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**CANADIAN BROADCAST STANDARDS COUNCIL  
QUEBEC REGIONAL COUNCIL**

TQS re the movie *Strip Tease*

(CBSC Decision 98/99-0441)

Decided February 21, 2000

P. Audet (Chair), G. Bachand, R. Cohen (*ad hoc*) and S. Gouin

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**THE FACTS**

Télévision Quatre-Saisons (TQS, Montréal) broadcast a dubbed version of the theatrical motion picture *Strip Tease* at 8:00 p.m. on February 21, 1999. The plot turns on the fact that the principal character, Erin (played by Demi Moore) is fired from her position at the FBI because of the borderline illegal activities of her soon to be ex-husband. As a result, in order to make ends meet (for herself and her young daughter), she embarks on a career as a strip-tease dancer (which line of employment, incidentally, leads to her loss of custody of their young daughter).

While most of the twists and turns of the plot are not relevant to this decision, it should be noted that, during a couple of her performances (as well as those of her dancing colleagues), her (or their) bare breasts are in plain view. There are not, however, any scenes involving any sexual contact in the film. Moreover, the broadcaster included the following viewer advisory at the beginning of the film and before the end of the first hour: \*[translation] This movie contains scenes of nudity which may not be appropriate for young children. Parental guidance is advised.+

In their letter of March 1 (reproduced in full in the Appendix), the complainants wrote, in part:

[Translation] The law does not permit children to gain access to strip clubs and yet it seems logical for TQS to bring movies (erotic presentations) about strip tease dancers into our homes...

The broadcaster's response of April 4 (also reproduced in full in the Appendix) dealt only obliquely with the substance of the complaint, focussing instead on the question of advisories to viewers in the form of the ratings icon and the words noted above.

[Translation] We are sorry that some of the scenes in the movie may have upset you. However, at the beginning of the movie, we aired the following advisory: "This movie contains scenes of nudity which may not be appropriate for young children. Parental guidance is advised." This advisory was rebroadcast at the top of the second hour. Moreover, this movie was intended for an audience of 13+ and this was indicated at the beginning of the movie as well as at the top of the second and third hour.

The complainants were not satisfied by the broadcaster's response and, on June 17, requested that the CBSC refer the matter to its Quebec Regional Council for adjudication. (The covering letter which they sent with their Ruling Request is included in the Appendix.)

## **THE DECISION**

The CBSC's Quebec Regional Council considered the complaint under Clause 4 of the *Sex-Role Portrayal Code* of the Canadian Association of Broadcasters (CAB) as well as the CAB Violence Code.

The Regional Council members watched a tape of the film in question and reviewed all of the correspondence. The Council considers that the show did not breach the terms of Clause 4 of the *Sex-Role Portrayal Code*. Nor does the Council consider either that the broadcast of the program at 8 p.m. violated the provisions of Article 3.1.1 of the *Violence Code* or that the classification or viewer advisories employed breached the provisions of Articles 4 or 5 thereof.

### **A Review of the CBSC Jurisprudence Concerning Bare Breasts**

The CBSC has previously been called upon to deal with questions relating to bare breasts on television screens in the context of fashion reporting, news and dramatic programming. A review of those decisions follows.

On the several occasions in which the CBSC has touched on *Fashion Television*, it has concluded that the Code had not been breached. As the Ontario Regional Council stated, as long ago as 1994, in *CITY-TV re Fashion Television* (CBSC Decision 93/94-0021, February 15, 1994), "The fact that CITY-TV aired a story on the place of women's breasts in today's fashion was not exploitative." In the next such decision, namely, *CITY-TV re Fashion Television* (CBSC Decision 93/94-0176, June 22, 1994), the Council was faced with an accusation by the complainant that "The camera is constantly zooming in on women's body parts, showing us crotches, thighs, bums, cleavage, and plenty of breasts - naked or otherwise." She alleged that "what we're seeing on this program is not fashion, it's pornography." The Council concluded that

Fashion Television was entertainment which highlighted the fashion industry in a manner similar to other programming on the same subject. They felt it did not exploit women or present a negative or degrading portrayal of them.

On the third occasion in which *Fashion Television* was considered, namely, *CITY-TV re Fashion Television* (CBSC Decision 94/95-0089, March 26, 1996), the program included

six photographs by Ellen von Unworth [which] exposed women's breasts in several cases, an embrace between two women in one instance and a full frontal nude exposure in another.

The Council was unwilling to conclude that this further step amounted to explicitness or pornography.

The Council does not, however, agree with the complainant's *characterization* of these as "sexually explicit material" or as "naked pornographic female images". Furthermore, the Council does not consider that the showing of partially clothed or even naked models is equivalent to pornography or sexual explicitness.

Without getting into fine legal definitions, the Regional Council considers it relevant to observe, first, perhaps in a somewhat old-fashioned sense, that the *Oxford English Dictionary* defines pornography as "Description of the life, manners, etc., of prostitutes and their patrons; hence, the expression or suggestion of obscene or unchaste subjects in literature or art." There is, in other words, an element of obscenity or prurience required to elevate mere corporal images to the level of pornography. In a more modern sense, pornography implies *exploitation* of the weak by the strong in an obscene or prurient context. Those elements are utterly absent in the material complained of.

In another decision relating to the news coverage of the decision of an Ontario Court declining a charge against a woman who had gone topless in public, namely, *CTV re News Item (Topless in Public)* (CBSC Decision 96/97-0235 and 0242, February 20, 1998), the Ontario Regional Council did acknowledge the *sexual* aspect to bare breasts in the following terms:

As to the acknowledgment of a woman's breasts as sexual, it would be hard to argue the contrary position. It is perhaps for this reason that, in ordinary social situations, breasts, like male and female genitalia, are generally clothed. There is nothing in CTV's coverage which creates any of the circumstances described by the complainants.

This acknowledgment did not result in the conclusion that there was any breach of the Code. It is the consistent view of the CBSC's Regional Councils that there is nothing which is *per se* offensive about the broadcasting of programming which includes the showing of bare breasts.

The CBSC has also concluded that the mere showing of bare breasts in a dramatic film does not necessarily lead to any different outcome. In *CKX-TV re National Lampoon's Animal House* (CBSC Decision 96/97-0104, December 16, 1997), regarding a complaint about bare breasted women shown in a late night movie, the Prairie Regional Council decided that there was no exploitation of women.

It is essential to remember that the principal goal of the *Sex-Role Portrayal Code* relates to the *equality* of the sexes and not to issues of sexual behaviour which do not go to equality or exploitation, which is itself a form of *inequality*.

A different result may occur in circumstances in which the display of bare breasts occurs in an erotic context, but this would be more related to the question of eroticism than to the visibility of bare breasts. As to erotic films, in *TQS re Été sensuel* (CBSC Decision 95/96-0233, August 14, 1998), the Quebec Regional Council had the following to say about one of the films broadcast as a part of TQS's Saturday night series, *Bleu Nuit*:

The Quebec Regional Council takes no issue with the assertion by the complainant that the film in question is an erotic film. The only question, however, which it is called upon to decide here is whether the film is *exploitative*. The other contentions of the complainant which relate to whether this film or other such films are "idiotic" and whether or not the broadcasting of such a film is "disrespectful of people like myself" are *marketing* questions. They relate to the broadcaster's choice of material to air. If there is no breach of a Code (or, of course, the *Broadcasting Act* or Regulations or other laws of the land), the broadcaster is *entitled* to put the film on its airwaves. In a world which has become increasingly oriented toward niche broadcasting, any station or network appreciates that its choices will never appeal to *everyone*. This does not mean that such choices should not be made but only that, in making such choices, the broadcaster knows that only some, but not all, of the public will be pleased. It goes without saying that the broadcaster hopes always to make the correct choices but, where no Code is breached, the viewer is always free to go elsewhere. That is, in the end, the viewer's only option and it is, from society's perspective, a fair option, provided that society's codified values have not been breached.

In the case of *Été sensuel*, the Council finds that there is none of the degradation of either sex which would be characteristic of a film which could be classified as exploitative. Fundamentally, the purpose of the *Sex-Role Portrayal Code* is to prevent "negative or inequitable sex-role portrayal of persons" but not "the depiction of healthy sexuality". The Council considers that the treatment of sexuality in this film, while perhaps not of the highest cinematic level, is not in breach of the Code.

## Recent Jurisprudence concerning the Watershed

The Quebec Regional Council has made it clear in a more recent decision dealing with erotic scenes in a feature film, namely, *TQS re the movie L'inconnu (Never Talk to Strangers)* (CBSC Decision 98/99-0176, June 23, 1999), that the 9 p.m. watershed hour can be expected to apply to erotic scenes as well as violence. In *L'inconnu*, the Council considered that

some of the erotic scenes, in particular the very first sex scene which depicts "rough" lovemaking, come within the purview of what would generally be considered as material "intended for adult audiences".

In those circumstances, it concluded that

the movie should not have been broadcast in a pre-watershed time period [...] and] that the broadcaster [wa]s in violation of Clause 3.1 of the *Violence Code* which states that

“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 am.”

### **Application of the Above Jurisprudence to *Strip Tease***

It is the view of the Council that, in the case of the film *Strip Tease*, the showing of the bare breasts of Demi Moore or the other dancers was in no way comparable to the erotic matter in *Été sensuel*, much less that in *L'inconnu*. While acknowledging that the showing of bare breasts on strip tease dancers was intended by the filmmaker to be sexual, the Council considers that the absence of sexual contact or lovemaking in the film rendered it, to all intents and purposes, sufficiently innocent that there would not even be a requirement that its broadcast occur only in a post-watershed time frame. Moreover, by airing the film in a family-viewing period (at 8:00 p.m.) with appropriate advisories and the rating icon established by the Régie du Cinéma, the broadcaster had provided sufficient opportunity for those who might prefer not to see the film or not to have it available for their families to make that choice.

### **Broadcaster Responsiveness**

The CBSC always recognizes the broadcaster's obligation, as a CBSC member, to be responsive to complainants. In this case, the Council finds that the broadcaster's reply was *barely* satisfactory. It did no more than express lip service to the fact that “[translation] some scenes may have upset you” while adding that appropriate warnings were present. It would have been more appropriate for the broadcaster to deal more thoughtfully with the letter of complaint.

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

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**ANNEXE**  
**Décision du CCNR**  
***TQS concernant le long-métrage Strip Tease***

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**I. La plainte**

La lettre des plaignantes en date du 1<sup>er</sup> mars 1999, qui réfère aussi à une plainte antérieure (dossier du CCNR 98/99-176, *TQS concernant L'inconnu*), se lisait comme suit:

Première plainte, 20 novembre 1998

La réponse du 4 janvier 1999 de Télévision Quatre Saisons n'est pas celle que nous espérons recevoir. Nous croyons que préserver la morale des enfants était une chose acquise dans notre société, ce qui nous semble des mots pour certains. Nous ne sommes pas puritaines mais juste des parents responsables avec des valeurs humaines de respect et d'amour pour les enfants.

Deuxième plainte

La présentation du dimanche 21 février 1999, à 20h, du film Strip-Tease n° 768686 nous semble encore plus invraisemblable. La loi ne permet pas aux enfants d'entrer dans les clubs de danseuses nues. Cependant, il semble logique pour Quatre Saisons de présenter des films (spectacle érotique) de danseuses nues dans nos demeures pour ne pas dire «présentation obscène - pornographique».

La direction veut nous persuader que l'avertissement qui apparaît au bas de l'écran «Ne convient aux jeunes enfants» est justifié et acceptable. Cependant, nous savons très bien qu'avec les jeux vidéo les foyers possèdent plus d'un téléviseur et que la supervision est très difficile à contrôler. Il nous semble de [sic] entre 22 h et 23 h serait plus approprié pour ce genre de film.

Nous vous demandons de bien vouloir regarder le film Strip-Tease.

Nous vous demandons de ne pas révéler nos noms.

Je comprends que les parents préfèrent ne pas porter plainte parce que cette divulgation pourrait affecter d'innocentes victimes, les enfants.

**II. La réponse du radiodiffuseur**

La Vice-présidente, Communications de TQS a répondu aux plaignantes le 4 avril 1999 avec la lettre qui suit:

Nous accusons réception de la lettre que vous nous avez fait parvenir via une plainte au CRTC et dans laquelle vous nous faites part de votre insatisfaction face à la diffusion du film *Steap-tease* [sic] le 21 février dernier.

Nous sommes désolés que certaines images aient pu vous choquer. Cependant, au début du film, un panneau comportait l'avertissement suivant: «Ce film contient des scènes de

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nudité pouvant ne pas convenir à de jeunes enfants. La supervision des parents est conseillée.» Cet avertissement a également été rediffusé avant la fin de la première heure. De plus, le film s'adressait aux 13 ans et plus et cela était mentionné au début du film, ainsi qu'au début de la deuxième et troisième heure.

Je vous remercie de l'attention que vous portez au réseau TQS et vous prie de croire, madame, à mes sentiments les meilleurs.

### **III. Correspondance additionnelle**

Les plaignantes furent insatisfaites de la réponse de TQS et elles ont demandé, le 17 juin 1999, que le CCNR examine le dossier. Leur demande de décision dûment signée était accompagné de la lettre suivante:

Nous vous demandons de présenter au Conseil régional du Québec les deux plaintes que nous vous avons fait parvenir le 1<sup>er</sup> mars 1999 ainsi que l'article du journal Le Droit du 21 mai 1999 «Des élèves fermeront la télé pour ne pas voir la violence».

Nous croyons sincèrement que TQS est de mauvaise foi et qu'il persiste toujours à ne pas vouloir respecter le code d'application imposé puisque le sexe et la violence restent toujours à leur programmation à 19h30.

Lors de la fusillade de la tuerie de Littleton au Colorado, les gens étaient tous émus et peinés. À l'émission «Le Québec en direct», les parents ont exprimé une relation entre la violence présentée à la télévision et celle que nous vivons présentement. Nous espérons que tous les télédiffuseurs respecteront le code d'application par respect pour notre jeunesse.