 13, 2000

<sup>59</sup> Letter to Valerie Smith from Office of the Minister of Canadian Heritage, August 25, 1999

<sup>60</sup> *Ontario's film policy favours Hollywood*, Toronto Star, January 15, 2000

<sup>61</sup> *Crime Statistics in Canada*, 2000, Juristat, Canadian Centre for Justice Statistics

one we ignore at our peril. While there are those who quibble over the research, the conclusion from the medical and mental health community is clear -- the debate is over; the evidence is in.

In addressing the latest American Senate hearings on media violence held in July 2001, Dr. Michael Rich, a pediatrician and teacher at Harvard Medical School said:

"The findings of hundreds of studies, analyzed as a whole, showed that the strength of the relationship between television exposure and aggressive behavior is greater than that of calcium intake and bone mass, lead ingestion and lower IQ, condom non-use and sexually acquired HIV, or environmental tobacco smoke and lung cancer, all associations that clinicians accept and on which preventive medicine is based without question."<sup>62</sup>

Addressing the contribution of media to societal violence is absolutely essential if we truly wish to reduce violence.

As long as politicians let them, Canadian broadcasters will continue to air harmful programming without regard for any consequences other than the effect on their bottom line. In that regard, they are exactly the same as their American counterparts, and we should no longer accept their argument that anti-social programming just sort of slops across the border. That simply isn't true. Gratuitously violent, sexually violent and deviant programming does not wind up on Canadian networks by accident; Canadian broadcasters preview it, buy it, and broadcast it.

Self-regulation is a failure and must be abandoned. The CRTC, as it is currently constituted, has been grossly ineffective in ensuring compliance with the most basic tenets of the *Broadcast Act*. To update the conclusion reached in *Television Violence: Fraying Our Social Fabric* to reflect today's urgent reality -

**What is needed is for government and the federal regulator to act.**

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<sup>62</sup> Testimony of Michael Rich, MD, MPH, Children's Hospital Boston/Harvard Medical School, before the U.S. Senate Governmental Affairs Committee, July 25, 2001

## X. RECOMMENDATIONS

- 1) Federal government should review the report of the Standing Committee on Communications and Culture, *Television Violence: Fraying Our Social Fabric* (1993) and institute recommendations which remain pertinent. Following amended recommendations are based on the report:
  - a) Federal government should form a federal-provincial-territorial task force to inquire into all aspects of societal violence - interrelationships, causes, effects and remedies - including, but not limited to, media violence, domestic violence, and racial violence. The task force should facilitate a process of public meetings and conferences devoted to exploring the portrayal of violence in the media and the consequences thereof. **(Recommendation No. 1 and No. 2)**
  - b) Federal government should formulate guidelines to prohibit advertising during television programs containing specified content. Companies wishing to do business with the federal government would be required to adopt the guidelines. **(Recommendation No. 15)**
  - c) Minister of Heritage, the CRTC and others should engage in cross-border discussions on media violence with their American counterparts, in an effort to promote a collaborative and unified response to this problem. **(Recommendation No. 17)**
  - d) CRTC should be directed to specifically address the issue of controlling cable distribution into Canada of violent U.S. programming with the objective of moderating violent content wherever possible. **(Recommendation No. 24)**
  - e) Minister of Justice, in collaboration with his provincial counterparts, should study the matter of extremely violent forms of entertainment, such as slasher and snuff films, to determine the criminal legislative measures needed to prohibit them and to design such legislation to conform to the Canadian Charter of Rights and Freedoms; the Minister of Finance should review and, if necessary, revise Schedule VII of the *Customs Tariff* to ensure that it complements the necessary amendments to the *Criminal Code*. **(Recommendation No. 26 and 27)**
- 2) Since industry self-regulation has failed, and the CRTC has not responded effectively, a situation anticipated in Recommendation 22 and 23 of *Television Violence: Fraying Our Social Fabric*, the Minister of Canadian Heritage should devise a regulatory scheme to govern the broadcast of programs with violent content with strict penalties for violating the regulatory scheme.
- 3) Adherence to all Canadian Association of Broadcasters' (CAB) codes should be legislated through *The Broadcast Act*.
- 4) Canadian Broadcast Standards Council (CBSC) should be dismantled and the power to adjudicate complaints against broadcasters transferred to the CRTC under a user-pay system

to ensure the public does not bear the financial burden of the complaint process. Procedures should be established to penalize broadcasters for ongoing series which continue in breach of codes, i.e., financial penalties and eventual loss of license.

- 5) A system for periodic, random review of programming by CRTC staff should be established to take the onus off members of the public who currently have responsibility for monitoring the broadcasting industry.
- 6) CAB definition of "gratuitous violence" should be amended to accurately reflect the meaning of gratuitous, i.e., violence which is unjustifiable and unwarranted (CAB definition: "material which does not play an integral role in developing the plot, character or theme of the material as a whole").
- 7) Minister of Canadian Heritage, in conjunction with the Minister of Health, should initiate a federally-funded, national public education campaign to inform people about the extensive research showing harmful effects of media violence, particularly on children and youth. Information could be made available through doctors' offices and be distributed to new mothers. Broadcasters should be required to air public service announcements on the research.
- 8) Minister of Canadian Heritage should convene a meeting of Canada's major advertisers to inform them about the research on media violence, and enlist their support in not sponsoring violent and anti-social television and radio programs. Advertisers bear ultimate responsibility for programming since without sponsorship, harmful programming would not exist.
- 9) Minister of Heritage should review the CRTC makeup to ensure appointment of persons not affiliated with the media industry, and establish a ratio of non-industry to industry Commissioners.
- 10) Minister of Heritage should order the CRTC to regulate the Internet, amending *The Broadcast Act* if required. Broadcasters in the United States and Canada are using their Internet sites to broadcast more violent and graphic fare garnered from their "reality" series than would be tolerated on the public airwaves.
- 11) Federal agencies granting funding or tax credits should develop standards which would exclude television productions which glorify or gratuitously promote violence, meet Human Rights legislation, and do not exploit or degrade victims of crime.
- 12) Federal Minister of Finance should amend legislation governing the system of tax credits to permit clear accountability and allow taxpayers to easily find out what television and film productions have received tax credits; public interest overrides privacy interest.
- 13) At license renewal hearings, broadcasters should be required to prove to the CRTC how they are meeting their obligations under the *Broadcast Act* to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada, with a mandatory random review of

programming by an independent third-party, e.g., Laval University. The broadcaster, not the taxpayer, should pay for the review.

- 14) Ministry of Health should initiate a study of the impact on children and youth of exposure by broadcasters to age-inappropriate, violent and deviant sexual activities and material.
- 15) Ministry of Heritage should order the CRTC to establish a 9:00 watershed hour for broadcast of sexually explicit material and activities, applicable to both television and radio.

## ATTACHMENTS

### Research, Reports, Articles

- *TV's ultimate irony: Sex and violence sells only sex and violence*, by Daphne Lavers, Broadcast Dialogue, September 2001
- *La violence à la télévision canadienne 1993 - 1998: Analyse des émissions de fiction diffusées par les six réseaux généralistes*, by Jacques de Guise and Guy Paquette, Université Laval
- *Bill C-470, An Act to amend the Broadcasting Act*, April 5, 2000; Violence on Television, Policy Statement by the MP for Rosemont, Bernard Bigras
- *Joint Statement on the Impact of Entertainment Violence on Children*, Congressional Public Health Summit, July 26, 2000
- *VISION: Action Today For a Safer Tomorrow, Youth Safety Strategies Report 2000 on Youth Violence in Ontario Schools and Communities*, CAVEAT, Media violence recommendations
- *Children, Violence, and the Media: A Report for Parents and Policy Makers*, United States Senate Committee on the Judiciary, September 14, 1999
- *TV violence warnings tune teens into ads*, Globe and Mail, May 1, 1997
- *Sex and Violence in Media Said to be Volatile Combination for Troubled Youth*, Psychiatric News, September 20, 1991
- *Excessive TV violence harms children*, Globe and Mail, March 24, 1993
- Five Decades of Commissions, Committees and Studies

### World Wrestling Federation

- *Raw Emotions*, Toronto Sun, February 9, 1999
- *Wrestling too raw for kids*, Toronto Sun, February 8, 1999
- *WWF doll wrestled off shelves*, Toronto Star, November 3, 1999
- *Ring fever*, Post TV, November 13 - 19, 1999
- *Sex, gore put good taste on the ropes*, Toronto Star, April 24, 1999
- *Not your son's wrestling show*, Starweek magazine, August 28 - September 4, 1999
- *Lewd WWF behaviour prompts school memo*, Globe and Mail, March 30, 1999
- *National Institute on Media and the Family to WWF: Wrestling Shows Need Warnings*, July 29, 2001

### Howard Stern Show

- MediaWatch letter, August 3, 2000, to Canadian Broadcast Standards Council
- MediaWatch Submission to CRTC Public Hearing, April 25, 2000

### Jerry Springer Show

- *Springer keeping trash off streets*, Toronto Star, July 9, 1998
- *Stations think Springer show is just too beastly*, Toronto Sun, May 21, 1998
- *Parents want Springer moved to later time slot*, National Post, March 20, 1999

### Sex-ploitation Radio - Corus Entertainment Inc.

- Toronto Sun promotional edition featuring MOJO radio advertisements, April 23, 2001
- *A place for guys to get their mojo working*, Globe and Mail, April 28, 2001
- *On MOJO 640, it's all guys, all the time*, Toronto Star, April 20, 2001
- *Radio's MOJO won't work on me -- or real guys*, Toronto Star, June 1, 2001
- *'Guy radio' is giving me a headache*, Toronto Star, May 10, 2001

### **Bell ExpressVu Broadcast of Criminally Obscene Material**

- Videotape, Fifth Estate, *The Pious Pornographers*, March 28, 2001
- Fifth Estate transcript, *Pious Pornographers*, March 28, 2001
- Complaint letter to Toronto Police Service, April 2, 2001
- Complaint letter to CRTC, April 9, 2001
- *Bell satellite TV pulls porn in wake of CBC expose*, Toronto Star, March 29, 2001
- Letter from David McLennan, Bell ExpressVu, May 7, 2001
- Letter from Toronto Police Service, June 11, 2001
- Letter to David McLennan, Bell ExpressVu, from Toronto Police Service, June 12, 2001

### **CRTC Licensing of Scream TV - Corus Entertainment Inc.**

- *Just try to contain my excitement*, Toronto Star, June 5, 2001
- *Corus Entertainment Packs a One-Two Punch*, News Release, June 4, 2001
- Letter to John Cassaday, Corus Entertainment Inc., June 25, 2001
- *Liberals call for action to curb violence, exploitation*, News Release, October 13, 1994
- Hansard, Ontario Legislature, April 22, 1993