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**CANADIAN BROADCAST STANDARDS COUNCIL  
QUEBEC REGIONAL COUNCIL**

TQS re the program *2000 ans de bogues*

(CBSC Decision 99/00-0116 and -0345)

Decided August 29, 2000

G. Bachand (Chair), P. Tancred, R. Cohen (*ad hoc*) and G. Poulin

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**THE FACTS**

The program, *2000 ans de bogues*, broadcast on TQS on October 26, 1999 at 7:30 p.m., was part of a non-dramatic series, each episode of which dealt with a particular subject in a humorous fashion. During the episode in question, the host presented a variety of topics dealing with sexuality, including the evolution of sexual practices throughout history, sex in the animal kingdom, sex tools and the pornography industry.

The program included interviews with various “experts” on sexuality and included a series of images and video sequences of a sexual nature, including a number of scenes of nudity in which bare breasts were clearly displayed. The program also contained video clips taken during the filming of a pornographic movie, in which the broadcaster had superimposed digital pixillation over the actors’ genitalia.

This decision stems from two complaints (the full text of both complaints is reproduced in the Appendix to this decision). The following excerpt from one of the complainant’s letters quite faithfully reflects the opinions expressed by both of the complainants:

My main criticism concerns the time at which this program was broadcast. The time of broadcast can be considered as too early given the content of the comments concerning sexuality as well as the images presented during in the program.

At such an early broadcast time, young people could have been exposed to the program and its twisted comments on sexuality - comments which have the potential to influence children.

The program described how, in certain African populations, teenage males customarily swallow the sperm of other males and that this is considered a rite of passage into adulthood.

It also explained that male Greeks of antiquity practised homosexuality in public areas.

The images shown during the program were not at all suitable for youngsters or children. During a visit to an erotic and pornographic shop plastic reproductions of human male and female sexual organs in a state of arousal were shown. They were so life-like that they appeared to be real. It behoves you to recognize that there are more wholesome and sound contexts in which to portray the human individual when presenting sexuality to young people, than the ones aired on television in this broadcast.

In its reply of March 1 to each of the complainants (the full text of which is also appended to this decision), the broadcaster dealt with the questions raised by the complainants in the following terms. That letter states:

The show in question is a humour program, an entertainment documentary. Under no circumstances is it a scientific or educational documentary. That week's episode dealt with sex and was intended more as a humorous historical overview. It also contained a segment on the pornography industry (which began at the 24<sup>th</sup> minute of the program), but it was not in any way meant to excuse pornographic films, but rather to serve as a means to evoke derision.

Please also note that a viewer advisory containing the following warning was aired at the beginning of the show: "This program contains scenes and language which may not be suitable for a young audience. Parental discretion is advised". This warning appeared on the screen a second time at the beginning of the fourth segment (at approximately 7:50 p.m.). Screens were also superimposed on ten occasions during scenes containing sexual acts.

The complainants were unsatisfied by the broadcaster's response and requested, on October 29, 1999 and March 13, 2000 respectively, that the CBSC refer the matter to the Quebec Regional Council for adjudication. After some initial difficulties in obtaining the logger-tapes of the program, the CBSC Secretariat was able to proceed with its complaints resolution process.

## **THE DECISION**

The CBSC's Quebec Regional Council considered the complaints under the Canadian Association of Broadcasters' (CAB) *Voluntary Code Regarding Violence in Television Programming (Violence Code)*. The applicable provisions read as follows:

### *Violence Code, Article 3 (Scheduling)*

#### 3.1 Programming

3.1.1 Programming which contains scenes of violence intended for adult audiences shall not be telecast before the late evening viewing period, defined as 9 pm to 6 am.

### *Violence Code, Article 4 (Classification System)*

4.1 Canadian broadcasters are in the process of co-operatively developing with other

segments of the industry, a viewer-friendly classification system, which will provide guidelines on content and the intended audience for programming.

Once complete, the classification system shall complement this Voluntary Code.

The Council members watched a tape of the program in question and reviewed all of the related correspondence. The Council considers that the broadcast of the program at 7:30 p.m. constituted a breach of Article 3.1 of the *Violence Code*.

### **Program Scheduling**

The CBSC has been called upon to deal with the issue of program scheduling in a variety of contexts. For the purposes of this decision, a review of the major observations made by Regional Councils on this subject is in order.

The CBSC first dealt with the underlying issues related to the Watershed in *CITY-TV re Ed the Sock* (CBSC Decision 94/95-0100, August 23, 1995). In that decision, the Ontario Regional Council stated that

In its literal sense, it [the Watershed], of course, denotes the line separating waters flowing into different rivers or river basins. Popularly, the term has been applied to threshold issues but the literal meaning of the word gives the best visual sense of programming falling on one side or the other of a defined line, in this case a time line. Programming seen as suitable for children and families falls on the early side of the line; programming targeted primarily for adults falls on the late side of the line. It should be noted that the definition of that time line varies from country to country, from 8:30 p.m. in New Zealand to 10:30 p.m. in France. (Great Britain, Finland, South Africa and Australia all share the Canadian choice of 9:00 p.m. as the watershed.)

In Canada, the watershed was developed as a principal component of the 1993 *Violence Code*, establishing the hour *before which* no violent programming intended for adult audiences would be shown. Despite the establishment of the watershed for *that* purpose, the Council has reason to believe that broadcasters regularly consider this hour as a rough threshold for *other* types of adult programming.

In the case of programming containing erotic scenes, the Quebec Regional Council decided in *TQS re the movie L'inconnu (Never Talk to Strangers)* (CBSC Decision 98/99-0176, June 23, 1999) that the Watershed hour (9 p.m.) must be taken into account in respect of films and programs containing scenes of erotica or other matter intended for adult audiences as well as those portraying scenes of violence. With respect to the airing of the film *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 *CITY-TV re Ed the Sock* (CBSC Decision 94/95-0100, August 23, 1995) and in *CFMT-TV re an Episode of "The Simpsons"* (CBSC Decision 94/95-0082, August 18, 1995), among others, the CBSC has noted that broadcasters have tended, over the five years in which they have been adhering to the *CAB Violence Code*, to apply the

watershed hour principle not only to programming containing *violent* material but also to programming containing other kinds of material deemed by the broadcaster itself to be more suitable for mature audiences.

It concluded in that case that

the movie should not have been broadcast in a pre-watershed time period. Accordingly, the Council concludes that the broadcaster is 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.”

In another recent decision, *TQS re Strip Tease* (CBSC Decision 98/99-0441, February 21, 2000), the Quebec Regional Council did not deem that, in the absence of an erotic context, simply showing bare breasts prior to the Watershed hour breached the *Violence Code*. The Council observed 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.

### **Application of CBSC Jurisprudence to *2000 ans de bogues***

In this case, the Council is of the opinion that the *symphony of images* presented in the program *2000 ans de bogues* is too risqué to be aired at 7:30 p.m. There are numerous illustrations of what concerns the Council. Among other things, despite the fact that they were run at double speed and digital pixillation had concealed the actors' genitalia, the sexual acts during the pornography segment were excessive. Moreover, in distinct contrast to the film *Strip Tease*, the scenes of nudity in this case are presented in an overwhelmingly erotic context, namely, in one part of the episode, during the making of a pornographic film. In *2000 ans de bogues*, not only are we able to see the actresses' bare breasts, we are also able to see them engaging in explicitly sexual acts. The Council has no doubt that such scenes belong to the category of programming considered to be “intended for adult audiences” and must, consequently, be aired *after* the Watershed hour. The Council therefore concludes that the airing of the program at 7:30 p.m. violates Article 3.1 of the *Violence Code*.

## The Requirement for Program Classification

In *CFJP-TV (TQS) re Été sensuel* (CBSC Decision 95/96-0233, August 14 1998), this Council underscored the requirement that the Canadian classification system applies equally to scenes of violence and to scenes of nudity and sexuality. In *TQS re an episode of Coroner* (CBSC Decision 98/99-0162, June 23, 1999), the Council determined that the failure to classify the program and to deploy the appropriate rating icon on screen constituted violations of Article 4.1 of the Code:

The questions of the requirement for viewer advisories and classification advice are different. Regardless of the resolution of the former, the broadcaster was required to provide an on-screen icon indicating a rating for the program in accordance with the classification system approved by the CRTC in Public Notice CRTC 1997-80: *Classification System for Violence in Television Programming* (June 18, 1997). The only programming exempted from the need for a rating is described as follows. "Exempt programming includes: news, sports, documentaries and other information programming; talk shows, music videos, and variety programming." All other programming, regardless of the hour at which it is broadcast, requires classification and, at least until such time as the V-chip support system is in force, an *on-screen* icon representing that rating. This episode of *Coroner* falls within that genre of programming sometimes referred to as "reality" programming. As to its presentation, it is primarily a *dramatic* recreation of a story declared to emanate from the real files of a coroner's office. It is also undeniable that there is documentary content in the form of interviews with professionals on aspects of the case in question but these do not change the fundamentally dramatic character of the programming and the requirement that it be classified.

In the Quebec Regional Council's other decision decided and released on the same day as this one, namely, *TQS re Faut le voir pour le croire* (CBSC Decision 99/00-0460, August 29, 2000), this Council has dealt with and explained the distinction to be drawn between "documentaries and information programming", on the one hand, and non-dramatic entertainment programming, on the other hand. In the former case, no classification is required and, in the latter, it is. It is the view of the Council that, as in the case of the episode of *Faut le Voir pour le Croire*, the episode of *2000 Ans de Boques* reviewed here is subject to the requirement of classification and, again similarly, bearing the needs of children and families in mind, the rating of 16+ of the Quebec Régie du Cinéma is the applicable one.

## Broadcaster's Responsiveness

The CBSC always recognises the broadcaster's obligation, as a CBSC member, to be responsive to complainants. In the present case, the Council considers that the broadcaster's response was *barely* satisfactory. It expressed only the regret that the program had offended the viewer on the pretext that a warning had been aired. The Council would have preferred a more comprehensive response on the merits of the complaint.

## **CONTENTS OF THE ANNOUNCEMENT OF THE DECISION**

The station is required to announce this decision forthwith, in the following terms, during prime time and, within the next thirty days, to provide confirmation of the airing of the statement to the CBSC and to the complainants who filed a Ruling Request.

The Canadian Broadcast Standards Council has found that Télévision Quatre Saisons breached provisions of the Canadian Association of Broadcasters' *Violence Code* in its broadcast of the program *2000 ans de bogues* on October 26, 1999. The Council considers the program contained scenes of sexuality intended for an adult audience. By airing the program in the early evening, at 7:30 p.m., rather than after the Watershed hour, TQS breached the scheduling requirements set out in Article 3 of the *Violence Code*. In addition, by failing to include the rating of the program in accordance with the rating system of the Régie du Cinéma, TQS has breached the classification requirements set out in Article 4 of the *Violence Code*.

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

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**ANNEXE**  
**Décision du CCNR 99/00-116 & -345**  
**TQS concernant l'émission *2000 ans de bogues***

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**I. Dossier 99/00-116**

Dans une lettre en date du 2 novembre 1999, une téléspectatrice s'est plaint de la diffusion de l'émission *2000 ans de bogues*. La lettre se lisait comme suit :

Je suis une mère de famille qui croit encore à certaines valeurs morales. Je trouve inacceptable que T.Q.S. diffuse une émission comme "Le bogue de l'an 2000" avec animateur Jean-René Dufort, sur un thème de cul.

Eh! Oui! Mardi soir le 26 octobre à 19h30 mes enfants comme beaucoup d'autres étaient devant le petit écran de télévision et regardaient défiler des vagins, des pénis et des fesses en plastiques avec explication et rigolades à l'appui.

Belles représentations de nos valeurs! J'aimerais savoir où classer ce genre d'émission. Est-ce une émission de divertissement? Est-ce une émission d'éducation sexuelle?

De voir se promener des filles aux seins découverts dans un tournage porno. De voir une partouze, une orgie de cul sur petit écran à 19h30; il y a effectivement un "BOGUE" à quelque part. Des scènes éclairs de violence et de destruction captées par l'oeil de mes enfants et de combien d'autres, sous le signe humoristique.

Vous voilà tombé très bas T.Q.S.

Une note finale à tout cela: un gros TABARNAK pendant le générique de l'émission.

Bravo! T.Q.S.

**II. Dossier 99/00-345**

Un deuxième plaignant nous a transmis sa plainte le 30 décembre 1999 concernant la diffusion de la même émission. La lettre se lisait comme suit:

La présente a pour but de formuler une plainte à l'endroit du réseau de télévision *Quatre-Saisons*, plus particulièrement concernant une émission télédiffusée le 26 octobre 1999 à 19h30. Lors de l'émission "2000 ans de bogues", on présentait une chronique sur la sexualité humaine intitulée "le sexe".

La principale critique concerne l'heure de diffusion que l'on peut qualifier de trop hâtive, compte tenu de la teneur des propos ayant trait à la sexualité ainsi qu'aux images qui ont été présentés lors de l'émission.

À une heure de télédiffusion hâtive, nombre de jeunes ont pu capter les propos tordus tenus sur la sexualité, ces propos ayant le pouvoir d'impressionner les enfants. Dans la chronique, on relatait que, dans certaines peuplades d'Afrique, il était coutume chez des adolescents mâles d'ingurgiter le sperme d'autres mâles, ceci étant un rite de passage à

l'âge adulte. Et puis, on disait aussi que les mâles Grecs du temps de l'antiquité pratiquaient l'homosexualité sur la place publique.

Quant aux images présentées lors de l'émission, elles ne convenaient pas du tout aux plus jeunes ou aux enfants. Lors de la visite dans une boutique érotique et pornographique, on exposait des représentations plastiques d'organes sexuels humains masculins et féminins en état d'excitation; ces représentations étaient tellement proches de la réalité qu'on aurait dit de vrais organes. Or, fort est de reconnaître qu'il y a des contextes beaucoup plus sains et respectueux de la personne humaine pour présenter la sexualité aux jeunes que dans ce qui était présenté à la télé lors de l'émission.

Ce n'est pas la première fois que TQS fait étalage de la sexualité et de ses déviants à des heures de télédiffusion hâtive. En outre, on présente fréquemment de la violence lors d'émissions. Qu'il y ait ou non un avertissement en début de programme à l'effet que l'écoute du programme est déconseillée aux enfants, plusieurs moins âgés sont parfaitement en mesure d'assister à la télédiffusion. Les parents ne sont pas nécessairement là à tout surveiller, d'autant plus que normalement, on ne s'attend pas nécessairement à ce que de telles émissions soient présentées à une heure si hâtive.

Je crois tout-à-fait raisonnable que vous sévissiez à l'endroit de TQS. Vous avez le pouvoir et le devoir de le faire. Ceci pour le bien de la génération montante et pour le bien de la communauté en général.

Merci de m'avoir accordé votre attention.

### **III. La réponse du télédiffuseur**

La Vice-présidente aux Communications de TQS a répondu aux plaignants le 29 novembre 1999 et le 1<sup>er</sup> mars 2000, respectivement, de la façon suivante :

Nous accusons réception de la lettre via le C.C.N.R. concernant votre insatisfaction face à la diffusion de l'émission *2000 ans de bogues*, diffusée le 26 octobre dernier, animée par Jean-René Dufort. Nous regrettons que cette émission vous ait offensé et nous avons pris bonne note de vos commentaires.

L'émission en cause est une émission d'humour, un documentaire de divertissement. Ce n'est en aucun cas un documentaire scientifique ou éducatif. L'épisode de cette semaine-là portait sur le sexe et se voulait plus un rappel humoristique à travers les âges. Il y a également eu une séquence sur l'industrie pornographique (qui débutait à la 24<sup>e</sup> minute de l'émission), mais celle-ci ne faisait donc en aucun cas l'apologie des films pornographiques mais était plutôt prétexte à dérision.

Veillez également noter qu'une bande défilante contenant l'avertissement suivant a été diffusé au début de l'émission: "l'émission contient des scènes et un langage pouvant ne pas convenir à de jeunes enfants. La supervision des parents est conseillée." Cet avertissement a également été rediffusé au début du 4<sup>e</sup> bloc (vers 19h50). Des caches étaient également visibles à dix reprises lors de scènes d'actes sexuels.

Nous apprécions recevoir les commentaires de nos auditeurs et nous vous remercions d'avoir pris le temps de nous écrire.

