
**CANADIAN BROADCAST STANDARDS COUNCIL
QUEBEC REGIONAL PANEL**

TQS re an episode of *Loft Story*

(CBSC Decision 03/04-0200 & -0242)

Decided April 22, 2004

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

THE FACTS

On October 22, 2003, at 7 pm, TQS broadcast an episode of the reality series *Loft Story*, a game show in which contestants (all young adults, both male and female), known as “lofters”, are sequestered in an apartment where they are filmed 24 hours a day. Clips of the day’s footage were edited together to create a half-hour broadcast, which was shown every evening on TQS. To win the game, lofters had to remain an inhabitant of the loft. Each week the “lofters” chose two people from the group who would be subject to the audience’s vote, the result being that the winner of the most votes would remain in the loft while the other would be asked to leave. It flows from the contest’s concept that a good strategy for winning the game would involve a fair dose of “playing to the camera” in order to develop a loyal audience following.

In the episode in question, the lofters apparently went through some emotional turmoil as two of the lofters decided of their own volition to leave the game prematurely. Most of the episode focussed on discussions amongst the lofters concerning those unexpected departures and the effect they could be expected to have on the game. Nothing in those moments of dialogue attracted any complaints to the CBSC. All of the public concern focussed on the concluding moments of the episode. As the credits rolled on a split screen (with the credits on the left and less than a totally clear depiction of the lofters’ activities on the right half of the screen), the lofters were seen ending their day relaxed in a hot tub. The lofters could be seen kissing, changing partners and kissing some more. One woman was seen playfully covering her eyes with her bikini

top while another threw her bikini top out of the hot tub, without, in any event, revealing her breasts. The entire scene lasted less than a minute.

The episode carried a 13+ classification icon at the beginning of the program and following each commercial break, for a period of 5 to 6 seconds on each occasion. TQS did not broadcast any viewer advisories.

The CBSC received 28 complaints about *Loft Story* around the date of this episode, either directly or via the CRTC. Some of these focussed on this episode; others were general in nature and concerned the series as a whole. The CBSC explained to those complainants that the Council required more detailed information in order to for a complaint to be brought against a broadcaster. Seven complaints identified the specific episode broadcast on October 22 and were provided with the opportunity to request a ruling by a CBSC Adjudicating Panel but only two of these complainants returned the signed form requesting a ruling by the CBSC.

The first of these two complainants was particularly concerned with the fact that two women were shown kissing. Her letter stated in part (the full text of this and all other correspondence can be found in the Appendix to this decision):

Bien que je respecte leur choix de vie cela me révolte que cela soit diffusé à l'heure de grande écoute à 19 heures où il y a de très jeunes enfants. Les valeurs qu'on y présente en sont d'hypocrisies, de moqueries, de nos respects des personnes, d'appât du gain, etc. Je considère que ce qui est présenté à cette heure à TQS n'apporte rien de bon à notre société qui a tant besoin d'exemples ayant une échelle de valeurs pour la croissance de nos jeunes.

The other complainant wrote that she happened upon the show while she was babysitting a 7 year-old. She stated, in part:

Occupée à ramasser la vaisselle du souper ,je ne me suis pas méfiée de ce qu'il pouvait regarder à la télé prenant pour acquis qu'à cette heure normalement il ne devait pas y avoir de problème ! J'ai été totalement stupéfaite en entrant dans la pièce quand je l'ai vu regarder 6 personnes dans un spa, les filles qui se caraiissaient [sic] les seins nus. La veille il parrait [sic] que c'était un concours de "French Kiss" à deux,à trois, filles entre elles ou avec les gars et qu' il parrait [sic] que je n'ai rien vu et que le pire s'en vient !!!Bien que je ne sois pas pudique je considère que ce n'est pas aux télédiffuseurs de décider à quel âge les enfants doivent être confrontés à une prétendue réalité comme celle-ci !!!Je considère qu'à 19h00 ou même 20h00 les parents ne doivent pas s'inquiéter outre mesure du contenu des émissions accessibles à tous !

The broadcaster's Vice-President of Communications responded on November 7 and explained that, while the scenes were somewhat daring, they were not too sexually explicit to be intended exclusively for an adult audience. The response, which can be found in the Appendix to this decision, also emphasized the fact that a 13+ icon was

shown at the beginning and after each commercial break in order to aid the viewers' selection process.

THE DECISION

The CBSC Quebec Regional Panel examined the complaint under the scheduling and viewer advisory provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics*, as well as the classification provision of the *CAB Voluntary Code Regarding Violence on Television Programming*. Those provisions read as follows:

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, Clause 4.0 (Classification System for French-Language Broadcasters)

Classification Description

[...]

13+

Some films will require of their audience a minimum degree of maturity in order to follow plot lines and maintain a critical view of events, events which a younger audience might have trouble comprehending. Often, difficulties lie not so much with the film itself: they relate to the inability of young viewers to confront certain realities.

Thus, when classifying a film for “13 years or over”, the jury will be especially alert to the many and varied faces of violence – wanton destruction of property, vicious attacks on other human beings, -- grim reality, in short, wherever it is likely to intrude on the peace of mind of young people.

The developing sexuality of adolescents still in the troublesome puberty stage calls for a certain restraint when classifying films in this category. Scenes of sexual intimacy of a dominant nature, for example, or the portrayal of unconventional sexual relationships, may not be suitable for this age group.

Suicide is one of the themes most likely to prove unsettling for young adolescents. The high rate of suicides among teenagers in Québec is testimony enough to that, particularly among those who are troubled or who have difficulty “fitting in”. For people such as this, to view a film in which suicide is represented as the only solution to personal or family problems can be an overwhelming experience.

Still, other social issues such as the disintegration of the family, mental instability, the fragility of values or marginal practices such as drug abuse become matters of concern to examiners. Again, the approach which a film director brings to his subject remains the all-important consideration.

As previously mentioned, some audiences, more than others, are likely to be offended by earthy language. Forceful expressions of this nature will be analyzed relative to the context in which they are used.

[...]

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.

The Quebec Regional Panel reviewed all of the correspondence and viewed a tape of October 22 episode of *Loft Story*. While the Panel takes no issue with the scheduling or the absence of viewer advisories, it finds that TQS has breached Article 4 of the *CAB Violence Code* for failing to display the classification icon for 15 to 16 seconds at the start of the broadcast.

A Preliminary Matter: The Type of Sexuality Presented

The Panel notes that both complainants mentioned as part of their objection to alleged sexual explicitness, that they saw *two women* kissing. In fact, all of the complaints received concerning this episode beg the question whether viewers would have been as offended had there only been men and women kissing each other. The Panel therefore considers it important to leave no doubt as to the material aspects of this issue, namely, that relating to the degree of explicitness of the sexual acts shown. Whether the activity is homosexual or heterosexual in nature is irrelevant to the Panel's determination under Clause 10 of the *CAB Code of Ethics*. Sex, not the gender of the participants, is the issue. As stated in *Showcase Television re an episode of Queer as Folk (Episode /209)* (CBSC Decision 01/02-0759, February 28, 2003),

The Panel does not support any differentiation between homosexual and heterosexual sexual activity; its concern is solely the appropriateness of the *level* of activity, not the gender of the participants, in terms of the time at which the programming is shown and the information provided to the potential audience.

The Explicitness of the Sexual Activity Depicted

With respect to the core issue of the level of sexual explicitness presented in the *Loft Story* episode in question, the Panel notes that the only scene that could be described as remotely sexual occurs at the very end, while the credits roll and the screen is shrunk to half its customary size. While there is clearly kissing and hugging going on in the hot tub amongst the lofters, there is no nudity shown nor is there anything else shown that would lead viewers to conclude that the intimate activity goes any further than the kissing. All in all, the Panel considers that the scene is sufficiently innocuous to be acceptable at the time it was shown without the requirement of additional safeguards such as viewer advisories. The Panel understands that some viewers may not consider it appropriate for these young adults to be doing what they were doing but this level of morality is not what the Panel needs to judge. Anyone who would have wanted to avoid such programming would have been alerted by the 13+ classification.

Displaying the Classification Icon

TQS rated the broadcast of this episode of *Loft Story* as prescribed in Clause 4 of the *CAB Violence Code*. French-language broadcasters in Canada use the classification system established by the Régie du cinéma du Québec. In this case, while the Panel considers that a lower rating might also have been acceptable, the 13+ rating selected

by TQS is appropriate as that conservative decision manifests a measure of sensitivity to its audience.

Unfortunately, TQS has not, however, respected all the other rules relating to the classification icon's display. By airing the icon for only 5 to 6 seconds at the beginning of the show, TQS has clearly breached the technical requirement that the icons be displayed for 15-16 seconds at the beginning of the broadcast (and at the top of each subsequent hour of broadcast, which is not a matter at issue in this case). The fact that TQS aired the icon more frequently than was necessary (TQS displayed the icon coming out of each commercial break although there is no requirement for it to do so) does not relieve the broadcaster from its responsibility to respect the duration requirement. The Quebec Regional Panel has made a similar finding in a decision of this same date, namely *TQS re the movie Film de peur* (CBSC Decision 02/03-0940, April 22, 2004).

Repetitive Nature of the Broadcaster's Breaches

The Panel also deals in that decision with the repetitive nature of the broadcaster's breaches relating to the use of classification icons (and the use of viewer advisories, not a matter of pertinence in this case). The Panel does not consider it necessary to reiterate those points here.

Broadcaster Responsiveness

In all CBSC decisions, the Adjudicating Panels assess the broadcaster's responsiveness to the complainant. Although the broadcaster need not agree with the complainant, it is expected that its representatives charged with replying to complaints will address the complainant's concerns in a thorough and respectful manner. In this case, the Panel finds that TQS met its responsibilities of membership in this regard.

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 during the time period in which *Loft Story* is broadcast; 2) within the fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the statement to the complainants 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 has breached the clause of the Canadian Association of Broadcasters' (CAB) *Violence Code* relating to the display of classification icons. The Code provides that, in order to properly inform audiences of the information contained in such icons, their display must be for 15-16 seconds. By broadcasting the classification icon for only a brief part of the required time, TQS has breached the article of the Code incorporating the Canadian classification system.

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

ANNEXE

TQS concernant un épisode de l'émission Loft Story (Décision du CCNR 03/04-0200 et 0242, rendue le 22 avril, 2004)

I. Les plaintes

Le CCNR a reçu deux plaintes concernant le programme *Loft Story*. Les plaintes de ces deux individus sont reproduites ci-bas :

La première plainte (Dossier du CCNR 02/03-0200) se lit comme suit :

Date Registered: 22/10/2003 10:19:26 PM

Date Arrived: 22/10/2003

Message:

Notre plainte fait suite à l'émission qui paraît à TQS et qui s'appelle "Loft Story". Plus particulièrement à des scènes où l'on voit des femmes s'embrasser entre elles (exemple celle du 22 octobre 2003). Bien que je respecte leur choix de vie cela me révolte que cela soit diffusé à l'heure de grande écoute à 19 heures où il y a de très jeunes enfants. Les valeurs qu'on y présente en sont d'hypocrisies, de moqueries, de nos respects des personnes, d'appât du gain, etc. Je considère que ce qui est présenté à cette heure à TQS n'apporte rien de bon à notre société qui a tant besoin d'exemples ayant une échelle de valeurs pour la croissance de nos jeunes.

La deuxième plainte (Dossier du CCNR 02/03-0242) :

Date Registered: 25/10/2003 4:45:51 PM

Date Arrived: 25/10/2003

Message:

Télévision 4 saisons.

Titre de l'émission:Loft Story

Heure de diffusion:Tous les jours à 19h ou 19h30?

Bien qu'à mon avis cette émission soit absolument vide de sens et que cela m'apparaisse comme une insulte à notre intelligence collective...JE NE COMPRENDS PAS QU'AUCUNE RÉGLEMENTATION N'INTERDISE LA DIFFUSION D'UNE TELLE ÉMISSION À CETTE HEURE D'ANTENNE. Personnellement je l'ai écouté qu'une seule fois afin d'établir mon jugement. Par contre en début de semaine je gardais l'enfant de 7 ans de ma copine. Occupée à ramasser la vaisselle du souper, je ne me suis pas méfiée de ce qu'il pouvait regarder à la télé prenant pour acquis qu'à cette heure normalement il ne devait pas y avoir de problème ! J'ai été totalement stupéfaite en entrant dans la pièce quand je l'ai vu regarder 6 personnes dans un spa, les filles qui se caraiissaient [sic] les seins nus. La veille il paraît [sic] que c'était un concours de "French Kiss" à deux, à trois, filles

entre elles ou avec les gars et qu' il paraît [*sic*] que je n'ai rien vu et que le pire s'en vient !!! Bien que je ne sois pas pudique je considère que ce n'est pas aux télédiffuseurs de décider à quel âge les enfants doivent être confrontés à une prétendue réalité comme celle-ci !!! Je considère qu'à 19h00 ou même 20h00 les parents ne doivent pas s'inquiéter outre mesure du contenu des émissions accessibles à tous !

II. La réponse du télédiffuseur

TQS a envoyé plus ou moins la même réponse aux deux plaintes.

Nous accusons réception de votre lettre via le CCNR dans laquelle vous nous faites part de votre insatisfaction face à l'émission Loft Story diffusée sur nos ondes.

Loft Story est un psycho-jeu de rencontre dont l'objectif est de créer un couple idéal et dans lequel les participants sont sous les yeux des caméras 24 heures sur 24. Des jeux et activités sont proposés aux lofteurs dont des « party » discos, latinos, halloween, avec déguisements et musique appropriés au thème. Évidemment, lors de ces soirées, les lofteurs s'amuse à taquiner la caméra et se font plus provocateurs, ce qui amène des scènes un peu plus osées, sans pour autant être « érotiques » au point de ne s'adresser qu'à un auditoire adulte. Ces scènes faisant partie du jeu ne doivent pas être prises au sérieux. Par contre, la production de l'émission s'assure de ne montrer aucune scène pouvant contenir du contenu sexuellement explicite à l'intention exclusive d'un auditoire adulte. Par conséquent, lorsque les lofteurs sont nus, nous nous assurons que les images sont floues pour éviter que des parties du corps pouvant avoir une connotation sexuelle explicite puissent être vues ou distinguées. Nous vous soulignons par exemple que le CCNR a déjà décidé qu'il était possible de montrer, avant l'heure des plages tardives (21 h), une femme le torse nu en l'absence d'un contexte érotique (décision Strip Tease 98/99-0441).

Un pictogramme 13 ans et plus en début d'émission et au retour de chaque pause prévient le téléspectateur que l'émission s'adresse aux plus de 13 ans, qu'elle peut comporter des scènes de nudité et qu'un langage jugé vulgaire peut être employé. Il revient donc aux téléspectateurs de juger si leurs enfants doivent ou non regarder l'émission, en rapport avec les avertissements donnés.

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

III. Correspondances additionnelles

Le plaignant dans le dossier 03/04-0200 et la plaignante dans le dossier 03/04-0242 ont envoyé leur Demande de décision signé en date du 20 et 13 novembre respectivement