
**CANADIAN BROADCAST STANDARDS COUNCIL
QUEBEC REGIONAL PANEL**

TQS re the movie *Les Girls de Las Vegas (Showgirls)*

(CBSC Decision 01/02-0478)

Decided December 20, 2002

G. Bachand (Chair), R. Cohen (*ad hoc*), R. Parent, T. Rajan (*ad hoc*) and P. Tancred

Since B. Guérin, who customarily sits on this Panel, is employed by the broadcaster, he did not participate in this adjudication.

THE FACTS

On January 19, 2002 at 9:00 pm, TQS broadcast the French dubbed version of the feature film *Showgirls (Les Girls de Las Vegas)*, which tells the story of a young woman (Nomi Malone) who heads to Las Vegas to realize her dream of becoming a dancer. Beginning her career as a stripper, Nomi eventually wins a role in a more elaborate erotic dance production. The film is replete with scenes featuring the bare breasts of the dancers both backstage in their dressing rooms and in performance. In the first of two scenes of sexual activity in the film (each of approximately three minutes duration), Nomi strips naked, straddles a clothed male character named Zack, and gyrates in his lap until he reaches orgasm. The second depicts the same couple naked and having frenetic sex in a swimming pool. At one point in the plot development, Nomi's friend Molly is raped. The broadcast does not include the actual rape; it is suggested by the approach of two menacing men at a party, followed by a later scene in which a disoriented Molly is seen stumbling out of a bedroom with blood on her legs.

The broadcast was preceded by a viewer advisory in audio and visual format stating, "[translation] This film contains scenes of violence and eroticism that may not be suitable for young children. Parental discretion is advised." This advisory was scrolled across the bottom of the screen during the film at 9:49 pm. The broadcast also featured a classification icon of "16+, Violence, eroticism" at the beginning of the film and again at 10:04 pm and 11:08 pm.

The CBSC received a complaint about this broadcast on January 23 (the full text of the complaint and all other correspondence can be found in the Appendix to this decision, in their original French). The complainant stated that adult programming should not be broadcast at 9:00 pm since children are still awake at that hour, particularly on a week-end. He wrote that it was unfair for children to be exposed to such content, suggesting that it amounted to “harassment”. He complained about the numerous scenes of partial and total nudity present in the film, as well as the scenes involving the lap dance, the implied rape and the “frenetic coupling” in the swimming pool. He also offered other examples of sexual content broadcast on TQS.

The Vice-President of Communications for TQS responded to the complaint on February 15. She explained that the broadcast of *Les Girls de Las Vegas* had included a viewer advisory, repeated once during the program, and a 16+ classification icon, shown a total of three times during the broadcast. She explained that the film was broadcast at 9:00 pm, which is the industry-established “Watershed hour”, and that TQS had edited out some scenes that were particularly “indecent”.

The complainant requested on March 1 that the matter be referred to the Quebec Regional Panel for adjudication; he provided his own copy of a tape of the broadcast.

THE DECISION

The Quebec Regional Panel considered the matter under various provisions of the Canadian Association of Broadcasters’ (CAB) *Voluntary Code Regarding Violence in Television Programming* relating to classification icons, viewer advisories and violence against women, as well as the exploitation clause of the *CAB Sex-Role Portrayal Code*:

CAB Violence Code, Article 4.0 (Classification System):

Description of the Régie du cinéma du Québec classifications

16 +

By the age of 16, young people have reached a transition period bridging the end of adolescence and the beginning of adulthood. At this stage, they are more independent and have generally reached a certain level of psychological maturity. Films classified in this category present troubling themes, situations or behaviours and adopt a more direct view of things. They may consequently contain scenes in which violence, horror and sexuality are more detailed.

18 +

Films for adults are often essentially based on the presentation of explicit sexual activity. They can also be films containing a greater level of violence with extremely realistic scenes of cruelty, torture and horror.

CAB Violence Code, Article 5.1 (Viewer Advisories):

To assist consumers in making their viewing choices, broadcasters shall provide a viewer advisory, at the beginning of, and during the first hour of programming telecast in last evening hours which contains scenes of violence intended for adult audiences.

CAB Violence Code, Article 7.0 (Violence Against Women):

- 7.1 Broadcasters shall not telecast programming which sanctions, promotes or glamorizes any aspect of violence against women.
- 7.2 Broadcasters shall ensure that women are not depicted as victims of violence unless the violence is integral to the story being told. Broadcasters shall be particularly sensitive not to perpetuate the link between women in a sexual context and women as victims of violence.

CAB 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. The sexualization of children through dress or behaviour is not acceptable.

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.

Panel adjudicators viewed the logger tape of the broadcast in question and reviewed all of the correspondence. The CBSC Secretariat also viewed the copy of the program provided by the complainant and noted that its content was the same as on the logger tape provided by TQS. The Panel finds that TQS is in breach of Article 5.1 regarding viewer advisories, but not in breach of the other articles listed above.

Sexual Content

The CBSC has frequently been called upon to deal with the question of sexual exploitation in the context of similar programs. In one of these cases, *TQS re Été sensuel* (CBSC Decision 95/96-0233, August 14, 1998), the Québec Regional Panel dealt with a complaint about an erotic film broadcast as part of TQS' *Bleu Nuit* series. This Panel said that it

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*. [...] 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 a negative or inequitable sex-role portrayal of persons@ but not a 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.

See also *CITY-TV re the movie Eclipse* (CBSC Decision 97/98-0551, July 28, 1998).

The Panel appreciates that the concern of the complainant is not primarily oriented toward the issue of exploitation but rather toward the frequency and explicitness of the on-screen sexual activity. In this regard, the Panel cannot be of further assistance to the complainant. Nearly a decade ago, Canada's private broadcasters and the Canadian Radio-television and Telecommunications Commission (CRTC) established the Watershed hour, which required that all programming containing scenes with violent content intended for adult audiences was restricted to broadcast hours after 9:00 pm. In the intervening years, the CBSC has, in its decisions, most notably *TQS re L=inconnu (Never Talk to Strangers)* (CBSC Decision 98/99-0176, June 23, 1999), extended that principle to programming including all types of material intended for adult audiences. The effect of this principle is that broadcasters *cannot* play adult-oriented sexual material *before* 9:00 pm but that, once that hour has passed, they can, provided that they advise their audience that they are about to broadcast programming that viewers may wish to avoid (more about the issues of advisories and classification icons below). While the Quebec Panel readily acknowledges that *Les Girls de Las Vegas* included considerable nudity and some erotic content, it recognizes equally that the subject of the film was an aspect of the sex/eroticism industry which is not in violation of the law. It is to be expected that the film's content would reflect this; the Panel finds nothing that cannot be properly aired in the post-Watershed time period, which is where TQS has situated the broadcast.

The Rape Scene

Although rape itself is a grievous assault, it is only those depictions of it that are gratuitous or glamorized that are in breach of this provision. See, for example, *CHCH-TV re the movie Strange Days* (CBSC Decision 98/99-0043 and 0075, February 3, 1999). The Panel considers that the rape scene in this film, which is suggested rather than shown and dramatically relevant to the character development of the principal protagonist, is not in violation of Article 7 of the *CAB Violence Code*.

Advice to Viewers

As noted in the previous section, the private broadcasters and the CRTC established a balanced system in 1993, one which respected the rights of both broadcasters and viewers. The codifiers understood that the fundamental principle underlying all civic activity in Canada is freedom of expression and that an important principle underlying the *Broadcasting Act* is that “the programming provided by the Canadian broadcasting system should be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children *of all ages, interests and tastes* [emphasis added].” They equally understood that the goal was not to so open the door that viewers would not themselves have some control over what was on their television screens. In order to achieve that balance for the benefit of viewing audiences, they established tools to enable viewers to exercise their television tuning choices on an *informed* basis.

The initial tool was the viewer advisory, the provision of information regarding the issues likely to be of concern to some viewers: violence, coarse language, nudity, sexual content and even mature themes, on occasion. For maximum effectiveness in an age of remote control channel-surfing, the codifiers required that the advisories be broadcast at the start of the program *and* following each commercial break (during the first hour of post-Watershed programming). In the broadcast of *Les Girls de Las Vegas*, the broadcast included the following viewer advisory at the start of the program:

[translation] This film contains scenes of violence and eroticism that may not be suitable for young children. Parental discretion is advised.

There was, however, only a single occasion when any form of advisory reappeared, namely, at 9:49 pm, and then as a crawl across the bottom of the screen. There was no audio component to the second advisory. In a post-Watershed broadcast, there ought to have been an advisory present at the start of the film and coming out of *each* commercial break. In failing to provide such advisories, the broadcaster has breached Article 5.1 of the *CAB Violence Code*.

There is then the question of the advisory format to consider. The present broadcast, having only offered a video-format advisory at 9:49 pm, differs from the circumstances of *Showcase Television re the movie Police 10-07* (CBSC Decision 00/01-0613, January 16, 2002) and *Showcase Television re the movie Caniche* (CBSC Decision 01/02-0032, May 3, 2002). In the first of the Showcase decisions, the National Specialty Services Panel ruled that the use of an advisory in audio form alone “was clearly inadequate in terms of the Code requirements.” That position was followed in the second Showcase decision. It is the view of the Quebec Panel that an advisory in video format only is equally inadequate. In other words, whenever viewer advisories are required, they must be presented in both video and audio formats. Here, too, the Panel finds the broadcaster in breach of Article 5.1 of the *CAB Violence Code*.

Viewer Advisory Problem Revisited

The Quebec Panel considers it important to underscore its concern regarding TQS and the viewer advisory issue. In its decision in *TQS re two episodes of Sexe et confidences* (CBSC Decision 01/02-0329, April 5, 2002), the Panel found that TQS had breached the requirements of the *CAB Violence Code* to provide viewer advisories on the two episodes of the afternoon talk show. Since the date of the film under consideration here preceded the date of the *Sexe et confidences* decision, the Panel is aware that the broadcaster could not have acted to prevent the breach in the case of *Les Girls de Las Vegas* on the basis of that CBSC decision; however, the Code is clear. Moreover, this is the second occasion on which the broadcaster has erred over the same issue. The Panel expects that all of TQS's broadcasts hereinafter will *diligently respect* this provision of the *CAB Violence Code* as well as Clause 11 of the revised *CAB Code of Ethics* which came into effect following the date of the broadcast under consideration but prior to the rendering of this decision.

Classification

The second viewer tool created by the broadcasters to enable viewers to exercise their television watching on an *informed* basis was the classification system, with on-screen ratings icons. In the case of *Les Girls de Las Vegas*, the broadcaster adopted “16+, V, eroticism”, the classification level applied to the film by the Régie du cinéma. As in the case of *TQS re Faut le voir pour le croire* (CBSC Decision 99/00-460 and 00/01-0123, August 29, 2000), the Panel concludes:

Although the 18+ category includes films showing explicit sexual activity, it is the view of the Council that the 16+ rating would be appropriate.

There is no breach of this provision of the Code.

Broadcaster Responsiveness

It is a fundamental obligation of broadcasters to be responsive to complainants who take the time to express in writing their concerns about programming they have heard or seen on the airwaves. It is the duty of the CBSC Panels to assess the thoughtfulness of the broadcaster replies on each occasion that they adjudicate a file. In this case, the broadcaster's letter does deal in sufficient detail with the substantive issues raised by the complainant and the Panel finds that it is a satisfactory response. Nothing more is required of TQS in this respect on this occasion.

ANNOUNCEMENT OF THE DECISION

TQS is required to: 1) announce this decision, in the following terms, once during prime time within three days following the release of this decision and once more within seven days following the release of this decision in the time period in which *Les Girls de Las Vegas* was broadcast; 2) within fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the announcements to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by TQS.

The Canadian Broadcast Standards Council has found that TQS= broadcast of the film *Les Girls de Las Vegas* on January 19, 2002 breached a provision of the *CAB Violence Code*. By failing to provide viewer advisories following every commercial break during the first hour and by failing to broadcast one of the two advisories in both audio and video formats, TQS breached the article of the Code which requires such information to be provided so that the audience can make the necessary viewing choices for themselves and their families.

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

ANNEXE

Dossier du CCNR 01/02-0478 TQS concernant le long-métrage *Les Girls de Las Vegas*

La plainte

La lettre suivante en date du 23 janvier 2002 a été envoyée au CCNR :

Objet : Plainte au Conseil canadien des normes de la radiotélévision

Monsieur le président,

Des p̄ à TQS!

Les péripatéticiennes auxquelles je fais allusion dans ce titre provocateur ne sont pas celles qu'on nous a présenté dans le film « Les girls de Las Vegas » diffusé le samedi 19 janvier 2002 à 21h00 à TQS. Non! Cette épithète s'adresse à ces « TÊTES DIRIGEANTES » qui ont autorisé la diffusion de ce film à une heure où, comme tout le monde le sait, nombre de nos jeunes, profitant de la fin de semaine pour se coucher plus tard, se trouvent encore devant le petit écran.

Ce film que je classerais dans les triples X nous présente des centaines de scènes de nudité partielle ou totale. Il y a notamment cette scène éloquente qui se passe dans un club de streeptease [*sic*] qui met en présence une danseuse complètement nue qui masturbe jusqu'à l'éjaculation un client sur lequel elle s'assoit et se branle les fesses!!!! Incroyable! Une scène plus explicite que dans nombre des films pour « adultes avertis » présentés à Bleu Nuit! Il y a aussi la scène très violente du viol d'une femme par trois hommes qu'on suggère heureusement plus qu'on ne voit. Il y a aussi cet accouplement frénétique dans la piscine, le nu intégral de la femme souligné savamment par des plans entremetteurs et qui gesticule jusqu'à l'orgasme!

Il est tout à fait inadmissible qu'on présente aussi tôt dans la soirée (21h00) un film pour adultes et ce, peu importe les avertissements précédant le film. À quelles bassesses est-on prêt à TQS pour gagner un point de cote d'écoute? Le passé étant souvent garant de l'avenir, je me permets de rappeler trois événements à votre attention, tous trois présentés à TQS récemment.

Premier événement

Le vendredi 6 juillet dernier, l'émission « Flash » de 18h30 nous présentait un extrait d'un spectacle présenté au festival Juste pour rire. Deux hommes nous ont alors présenté leur « talent » d'origami génital. Ces deux individus nus sous cape nous ont démontré quelques-unes des contorsions qu'ils exécutent en scène à l'aide de leur sexe : pénis et scrotum étant mis à contribution pour épater un public adulte. Présentation de mauvais goût inacceptable à une heure d'écoute générale.

Deuxième événement

Au Grand Journal de TQS de 17h00, sous prétexte d'informer les téléspectateurs sur le racolage de certaines dames de Brossard via le réseau internet, on nous présenta une image

qui valait 1 000 mots! Par manque de vocabulaire pour décrire la scène, le reporter a jugé nécessaire de nous présenter à 17h00, alors que notre jeunesse est devant le petit écran, cinq femmes à quatre pattes sur un canapé, nues, déployant largement leurs fesses et leurs sexes. Inouï! Du racolage télévisuel de bas étage!

Troisième événement

Encore à TQS, dans le but de bien nous informer, au Grand Journal de 17h00 à nouveau, on nous présente un reportage sur le tournage à Montréal d'un film pornographique. Encore une fois, le réalisateur juge nécessaire d'appuyer le commentaire d'images éloquentes : une femme nue, agenouillée devant un homme debout devant elle et également nu. La femme dont une partie du visage est masquée par un rectangle noir qui cache sa bouche et le sexe de l'homme, balance la tête d'avant en arrière dans un geste éloquent de fellation.

Il s'agit encore ici de bavures inacceptables de la part de pseudo professionnels de la télévision qui démontrent un mépris total vis-à-vis notre jeunesse et leurs parents et une magistrale indifférence de ces « têtes dirigeantes » à l'égard des responsabilités sociales qui incombent à un réseau de télévision.

Permettez-moi en terminant de vous rappeler que l'article 174 du code criminel du Canada définit ce qu'est la grossière indécence :

« Est coupable d'une infraction sommaire quiconque, sans excuse légitime, est nu dans un endroit public ou exposé à la vue du public. »

C'est le cas pour un téléviseur. Une cour pourrait tenir responsables solidairement l'acteur et le diffuseur de pareil spectacle présenté à des mineurs. Car somme toute, nos enfants et nos adolescents ont droit à la paix et on vient les agresser dans nos propres salons via la télévision. Que l'on présente la télévision pour adultes à des heures adéquates (après 23h00 par exemple), je n'ai aucune objection. Mais qu'on laisse notre jeunesse en paix et qu'on la protège des abuseurs télévisuels!

Devra-t-on inscrire des recours collectifs à l'encontre de ces réseaux de télévision incapables de se débarrasser de ces insouciantes sourds à nos demandes répétées pour protéger notre jeunesse contre ce que je qualifierais de harcèlement si on considère que ce laxisme se retrouve régulièrement à nombre de réseaux de télévision. Nombreux y songent sérieusement. Est-ce que seules des pénalités monétaires importantes pourront faire réfléchir les responsables de ces entreprises commerciales, et les ramener à la raison. Il s'en trouve de plus en plus pour affirmer qu'effectivement certaines organisations ne réfléchissent qu'en termes de \$¥ et qu'ils sont bien loin des questions d'éthique.

Recevez l'expression de mes meilleurs sentiments et l'assurance de mon soutien dans vos efforts pour mettre de l'ordre au petit écran.

[Le CCNR n'a pu poursuivre les « événements » énumérés par le plaignant soit en raison du retard ou du manque de précisions.]

La réponse du radiodiffuseur

La Vice-présidente des Communications a répondu au plaignant le 15 février avec la lettre qui suit :

Monsieur,

Nous accusons réception de la lettre que vous nous avez fait parvenir par l'entremise du CRTC [CCNR] et dans laquelle vous nous faites part de votre insatisfaction face à la diffusion du film *Les girls de Las Vegas* le 19 janvier dernier à 21 h. Nous sommes désolés que les images de ce film vous aient offensé.

Avant le début du film, un panneau, également lu, annonce que « ce film comporte des scènes de violence et d'érotisme pouvant ne pas convenir à de jeunes téléspectateurs. Le jugement des parents est conseillé ».

Sur les premières images du film, une signalétique indique 16 +, Violence et érotisme. Le 16 + indique que ce film est destiné aux personnes de plus de 16 ans. Cette cote est donnée par la Régie du cinéma, et non pas par TQS.

À la 48^{ème} minute du film, une bande défilante reprenait le même message qu'au tout début du film (« ce film comporte... »). Au début de la 64^{ème} minute, les mêmes signalétiques 16 +, Violence et érotisme, ont été à nouveau diffusées. Elles l'ont été également au début de la 3^{ème} heure de diffusion.

Pour votre information, TQS a également supprimé quelques scènes qu'elle jugeait indécentes.

Finalement, ce film a été diffusé à 21 h, heure à partir de laquelle le CCNR estime que l'on peut diffuser de tels films.

Nous vous remercions de nous avoir fait part de vos préoccupations et nous vous prions d'agréer nos sincères salutations.

Correspondance supplémentaire

Le plaignant a envoyé sa demande de décision signé et daté du 1 mars. Le 12 avril il a aussi envoyé une autre lettre au CCNR ainsi que sa propre copie de la télédiffusion en question. La lettre se lit comme suit :

Madame,

Vous trouverez ci-joint, tel que convenu lors de notre dernière conversation téléphonique, une copie de l'enregistrement vidéo que j'ai effectué de la présentation du film « Les Girls de Las Vegas » tel que présenté à T.Q.S. le 19 janvier dernier.

Cette copie vous permettra à vous et aux autres membres du comité d'appel de vérifier si la cassette que vous remettra le télédiffuseur T.Q.S. est bien authentique ou bien si elle a été modifiée depuis.

Recevez, Madame, l'expression de mes meilleurs sentiments.