
**CANADIAN BROADCAST STANDARDS COUNCIL
QUEBEC REGIONAL PANEL**

TQS re the movie *Film de peur*

(CBSC Decision 02/03-0940)

Decided April 22, 2004

G. Bachand (Chair), T. Rajan (Vice-Chair), R. Cohen (*ad hoc*), R. Parent

THE FACTS

TQS broadcast the motion picture *Film de peur* (the dubbed version of the American film *Scary Movie*) at 6:30 pm on March 22, 2003. A spoof on horror films, with parodies of many well-known sequences from such movies, *Film de peur* included scenes of the genre. The story is that of a teen-ager and four friends who are followed by a masked killer. Although ostensibly a comedic film, *Film de peur* includes scenes of rather bloody violence, some of them entirely far-fetched, if not preposterous. There are also numerous sexual situations and references, as well as vulgar language. The film was preceded by the following viewer advisory, in both oral and on-screen formats:

Ce film comporte des scènes de violence, de nudité et un langage pouvant ne pas convenir à un jeune public. Le jugement des parents est conseillé.

The advisory was repeated only once during the course of the broadcast, namely, at 7:27, and, on this occasion, as a horizontal crawl. The film was classified 13+, as rated by the Régie du cinéma du Québec, and the ratings icon was displayed for 9 seconds at the start of the broadcast. It was also displayed following each commercial break thereafter. At 7:00 pm, the icon reappeared for 8 seconds and, at 8:06 pm, for 10 seconds.

The complainant found that the film included gratuitous violence and unsuitable and degrading language and that it played too early in the evening. She said in part in her letter of complaint of March 24 to the CRTC, which was forwarded to the CBSC in due course (the full text of all correspondence is included in the Appendix):

Ce film est coté 13 ans et plus et devrait donc être diffusé vers 21h00 ou plus tard. Par exemple dans ce film, on y fait l'éloge de la fellation pour une jeune fille qui veut devenir populaire.

Enseignant à des enfants de 8 et 9 ans, j'ai dû leur expliquer ce qu'est la fellation ainsi que des expressions dégradantes envers les femmes, et surtout leur dire que ce film n'est pas la réalité et qu'ils ne courent aucun danger.

The Vice President, Communications, for TQS replied on May 7.

Ce film est classé 13+, VNL+, tel qu'établi par La Régie du Cinéma. Cela indique donc clairement que le film s'adresse aux plus de 13 ans, qu'il comporte des scènes de violence et de nudité et qu'un langage jugé vulgaire est employé.

Conformément aux règles d'éthique, nous sommes en droit de diffuser des films cotés 13 ans et plus à cette heure. De plus, un pictogramme indiquant l'âge était présent au début du film et a été représenté à chaque retour de pause publicitaire. Également, le message « Ce film comporte des scènes de violence, de nudité et un langage pouvant ne pas convenir à un jeune public. Le jugement des parents est conseillé », a été présenté à 19 :27 :54. Il revient donc aux téléspectateurs de juger si leurs enfants doivent ou pas regarder le film, en rapport avec les avertissements donnés.

The complainant responded to that letter on May 15. She said, in part:

Je veux bien croire que vous avez le droit de diffuser de tels déchets à des heures de grande écoute et de diffuser un message une fois durant ce film et de laisser le jugement aux parents. Mais on voit très bien où sont les priorités de votre réseau; et ce ne sont pas les enfants. Ce n'est pas vous qui avez dû expliquer à 27 enfants de 8 ans le lendemain qu'un pénis ne peut entrer par une oreille et sortir par l'autre et que la fellation n'aidera jamais une jeune fille à être populaire.

The CBSC understood this letter to be the equivalent of a Ruling Request.

THE DECISION

In its review of the broadcast, the Quebec Regional Panel considered the following provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics*, the *CAB Voluntary Code regarding Violence in Television Programming*, and the *Sex-Role Portrayal Code*:

CAB Code of Ethics, Clause 10 (Television Broadcasting)

Scheduling

- (a) Programming which contains sexually explicit material or coarse or offensive language intended for adult audiences shall not be telecast before the late viewing period, defined as 9 pm to 6 am. Broadcasters shall refer to the

Voluntary Code Regarding Violence in Television Programming for provisions relating to the scheduling of programming containing depictions of violence.

- (b) Recognizing that there are older children watching television after 9 pm, broadcasters shall adhere to the provisions of Clause 11 below (viewer advisories), enabling viewers to make an informed decision as to the suitability of the programming for themselves and their family members.

CAB Code of Ethics, Clause 11 (Viewer Advisories)

To assist consumers in making their viewing choices, when programming includes mature subject matter or scenes with nudity, sexually explicit material, coarse or offensive language, or other material susceptible of offending viewers, broadcasters shall provide a viewer advisory

(a) at the beginning of, and after every commercial break during the first hour of programming telecast in late viewing hours which contains such material which is intended for adult audiences, or

(b) at the beginning of, and after every commercial break during programming telecast outside of late viewing hours which contains such material which is not suitable for children.

CAB Violence Code, Article 1 (Content)

1.1 Canadian broadcasters shall not air programming which:

! contains gratuitous violence in any form*

! sanctions, promotes or glamorizes violence

(*“Gratuitous” means material which does not play an integral role in developing the plot, character or theme of the material as a whole).

CAB Violence Code, Article 3 (Scheduling):

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.

CAB Violence Code, Article 4.0 (Classification System for French Language Broadcasters):

Classification Descriptions of the Régie du cinéma du Québec

8+ (General, not recommended for children)

The “General” rating does not mean that the film is necessarily of interest to children. It means, rather, that they are not likely to find the content of the film disturbing. If, however, the nature of a “G”-rated film is such that it will upset the sensibilities of children younger than age eight, the Régie du cinéma adds the following indicator to the “G” rating: Not recommended for young children”.

[...]

If nudity is present, the love scenes nevertheless remain discreet. Depending on the context, some strong language is acceptable.

13+

La Régie includes in this category films requiring a certain level of discernment. These films contain scenes or sequences that may upset the sensibilities of younger audiences.

The adolescent audience is more aware of film techniques and is psychologically better equipped to follow more complex or disturbing films. Also, violence, eroticism, coarse language and horror may be more developed and constitute a dominant characteristic of the film. It is important, however, that the film conveys the significance of the various characters and their actions, as during adolescence, young people are not necessarily prepared to deal with everything. For this reason, certain themes (drugs, suicide, troubling situations, etc.) and the way in which they are treated are closely examined.

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.

Icon Use Protocols - Frequency

The rating icon is to be keyed over the first 15-16 seconds of the program. [...] For programs which run longer than one hour, the icon is to be repeated at the beginning of the second hour. These are minimal use standards; stations may wish to use the icons more frequently on programs with particularly sensitive content.

CAB Violence Code, Article 5.2 (Viewer Advisories):

Broadcasters shall provide a viewer advisory at the beginning of, and during programming telecast outside of late evening hours, which contains scenes of violence not suitable for children.

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.

Panel Adjudicators viewed the logger tape of the broadcast in question and reviewed all of the correspondence. The Panel finds that the film was aired at an appropriate hour but that TQS is in breach of Articles 4 and 5.2 of the *Violence Code* and 11 of the *CAB Code of Ethics*.

The Nature of the Violence in *Film de peur*

The fact that the film was intended to be, and has generally been acknowledged as, a spoof of other films of the genre does not inevitably lead to the conclusion that the violent content is amusing or harmless. It should, however, be noted that the protagonists in the film were all teen-agers and that there was a clear intention that by the filmmaker that the film be directed at an adolescent audience. While the Quebec Panel does not find that there were any scenes that were either gratuitous or would have required the film to be broadcast exclusively to an adult audience, it does conclude that some of the scenes were unsuitable for young children.

One consequence of the foregoing conclusion is that the film could be broadcast before 9:00 pm. The other relates to the number and frequency of the viewer advisories required (for this issue, see the discussion below).

The Nature of the Sexual Content in *Film de peur*

The Panel does not find that any of the sexual content in *Film de peur* was intended for adult audiences. There were brief depictions of real or artificial penises, a Miss Fellatio “beauty contest”, a scene with adolescents “making out” in a car and other suggestive content but nothing that could be described as being close to explicit sexuality, although the suitability for children would be questionable.

Sexual Exploitation

It is frequently the case in adolescent-focussed films that the sexual attitudes and activities reflect the rather juvenile approach of persons in the age group. If anything, in the present case, there are no comments that degrade either gender relative to the other. As the Prairie Regional Panel said, in *CKX-TV re National Lampoon’s Animal House* (CBSC Decision 96/97-0104, December 16, 1997),

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*.

While the portrayal of the women in the film is not overly flattering, it cannot either be said that the portrayal of the men is any better or advantages them in any way. All in all, the presentation of almost every one of this group of young college people is as

unflattering as one might expect from a film emphasizing the frivolous, narcissistic, often gross, occasionally disgusting portrait of college fraternity life which can best be characterised as high farce. The question of portrayal inequality does not come into play.

The Panel finds no breach of Article 4 of the *Sex-Role Portrayal Code* resulting from the broadcast of *Film de peur*.

The Nature of the Coarse Language in *Film de peur*

Although there were examples of swearing or the use of coarse language (such as “merde”, “grosse salope”, “foutre le camp”, and “petit foiré”), there were no words (in their French-language translation) that the Panel would consider were intended exclusively for an adult audience. The Panel does, however, consider that the coarse language used was inappropriate for children, with the consequence that, as with the violence and sexual content, viewer advisories were required pursuant to Clause 11(b) of the *CAB Code of Ethics* and Article 5.2 of the *Violence Code*.

Advice to the Viewing Audience

Both the *CAB Violence Code* and the *CAB Code of Ethics* include provisions relating to the use of classification icons and viewer advisories. Both are useful and important, indeed essential, tools provided by broadcasters to television audiences. They are made available in the full understanding and appreciation that it is improbable that all programming will be either attractive or even palatable to all viewers. Consequently, in order to assist viewers in making informed choices as to the content that will be suitable to them and their families, Canada’s private broadcasters have agreed to provide information in the form of content ratings and advice.

Classification Icons

These viewer aids do, however, have formalities associated with their proper use. In the case of the ratings icon, it must first be the correct level (e.g. 8+, 13+, or 16+, to note some of the options). It must also be displayed at the correct time and for the correct duration.

Regarding the level, the Panel is of the view that 13+ was the appropriate choice. As the definition provides, “violence, eroticism, coarse language and horror may be more developed and [may even] constitute a dominant characteristic of the film.” The Panel does not consider that there is any content in the film that could be said to exceed that definition. It wishes to also underscore that fact that all parents must determine which levels are appropriate for viewing in their own

homes. There is no straight line relationship between, say, 13+ and 13-year olds. In the first place, one 13-year old may be more or less mature than another, and, second, the values of one family may differ from those of another. Anyone who wishes to carefully review the ratings definitions can do so in this decision or on the CBSC web site (or the AGVOT web site) and can decide whether films of that or any other ratings level are viewable by their families. The bottom line for the Panel is that, in this instance, the broadcaster's 13+ choice is the correct one.

The broadcaster has not, however, respected all of the other rules relating to the icon's use. In the first place, TQS appears to have confused the classification system and the viewer advisory rules. The ratings icon must be displayed at the start of the film and at the top of each subsequent hour. While it is, of course, helpful to include the icon more frequently, as TQS did by adding it following each commercial break, it is not necessary to do so. It is the viewer advisory that *must appear* at the start of the film *and following each commercial break*. As will be noted below, the Panel will find a breach for the failure of the broadcaster to respect the advisory requirements but it does applaud TQS for inserting the ratings icon in almost all of the correct time slots, and more. The only slight error was that the icon that ought to have appeared at 8:00 pm was displayed at 8:06 pm; however, so many were displayed throughout the program that, in this instance, the Panel does not consider that potential viewers were disadvantaged by this slight error.

The Panel does, however, conclude that the duration of the required icon display was clearly insufficient. The broadcasters' rules provide that the icon must be displayed for 15-16 seconds at the start of the program and at the top of each subsequent hour. In the case of *Film de peur*, the display of the pre-program icon was for 9 seconds, the 7:00-pm display was for 8, and the 8:06-pm display was for 10. Each of these displays was insufficient and constituted a breach of the technical requirements of the classification system, as established pursuant to Article 4 of the *Violence Code*.

Viewer Advisories

Since *Film de peur* was broadcast before the Watershed hour of 9:00 pm and contained material not suitable for children, it fell within the parameters of Article 5.2 of the *Violence Code* and Clause 11(b) of the *CAB Code of Ethics*. Viewer advisories were required at the start of the broadcast and following every commercial break during the course of the entire broadcast. In the matter at hand, the broadcaster did include a viewer advisory at the start of the film but only one other advisory was displayed during the entire broadcast and it was in video form only, done as a crawl at the bottom of the screen. Since viewer advisories need to be provided coming out of every commercial break, the failure of the broadcaster to provide these with that frequency constitutes a breach of Article 5.2 of the *Violence Code* and Clause 11(b) of the *CAB Code of Ethics*. In

CTV re Poltergeist - The Legacy (CBSC Decisions 96/97-0017 and 96/97-0030, May 8, 1997), the Ontario Regional Panel made general comments on the rationale underlying the requirement for the provision of advisories (applicable to both post-Watershed and pre-Watershed programming).

The rationale underlying the requirement of viewer advisories is found in the background section of the Code, which states that "... creative freedom carries with it the responsibility of ensuring ... that viewers have adequate information about program content to make informed viewing choices based on their personal tastes and standards." The repetition of viewer advisories *during the course of* the first hour serves as a second, third and fourth chance for viewers to receive important information concerning the program they are considering watching, *even where they may tune in late*. The Code takes into account that many viewers make their viewing choices *after* the first few minutes of a program, which may result in a viewer missing an initial advisory. The Council is of the view that CTV's approach to viewer advisories in this case, *i.e.* other than the initial advisory, providing them only in the *second* hour of the program, is insufficient for viewers and in breach of the spirit and wording of the Code. [Emphasis added.]

The CBSC rule is, however, even more refined than the foregoing general principles. In *Showcase Television re the movie Police 10-07* (CBSC Decision 00/01-0613, January 16, 2002), the National Specialty Services Panel dealt with a broadcast in which there were insufficient advisories during the course of the program and, apart from the pre-program advisory, the later ones were in audio form only. The Panel stated "The provision of oral-only viewer advisories [...] was clearly inadequate in terms of the Code requirements." In *TQS re the movie Les Girls de Las Vegas* (CBSC Decision 01/02-0478, December 20, 2002), this Panel was faced with precisely the same situation as it faces here, namely, inadequate advisories and a single instance of a crawl during the course of the film. This Panel spoke unequivocally on this point:

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.

Reiterating its previous position, the Quebec Panel wishes to leave no doubt on this issue. Oral-only advisories are inadequate to satisfy the requirements of Article 5 and Clause 11 and video-only advisories are no better. When viewer advisories are required, they must be presented in both video and audio formats at the start of the program and following the commercial breaks (either during the first hour or for the entire program, depending on factors dealt with elsewhere in this decision). Consequently, TQS is in breach of the foregoing clause by reason of its failure to broadcast the requisite number of advisories and advisories in the correct format.

Recurring Technical Code Breaches

This is not the first occasion on which TQS has breached the viewer advisory provisions of either the *CAB Violence Code* or the *CAB Code of Ethics*. In *TQS re the movie L'inconnu (Never Talk to Strangers)* (CBSC Decision 98/99-0176, June 23, 1999), this Panel dealt with extremely similar circumstances, in terms of the viewer advisory issue. It found that

TQS' provision of viewer advisories was inadequate in light of the movie's content and its scheduling. Given that the movie was broadcast outside of late evening hours, it is subject to the requirements of Clause 5.2 of the *Violence Code* which states that "broadcasters shall provide a viewer advisory *at the beginning of, and during* programming telecast outside of late evening hours, which contains scenes of violence not suitable for children [Emphasis added]". To fully appreciate the meaning of the emphasized words, one must consider the requirement of Clause 5.1, which requires the viewer advisories be provided "at the beginning of, and during the first hour of programming telecast in late evening hours [i.e. post-watershed]" which contains elements of violence intended for adult audiences. In the Council's view, the effect of these provisions is that the broadcaster must provide viewer advisories during the full length of a pre-watershed program which contains violent scenes "not suitable for children." If the codifiers had intended that advisories be limited to "the first hour" of programming requiring advisories at all, they would have chosen parallel language for the two sub-clauses.

In any event, the broadcaster in this case failed on either count. The Council does not consider that the *one-time* scroll of the viewer advisory meets the requirements of providing viewers advisories *during* programming.

Following that, in *TQS re the movie Les Girls de Las Vegas* (CBSC Decision 01/02-0478, December 20, 2002), the broadcaster 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

Again, as in the case at hand, there was only a single occasion when any form of advisory reappeared, namely, at 9:49 pm, and then also as a crawl across the bottom of the screen. There was no audio component to the second advisory. This Panel concluded that

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*.

In the decision in *Les Girls de Las Vegas*, this Panel referred to its earlier decision in *TQS re two episodes of « Sexe et Confidences »* (CBSC Decision 01/02-0329, April 5, 2002), in which it found that TQS had breached the advisory requirement with respect to the broadcast of both episodes of that daily television show. In *Les Girls*, the Panel pointed out that "this is the second occasion on

which the broadcaster has erred over the same issue.” It then concluded unequivocally that

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.

In the matter at hand, the Panel finds that TQS has been anything but diligent. It has simply continued to ignore the provisions of the *Violence Code* and the *CAB Code of Ethics* that it has willingly and frequently breached in the past. In addition to the matters referred to above, TQS has breached Code provisions relating to the proper use of advisories and the duration of the classification icon display in *TQS re the movie L’Affaire Thomas Crown (The Thomas Crown Affair)* (CBSC Decision 01/02-0622, December 20, 2002). In general, the refusal of TQS to abide by the standards to which all other Canadian private radio and television broadcasters adhere is a matter of very great concern to the Quebec Regional Panel in particular and the CBSC in general.

It has historically been most unusual for the CBSC to face repetitive Code breaches by the same broadcaster; this is only the fourth occasion when such an issue has come before a Panel (and one of the previous occasions also involved TQS, although it was with respect to a different issue). The CBSC has dealt with the issue of repetitive breaches in the following way.

In the first case, namely, *CILQ-FM re the Howard Stern Show* (CBSC Decision 97/98-0487, 488, 504 and 535, February 20, 1998), the Ontario Regional Council explained the requirements of membership and their application to such a situation.

As the CBSC Members Manual provides, under the heading “Criteria of Membership”, “To become a member of the Council, a broadcaster ... must agree to carry out the responsibilities of membership outlined in the following” and, under the immediately following heading “Responsibilities of Membership”, it is provided:

Stations voluntarily becoming members of the Council agree to:

- (a) Abide by, and agree to be judged by, the broadcasting codes of the CAB administered by the Council.
- (b) Encourage, educate and assist managers, programmers, producers, journalists and performers to understand, and conduct themselves in accordance with these standards.

Thereafter, as a part of “Compliance”, the rules of membership provide:

If a member broadcaster fails to comply with a decision of the Council, by not broadcasting a Council decision in favour of the complainant or by refusing to adhere to an approved standard, the broadcaster’s membership in the Council will be revoked.

The consequence of not adhering to the “approved standards”, which were the creation of the private broadcasters themselves, would be the removal of the member from the voluntary authority of the CBSC. While, ultimately, all CBSC members are subject to the regulatory authority of the CRTC, any broadcasters who might cease to be members would be more immediately involved with the formal regulatory regime.

It should not be forgotten that the standards were instituted by Canada’s private broadcasters to ensure that the acceptable content criteria of broadcast material would be the same for all listeners and viewers and, moreover, that no individual stations would be able to steal a competitive march on other broadcasters in their market by breaching those standards.

It is an extremely positive endorsement of the self-regulatory process that, hitherto, the CBSC has never invoked the above-noted provisions relating to adherence to standards to remove a member from its midst. It is equally significant that no member has ever resigned by reason of its refusal to adhere to industry Codes.

In the case of, the *Howard Stern Show*, the broadcaster had already put infrastructural mechanisms in place *prior to* the rendering of the second decision and it was clear that diligent, even expensive, methods were being employed to ensure that the program would conform to Canadian private broadcaster standards.

In the second case, namely, *TQS re Faut le voir pour le croire* (CBSC Decision 99/00-0460, August 29, 2000), this Panel was faced with a similar problem of disregard for certain of the private broadcasters’ codified rules. On that occasion, this Panel concluded:

In the circumstances, in addition to its finding regarding the specific breach in the case of the broadcast under consideration, the Council specifically concludes that the broadcaster must, within the thirty days following its receipt of the text of this decision, provide the CBSC with concrete indications of the measures which it intends to put in place in order to avoid the recurrence of the broadcasting of inappropriate sexual content prior to the Watershed. Failing that, the CBSC will determine whether there is any reason for which Télévision Quatre Saisons should be entitled to remain a member of the CBSC or whether TQS should become the first private broadcaster in Canada to be removed from the self-regulatory mechanism.

Since those two decisions, and in order to avoid any uncertainty in this regard, the CBSC has modified its *Manual* to ensure that the obligations of its members are clear. The *Manual* now provides:

Broadcaster members which join the CBSC do so voluntarily and, by so doing, agree to:

[...]

b) avoid the recurrence of any breach of the Codes which has previously been decided against them with respect to a particular program or series;

Members even agree to ensure that the principles established in a decision rendered against *another* broadcaster will be respected by them in their own programming decisions. The undertaking is framed as follows:

Broadcaster members which join the CBSC do so voluntarily and, by so doing, agree to:

[...]

c) respect the conclusions of any CBSC decision which applies to any program or series they are running, even if that decision was rendered in response to a complaint directed at another station or stations running that same programming;

Recently, there was a third instance in which a CBSC Panel faced a case of repeated Code breaches by a broadcaster, namely, *Showcase Television re the movie Frankie Starlight* (CBSC Decision 02/03-0682, January 30, 2004). In that decision, the National Specialty Services Panel established the following requirement:

[T]he Panel concludes that Showcase Television must, within the thirty days following its receipt of the text of this decision, provide the CBSC with concrete indications of the measures which it intends to put in place in order to: a) avoid the recurrence of the broadcasting of coarse or offensive language prior to the Watershed; and b) ensure that it will include viewer advisories with the required form and frequency in its programming. Failing the receipt of that written assurance of the steps Showcase plans to take, the CBSC will determine whether there is any reason for which Showcase Television should be entitled to remain a member of the CBSC benefiting from the operation of the self-regulatory mechanism.

It should be noted that, within the agreed delays, Showcase Television undertook concrete measures to ensure future compliance and presented the CBSC with a commitment in the form of an extensive and detailed plan to ensure the avoidance of any slip-ups in the problematic areas in the future.

In the present matter, the Quebec Regional Panel concludes that TQS must, within the thirty days following its receipt of the text of this decision, provide the CBSC with concrete indications of the measures which it intends to put in place in order to: a) avoid the recurrence of the display of the classification icon for a duration that does not conform to the codified requirements; and b) ensure that it will include viewer advisories with the required form and frequency in its programming. Failing the receipt of that written assurance of the steps TQS plans to take and the satisfactory timing of their implementation, the CBSC will determine whether there is any reason for which TQS should be entitled to remain a member of the CBSC benefiting from the operation of the self-regulatory mechanism.

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 Panel considers that the broadcaster has fulfilled its obligations vis-à-vis the complainant. Nothing further is required in this instance.

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 *Film de peur* 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 movie *Film de peur* on March 22, 2003 breached the provisions of the *CAB Violence Code* and the *CAB Code of Ethics*. By failing to provide viewer advisories following every commercial break for the entire program, TQS breached Clause 11 of the *Code of Ethics* and Article 5 of the *Violence Code*, both of which require such information so that the audience can make the necessary viewing choices for themselves and their families. By broadcasting the classification icon for only a part of the required time, TQS breached the article of the Code requiring ratings information, which is also of assistance to viewers in deciding the suitability of the program for themselves and their families.

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

ANNEXE

TQS concernant le long métrage *Film de peur* (Décision du CCNR 02/03- 940, rendue le 22 avril, 2004)

I. La plainte

La plainte suivante en date du 24 mars 2003 a été envoyée au CRTC et acheminée au CCNR :

Message:

Je voudrais formuler une plainte à propos de la diffusion du film : "Film de peur" samedi le 22 mars 2003 à 18h30 au réseau Quatre saisons au Québec. Ce film présente des scènes de sexe explicites, un langage vulgaire et dégradant envers les femmes ainsi qu'une violence gratuite déplacée.

Ce film est coté 13 ans et plus et devrait donc être diffusé vers 21h00 ou plus tard. Par exemple dans ce film, on y fait l'éloge de la fellation pour une jeune fille qui veut devenir populaire.

Enseignant à des enfants de 8 et 9 ans, j'ai dû leur expliquer ce qu'est la fellation ainsi que des expressions dégradantes envers les femmes, et surtout leur dire que ce film n'est pas la réalité et qu'ils ne courent aucun danger.

La plaignante a envoyé, par courrier électronique, le message suivant du 22 avril au CCNR, accompagné par un formulaire de demande de décision.

Madame,

N'ayant reçu aucune réponse de TQS, voici donc le formulaire, tel que prévu. Merci.

II. La réponse du télédiffuseur

Le télédiffuseur a répondu à la plaignante le 7 mai :

Madame [...]

Par courrier électronique :
[...]

Réf : C02/03-940

Madame,

Nous accusons réception du courriel que vous nous avez fait parvenir via le CCNR et dans lequel vous nous faites part de votre insatisfaction face au film " Film de peur " diffusé sur nos ondes le 22 mars dernier à 18 h 30.

Nous regrettons que la diffusion de ce film vous ait heurté. Ce film est classé 13+, VNL+, tel qu'établi par La Régie du Cinéma. Cela indique donc clairement que le film s'adresse aux plus de 13 ans, qu'il comporte des scènes de violence et de nudité et qu'un langage jugé vulgaire est employé.

Conformément aux règles d'éthique, nous sommes en droit de diffuser des films cotés 13 ans et plus à cette heure. De plus, un pictogramme indiquant l'âge était présent au début du film et a été représenté à chaque retour de pause publicitaire. Également, le message " Ce film comporte des scènes de violence, de nudité et un langage pouvant ne pas convenir à un jeune public. Le jugement des parents est conseillé ", a été présenté à 19 :27 :54. Il revient donc aux téléspectateurs de juger si leurs enfants doivent ou pas regarder le film, en rapport avec les avertissements donnés.

Voici un extrait du Code concernant la violence à la télévision, Article 5 (Mises en garde de l'auditoire) du CCNR :

5.2 Les télédiffuseurs doivent diffuser des mises en garde au début et pendant la présentation d'émissions diffusées hors de la plage des heures tardives et qui contiennent des scènes de violence qui ne conviennent pas aux jeunes enfants

En tant que diffuseur membre du CCNR, nous avons donc respecté toutes les règles de l'organisme.

Nous vous remercions de nous avoir fait part de vos préoccupations et nous excusons du délai à vous répondre, l'employée chargée de la correspondance étant absente en mars, un retard a été pris dans le traitement du courrier.

III. Correspondance additionnelle

La plaignante a envoyé le message suivant au CCNR et à TQS, le 15 mai, 2003 :

Bonjour madame,

Merci d'avoir pris le temps de me répondre. Je veux bien croire que vous avez le droit de diffuser de tels déchets à des heures de grande écoute et de diffuser un message une fois durant ce film et de laisser le jugement aux parents. Mais on voit très bien où sont les priorités de votre réseau; et ce ne sont pas les enfants. Ce n'est pas vous qui avait dû expliquer à 27 enfants de 8 ans le lendemain qu'un pénis ne peut entrer par une oreille et sortir par l'autre et que la fellation n'aidera jamais une jeune fille à être populaire.

J'espère que vous serez plus vigilents à l'avenir. La violence est si laide; nous tentons tellement de la sortir de nos écoles. Ne faites pas exprès pour la faire entrer par la voie des ondes. Merci

Un autre message de la même date est arrivé au CCNR, envoyé par la plaignante :

Bonjour madame,

Vous avez reçu une copie de ma réponse au réseau Tqs. Malheureusement, ma lettre ne peut leur parvenir car l'adresse Internet de [...] est erronée. Je suis excessivement déçue de manque de jugement de ce réseau quant à leur choix de diffusion. Vous pouvez être certaine que je ne regarderai plus jamais cette chaîne au raisonnement si médiocre. Merci de votre attention.