
**CANADIAN BROADCAST STANDARDS COUNCIL
NATIONAL SPECIALTY SERVICES PANEL**

MTV Canada re an episode of *MTV Live* (“Virtual Sex”)

(CBSC Decision 05/06-1459)

Decided January 8, 2007

R. Cohen (Chair), E. Duffy-MacLean, S. Fernandez, M. Harris, M. Hogarth

THE FACTS

MTV Live is a youth-oriented magazine/talk program broadcast on MTV Canada. The episode in question (a rerun of a previously aired episode), which aired from 8:00-9:00 am on April 17, 2006, was hosted by Daryn Jones, Jessi Cruickshank and Diane Salema; its virtual sex theme included a number of segments in which the program hosts and guests described and discussed sexual matters. There were no viewer advisories included and the show was rated PG.

Daryn Jones introduced the episode with the comment, “Tonight on *MTV Live*, sex sells and we are buying. We are going to show you all the weird ways that you can pleasure yourself with your computer. I’ve come up with seven.” Following the summary of the upcoming segments in which all three hosts participated, there was a comedic sketch in which “Paul the Intern” was shown with his pants around his ankles (with certain body parts blurred out), e-mailing his co-worker. At the conclusion of the sketch, the hosts commented that “Paul is dirty” and “Paul is gifted. Did you see that?”

The three hosts then spoke with some of the audience members about their online dating and sexual experiences. While most of those who spoke made only vague or mild references to sex, one young man informed the hosts that someone had messaged him on an online chat forum and offered to pay him to have virtual sex on his webcam (a more complete transcript of relevant dialogue can be found in Appendix A).

Host Jessi then read an e-mail from a viewer who suggested that “online sex for some is good because, really, if they have to go online to get it, I’m assuming they’re really ugly or have a missing limb.” Guest sex expert and author Josey Vogels provided her thoughts on how technology was changing dating and sex. She suggested that “it’s sort of like safe casual sex because there’s no, you know, bodily fluids being exchanged.” That comment segued into the segment about online safety, in relation to a particular classified advertising website. Jessi introduced the segment in the following words:

And, uh, if you’ve ever, you know, looked into renting an apartment or buying a car or having dirty, crazy sex with a total stranger in a public washroom, you’ve probably headed to Craigslist.com. And we have Craig himself on the line.

Craigslist founder Craig Newmark then talked about how he had established a “Casual Encounters” section on his website for people looking for “something brief and physical”. Jessi then read some of the postings she had seen when she had visited the website:

Jessi: [...] [H]ere are some of the postings: uh, “Wanna videotape or watch me have sex with your wife?”; “Phone sex right now with guy with sexy accent”; “Meet me at Starbucks on the corner of Fourth and Wallman”.

Daryn: I wonder what the sexy accent is. Like some German dude.

Following further discussion about sexual activity online and how the Craigslist website is regulated, the program aired a pre-recorded interview that Jessi had conducted with pop singer Pink. Jessi asked Pink about rumours that Pink and her husband engage in sexual activity via webcam:

Jessi: He’s this world-class motorcross guy and you’re touring all the time. So I read that you have some pretty steamy webcam sessions?

Pink: That was made up. Sorry.

Jessi: Really?!

Pink: No. It’s boring. That was made up.

Jessi: So how do you keep, how do you ... ?

Pink: We meet in random hotel rooms all over the world. And it’s been like that our whole relationship, which I find very exciting.

Jessi: That’s really exciting.

Pink: Hell yeah. “Baby, meet me in Paris and be naked when I get there.”

Jessi: You don’t business with, uh, webcam sex or virtual sex?

Pink: Hell no. What if there’s hackers? [laughs]

Jessi: Right.

Pink: "Pink has a new sex tape, everyone. She *is* a 'stupid girl!'"

[short clip from Pink's music video for her song "Stupid Girl" in which she makes fun of socialite Paris Hilton for having made a sex tape]

Jessi: But it was saying that you didn't want your dad to be involved so you had all these privacy clauses. No?

Pink: That's bullshit.

Jessi: Nothing like that. It's bullshit. Pink doesn't business with, with virtual sex.

Pink: No.

The next segment was an interview with a man named Eric J. White who had invented a virtual sex machine for men. The conversation proceeded as follows:

Daryn: And, uh, we are talking, uh, virtual sex and text sex. And, uh, all right. Everybody be cool. This is going to get a bit weird. Uh, there's a gentleman who's created something called the Virtual Sex Machine. No, he's not talking about me. [laughter] It's actually a thing you plug into your computer. It's, it's very, very unusual. He's on the webcam. Please welcome Eric J. White, creator of the Virtual Sex Machine. [applause] Hello, Eric.

[...]

Daryn: Okay. All right. So let's all be cool. Let's wade into this one very carefully. Mr. White, what is this machine and how does it work?

Eric: Well, it, this machine is the most advanced virtual sexual experience you could possibly have. Um, essentially what you do is you plug into this. Literally. [holds up large cylindrical device]

Jessi: Oh.

Diane: Oh my. The thing's huge.

Daryn: Where does that go, dude?

Brian: It looks like it hurts.

Eric: Well, I'll give you a hint. [shows the end of device to camera] It's got a little hole here in the end.

Audience: Aww.

Eric: And you can probably use your imagination. It's just for the boys right now. But, uh, you hook this up to your computer, put in your disc of choice [holds up a CD], just pick a girl [Jessi laughs] and you can experience everything there is to know about that girl. In the carnal sense.

Daryn: Oh my god. [someone in audience says something inaudible] Good question. How much is this thing?

Eric: Right now it sells for about four hundred dollars for the complete set, everything you need and there's nothing more to purchase after that unless you want to get a different girl.

Daryn: Okay, so, so let me clarify here. You, um, you, uh, [makes motion with hand] right, okay and then the CD's rollin' and does it do anything other than just, does the, the, the thing do anything?

Eric: Absolutely. What, what the thing does is it recreates the experience that you're watching on the screen exactly. Right down to the every move, every action, every movement of air. You'll feel it right inside the machine.

Diane: Now, does one size fit all, Eric? [Daryn snickers]

Eric: Uh, well, yeah. It, it's designed to accommodate a wide var-, variety of men. Uh, there are some different modules for larger or smaller extremes, but, uh, –

Daryn: Does –. Wow.

Eric: – the basic machine covers just about everybody.

Daryn: Does the program allow for me to, uh, give a virtual apology after the act is complete? [laughter]

Eric: That's the best thing: It never says no, it never gets a headache, it never gets tired and it's always ready.

Daryn: All right. Eric, what about the idea that, uh, this, this machine is just taking people away from each other in that there's no more, um, personal contact, you don't have to go to a bar to meet somebody or even in the park or wherever it is. You're just sitting at your computer and go online.

Eric: Well, there, there's some people that would say that, but let's look at this from a different perspective. Men and women have very different sexual drives, okay? And, and, and men are ready to go about every twenty seconds and, you know, there's not a woman out there that could satisfy that. Plus there's those men that can't get satisfaction from, from a woman, so they need a little help.

Daryn: All right, now, we, we have Josey Vogels here, uh, sex expert. Josey, what's, what ... ? [laughs]

Josey: Where do I begin? [Jessi laughs]

Daryn: What do you think?

Josey: Well, people have been making [forms quotation marks with fingers] "virtual sex machines" since the internet and technology started to, you know, sex is always the thing that drives technology. From photography to film to video, it's always been the thing, pornography, and this idea that you can create some kind of virtual experience. I don't know. Really, I don't know if I can say this, but I will anyway. Um, a really skilled hand and some lube and you could probably get the same effect, honestly. And I don't know how sexy it would be to have this big machine.

Daryn: Eric, what's your take?

[...]

Eric: But you see, that's the point exactly. The hand and the lube, you don't have to do; the machine does it all for you. And –

Josey: Right, because we're so lazy now because you can't even do that.

[...]

That segment concluded with Eric informing them that he is working on a prototype for a similar device for women.

The following segment consisted of an interview with Tina Courtney, a woman who had developed an online role-playing game in which the goal was to encourage the characters to engage in sexual experiences.

Daryn: By the way, you all did very well with the Virtual Sex Machine discussion. Thank you very much. Your mothers would be proud. Thank you.

Jessi: Mm, it could've gotten out of hand very easily. All right, so our next guest has gone from producing, uh, video games for Disney and, uh, now she's producing Naughty America. It is a very filthy online sex game. Quite the transition. She's here today. Let's welcome Tina Courtney. [applause] Hey, Tina. She's on webcam.

[...]

Jessi: [laughs] Hey, Tina. So Naughty America the Game, describe it for us.

Tina: Oh, it is the antithesis of what Eric was talking about, actually. This is a mutually consensual online sex game, men and women. Everything that you do is consensual with another person so there is no computerized, you know, virtual sex machine here.

Jessi: Right.

Tina: It's all about interacting with other people in a new kind of sexy way.

Jessi: Okay, so, so walk me through it. I'm, I, I want to set up my profile, I, I get on the game and I, I get to design my character? Is that right?

[Images from the game appear on screen. There is the intro to the game, which features a series of cartoon human figures. Then there are cartoon humans interacting at a bar.]

Tina: Exactly. The first thing you're gonna do is create your fantasy persona. So that can look however you want. You can get a boob job, you can get tattoos, the sky's the limit. And then you enter this, uh, very stylized, sexy world and start meeting people.

Daryn: And these are real people?

Tina: These are real people, behind every character, absolutely. And, uh, you know, uh, you can engage in, well, you start out as a virgin and you have to gain sexperience, of course.

[A cartoon man and woman are seen in a bedroom, standing beside a bed. They are then on the bed and the image is pixillated.]

Jessi: Right.

Tina: So you, you know missionary in the beginning and in order to learn some other tricks of the trade, you interact with other people.

Jessi: Right. But everyone starts out at, as a virgin and then as you gain experience you, the sex gets crazier?

Tina: Exactly.

Jessi: Ohh.

Tina: You learn, uh, new moves, new, new interesting tricks, yeah. And, and since this is a virtual game, we go beyond the standard missionary and doggie and it gets really creative.

Jessi: All right. Now the other element of this that kind of moves it away from other online games is that you can actually watch the person that you're, uh, [makes quotation marks with fingers] "fake sexing with" via webcam. Is that right?

Tina: That's true. There's a webcam functionality. You can also allow other players in the game to be voyeurs, to watch what you're up to.

[...]

Jessi: Because dudes, dudes who are clapping, if you're playing this game, how do you know you're not playing with another dude? That's what I want to know.

Tina: That's a great question. And so the other component to this, it's very much the evolution of online dating. You have a real world profile that you can fill out. You can upload real pictures of yourself. You can do the webcam. So you can reveal who you really are too.

Jessi: Okay, but my question is how many women do think really are gonna, are gonna play the game? And how are you enticing them to play?

Tina: Well, based on the numbers of women that are doing online dating and that are really into this whole sexual revolution online, we're anticipating a lot of lovely ladies, for sure.

Daryn: Jo-, Josey Vogels, would you play this game?

Josey: Oh, I, I love this. I love this concept much more than the, the turbo whatever. [laughter]

Jessi: Sex machine.

Brian: The milking machine.

Josey: The milking machine, yes, exactly. Um, yeah, I think it's really fun and I, 'cause I think then it's that the idea of, like, taking control, right. And you can do what you want and I think actually something like this would appeal to women because they can sort of explore and experiment, but it's really safe and they can, they can decide how far they want to go and that's some of the power and the appeal of online dating and online interaction, sexual interaction for women.

Jessi: Right. And, I think, Tina, you actually have said that the game empowers women. Is that right? Because it's not like Grand Theft Auto where you just, you know, banging prostitutes. Women have an equal say. Is that right?

Tina: Absolutely. Women are going to be in control. We're going to be the stars of this game because if guys are saying and doing things we don't like, we can leave. You know, it's that simple. So, yeah, we're going to be in control.

Josey: I like it.

Jessi: There you go. Well, you guys can check out all the hype for yourself. It's NaughtyAmericaTheGame.com. Thank you so much. [applause]

The CBSC received a complaint about the episode of *MTV Live* on April 19. The complainant's primary concern was the segment about the virtual sex machine. He expressed his discomfort in the following terms (the full text of the correspondence can be found in Appendix B):

They interviewed a creepy middle-aged guy who sold a masturbation device for boys. The interview was by far the most indecent thing I've ever seen on television at any time, anywhere.

At 8:30 am, April 17/06 (Easter Monday) MTV was talking to youth about sex and they featured a creepy middle-aged guy who was selling his \$400.00 masturbation device. It was the creepiest, most distasteful thing I've ever seen on television!! This was cable TV, Easter Monday at 8:30 am!! They asked this "inventor" how it worked and they posted his website (www.virtualex.com ...); it was disgusting! Please review the tapes for yourself; you'll be flabbergasted. I was, and I don't consider myself to be religious or even conservative; this, however, crossed so many lines of decency.

What can MTV say?

"Oh, we just want teens to know what alternatives exist for masturbation."

"Oh, it was funny."

"Oh, we didn't realize that providing a 50-year-old guy who invents sex toys and promotes its use and sales through the internet might be a little creepy!"

Come on!!! If this is allowed, then anything at any time is!

MTV Canada responded on May 19:

The thread on April 12, 2006 for *MTV Live* was "Virtual Sex". Numerous guests were interviewed in studio and via webcam including Eric J. White creator of the virtual sex machine.

We recognize that the topic of virtual sex can be subjective and every television viewer is entitled to his or her opinion and choice. As our flagship program *MTV Live* is intended to be an innovative, interactive television experience that generates healthy debates about a wide range of topics.

Having said that we do regret that this segment on *MTV Live* offended you, please be assured that it is not our intention to offend our audiences. We appreciate that you have taken the time to express your concerns and we hope that you will continue to watch and find entertainment value in some of the other MTV Programs on our schedule.

MTV is a member in good standing of the Canadian Broadcast Standards Council and follows the Council's guidelines. If you remain dissatisfied with our response to your concerns, please be aware that you may contact the CBSC at complaints@cbsc.ca.

The complainant wrote back to the CBSC on May 26:

Below is my response letter to MTV which follows their "apology". I really want you, the CBSC, to view the tape for yourself and remember that I saw it Easter Morning at 8:30 am!

[...]

Your generic form letter is what I expected and perhaps we the public simply have to adjust to the "new permissive media" that can pass off anything as "exploring an issue".

I suppose you would like to suggest that, at 8:30 am on Easter Monday, you were doing my kids and me a favour by exposing them to all the virtual sex options that they may find on the internet.

Get real!

I bet you ... yes you, can't watch the clip and think there was nothing wrong with it. If you and your producers think it's fine, please provide warnings and restrictions with all of your programming and keep the porno exploration themes to late in the evening ... if at all. Of course there's a lot of channels and a lot of competition, but just because that's the case, doesn't mean you have to "out-do" the competition by crossing boundaries of decency by leaps and bounds.

The media is the new superpower today. Just listen to the parents and the teachers instead of feeding their kids crap. There is some responsibility with this power and I suppose, in the end, all we can do is ask you not to abuse it.

THE DECISION

The National Specialty Services Panel examined the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* and *CAB Voluntary Code regarding Violence in Television Programming*:

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. [...]

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 4 – AGVOT’s Classification System for English-Language Broadcasters

Exempt

Descriptive

Exempt programming includes: news, sports, documentaries and other information programming; talk shows, music videos and variety programming.

Note: Exempt programming does not require an icon for on-screen ratings.

PG – Parental Guidance

Descriptive

This programming, while intended for a general audience, may not be suitable for younger children (under the age of 8). Parents/guardians should be aware that there might be content elements which some could consider inappropriate for unsupervised viewing by children in the 8-13 age range.

Programming within this classification might address controversial themes or issues. Cognizant that pre-teens and early teens could be part of this viewing group, particular care must be taken not to encourage imitative behaviour, and consequences of violent actions shall not be minimized.

[...]

Other Content Guidelines

- Language: - might contain infrequent and mild profanity
 - might contain mildly suggestive language
- Sex/Nudity: - could possibly contain brief scenes of nudity
 - might have limited and discreet sexual references or content when appropriate to the storyline or theme

14+ – Over 14 YearsDescriptive

Programming with this classification contains themes or content elements which might not be suitable for viewers under the age of 14. Parents are strongly cautioned to exercise discretion in permitting viewing by pre-teens and early teens without parent/guardian supervision, as programming with this classification could deal with mature themes and societal issues in a realistic fashion.

[...]

Other Content Guidelines

Language: - could possibly include strong or frequent use of profanity
 Sex/Nudity: - might include scenes of nudity and/or sexual activity within the context of narrative or theme

The National Specialty Services Panel Adjudicators viewed a tape of the broadcast and read all of the correspondence. The Panel concludes that MTV Canada breached the requirements of Clauses 10 and 11 of the *CAB Code of Ethics*.

Evaluating Sexual Content

It goes without saying that there is no mathematical formula that can be applied to determine whether sexual content is exclusively intended for adult audiences. Nonetheless, the CBSC Panels have developed criteria which they apply to programming in order to make that determination. (It should be noted that the criteria applied to French-language programming in this area tend to be less conservative than those applied to English-language broadcast fare.) Generally speaking, it has been the combination of nudity and sexual activity that has led CBSC Panels to conclude that programming is exclusively adult-oriented. Over time, though, and in the face of differing content, the CBSC has refined that position and the key to its definition is sexual explicitness. Therefore, even where there is neither nudity nor sexual activity, there may still be enough explicitness in the dialogue, discussion or descriptions to conclude that the programming is intended for adults. In its definition of explicitness, the Panel not only includes evident or obvious matter but also that which may be somewhat obscure or ambiguous. It must, needless to say, judge whether the obscurity or ambiguity of the challenged matter becomes inappropriate for viewing by those who are not adult. The CBSC Panels have, over time, built empirical criteria in the Council's body of precedents and that jurisprudence grows, in principle, with every grey-scale decision.

In *Showcase Television re the movie Rats* (CBSC Decision 99/00-0772, August 23, 2001), for example, there was a prolonged scene of sexual activity in which the actors remained fully clothed. This Panel did, however, determine that the film was exclusively intended for adult audiences.

The Specialty Services Panel has no difficulty, though, with the idea that it is sexual activity and not nudity that drives the “adult” characterization. It is entirely clear that a scene may be sufficiently sexually explicit *without* nudity that it ought to be accessible to adults to the exclusion of younger family members. The Panel considers that the second love-making scene in *Rats*, which lasted for 1 minute and 25 seconds, falls into that category. It is not merely a romantic encounter or suggestive. It is erotic, actively demonstrative, extended, and climactic.

In *Bravo! re Love on the Line* (CBSC Decision 00/01-1050, May 3, 2002), the documentary film was about telephone dating services and telephone sex lines. Broadcast at 4:00-6:00 pm, the NFB film included interviews with people who used and worked at such services. One male phone sex worker, Luc, was filmed during the course of actual calls which contained sexually explicit dialogue such as “I’d [...] take your cock in my hand” and “Come on me, all over.” This Panel concluded that “the explicit sexual descriptions of Luc [were] individually, and the moreso collectively, post-Watershed material.” In *Canal D re Festival Juste pour Rire and Comicoographies Juste pour Rire: François Morency* (CBSC Decision 02/03-0142 & -0143, July 17, 2003), the Quebec Regional Panel examined a complaint concerning Canal D’s broadcast of a *Juste pour Rire* comedy program that included a segment featuring Maxim Martin. He discussed the introduction of “[translation] fat-free sperm for the whore who’s watching her weight”; and referred to then current and widely-discussed American experience involving a “cigar in the vagina”. The

routine by Maxim Martin, [...] was, in the view of the Panel, lengthier, cruder and more graphic on the subjects of fellatio and presidential masturbation of an intern with a large cigar, among others. Such material is suitable only for adult audiences and must not be broadcast before the 9:00 pm Watershed hour.

In *CHFD-TV re the documentary Dirty Business: Sex, Thighs and Videotape* (CBSC Decision 04/05-1580, December 15, 2005), the Ontario Regional Panel dealt with a complaint regarding a documentary about the adult entertainment industry which aired at 1:00 pm. The program consisted primarily of interviews with fully clothed individuals, but it did also contain some clips from pornographic movies, photographs from websites and footage taken at a sex trade show. Women were frequently shown in lingerie or other skimpy clothing, touching and flaunting their bodies for the camera. Any images showing bare breasts or genitalia were blurred and no shots of sexual intercourse were shown. Notwithstanding that, the Panel concluded that due to the program’s overall sexual theme, it should have aired post-Watershed:

As might be understood from the corpus of CBSC jurisprudence, there is no mathematical formula applicable to such programming. It is not the presence or absence of scenes involving intercourse or other advanced sexual activity. It relates more to the balance of explicitness and subtlety or innuendo, the nature of the activities, the force or power of the sexuality or eroticism, the adult orientation of the content, the duration and/or frequency of the sexual activities, to some extent the context, and the overall confluence of such considerations.

[...]

In the present matter, the focus of the documentary film is the combination of sexual and erotic activities and the maximization of pecuniary benefit from them. There is not even the modicum of an overlay of other issues [...].

While, in the matter at hand, the interviews were with clothed people, there were clips from “pornographic” movies, website photographs, footage shot at a sex trade show, clips of couples in various states of undress engaging in sexual activities, and discussions with the Edmonton couple as they determined how far Dawn should progress from her isolated erotic performances to new levels of sexual *contact* with others. The collective effect was clearly content that was, in the view of the Panel, exclusively intended and solely appropriate for adult audiences.

Nor is the documentary saved by techniques such as blurring or pixilation. [...] The Panel hastens to add that it does not express any concern regarding the documentary film itself. It is dealing only with the issue of the Watershed and, on this point, it concludes that the broadcast of the documentary prior to the Watershed constitutes a breach of Clause 10 of the *CAB Code of Ethics*.

Applying these principles to the challenged program, the Panel finds that the discussion of the Virtual Sex Machine, and the Naughty America on-line sexual game were sufficiently explicit and specific to be inappropriate for non-adult eyes and ears before the Watershed, particularly in an 8:00 am time slot and as a part of a program intended for non-adult viewers. On the other hand, for example, the Panel does not find either the item about Paul the Intern or the dialogue with Pink explicit enough to be relegated to a post-9:00 pm time slot. For that matter, the theme of the episode, namely, internet sex, would not *per se* have been problematic; however, the illustration of the theme with references to the other segments noted in this paragraph was unduly explicit. Consequently, the Panel concludes that the broadcast in question was in breach of Clause 10 of the *CAB Code of Ethics*.

Viewer Advisories

Viewer advisories provide audiences with the opportunity to alert viewers to forthcoming content that may be “susceptible of offending viewers”, in the language of Clause 11. In other words, the threshold is not as high as that which determines whether the underlying program must be shown after the Watershed. Where, though, as in the case of the content of the challenged episode, the Panel *has* determined that the program ought to have run after 9:00 pm, it is clear that viewer advisories will be necessary at the start of the program and coming out of each commercial break. The broadcaster did not provide such advisories and is therefore in breach of Clause 11(b) of the *CAB Code of Ethics*.

Classification

Classification is only required for certain types of programming, namely, children's programming, dramatic programming, reality programming and feature films (which are, of course, a form of dramatic programming). All information-based programming such as newscasts, public affairs shows, magazine programs, talk shows, and documentaries, is exempt. Sports programming, music videos and variety programming also fall into this category. As a magazine / talk show program, *MTV Live* is, therefore, exempt from any requirement to include classification icons. In a comparable circumstance, that of a documentary film, dealt with by this Panel in *Bravo! re the film Chippendales & the Ladies* (CBSC Decision 01/02-0379, September 13, 2002), the broadcaster also included ratings information although the program fell into an exempt category. This Panel echoes its observation in that decision, namely, that "the broadcaster's decision to include such information [was] thoughtful, helpful and praiseworthy." When, at any time, a broadcaster provides the viewer with *more* information on which to base a tuning decision, it is taking a positive and helpful step, and one that is to be lauded and encouraged. That being said, the Panel is of the view that the PG classification adopted by the broadcaster was not high enough, since the challenged episode included "themes or content elements which might not be suitable for viewers under the age of 14." There is, however, no Code breach associated with this conclusion on this occasion.

Broadcaster Responsiveness

The CBSC always assesses the broadcaster's responsiveness to the complainant, which is a responsibility of membership in the Council. It expects that response to be thoughtful and focussed on the substance of the complaint. In the matter at hand, the Panel considers that the response from the Sr. Vice-President & General Manager of MTV constitutes a sufficient reply to fulfill MTV's obligation of responsiveness on this occasion.

ANNOUNCEMENT OF THE DECISION

MTV Canada is required to: 1) announce the 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 this episode of *MTV Live* was broadcast; 2) within the fourteen days following the broadcasts of the announcements, to provide written confirmation of the airing of the statement to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with a copy of that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by MTV Canada.

The Canadian Broadcast Standards Council has found that MTV Canada breached the Canadian Association of Broadcasters' *Code of Ethics* in its broadcast of an episode of *MTV Live* on April 17, 2006. The Council found that the sexual explicitness of the early morning broadcast breached the requirement of Clause 10 of the *CAB Code of Ethics* that such content not be aired before the industry-established Watershed hour of 9:00 pm. The Council also concluded that, by failing to air any viewer advisories during the course of the program, alerting potential viewers to the sexual content of the program, MTV Canada breached the provision in Clause 11 of the *CAB Code of Ethics* requiring the use of viewer advisories.

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

APPENDIX A

CBSC Decision 05/06-1459 MTV Canada re an episode of *MTV Live* (“Virtual Sex”)

The following are transcripts and descriptions of relevant portions of the *MTV Live* episode that aired on MTV Canada from 8:00-9:00 am on April 17, 2006. The episode was hosted by Daryn Jones, Jessi Cruickshank and Diane Salema.

Daryn: Hey, how're you doing? Tonight on *MTV Live*, sex sells and we are buying. We are going to show you all the weird ways that you can pleasure yourself with your computer. I've come up with seven.

[...]

Jessi: Now today we are all about virtual sex.

Daryn: Yes.

Jessi: We're going to be talking about new online games, uh, toys, brand new sex-knowledgey.

Daryn: And you're very familiar with this topic, aren't you?

Jessi: Uh ...

Daryn: You pitched this, didn't you?

Jessi: Apparently that's why I'm on today, Daryn Jones.

Daryn: I figured as much.

Diane: Expertise. Oops.

Jessi: My mother is watching.

Daryn: Mmm, it just got interesting.

Jessi: Uh, but actually, there, there is someone in the office who is really into it. And that's Paul the Intern.

Daryn: Oh yes.

Diane: Oh, Paul.

Jessi: Apparently he's been doing this online sex stuff a lot, so let's check in with Paul.

Diane: Paulie?

Jessi: Paul?

Daryn: Paul, are you there, buddy?

Sketch involving Paul the Intern

Paul is sitting at a computer with his pants around his ankles. The area around his stomach is blurred out.

Paul [saying words out loud as he types]: My pants are around my ankles.

Gilson, another employee, receives Paul's message at his computer in another room.

Gilson: "My pants are around my ankles"? Hey, yo, is, uh, anybody else getting creepy e-mails from that intern Paul?

- end of sketch

[laughter]

Daryn: Wow, Paul is dirty.

Diane: Paul is gifted. Did you see that?

Jessi: Mmm, Paul.

Daryn: So, it's interesting. We were talking earlier. I didn't realize this whole, uh, virtual online, you got your messenger, you've got your text, your cell phone thing –

Jessi: Your webcams.

Daryn: It's a huge deal.

Jessi: It's huge.

Daryn: And I'm talkin' to this audience earlier and some of you are actually into this. I was talking to you [points at male audience member] earlier and I hate to put you on the spot there. You got a red mike?

Young man #1: Yes, hi.

Daryn: You're, you're, you do, you do the text, text, text flirting and text sex, don't you?

[The young man talks about how he arranges dates and flirts via text messaging. The hosts ask Brian Byrne (who is there as the day's musical guest but who is also participating in the discussions) if he has ever flirted via text messaging and Byrne responds that he does not even know how to work a cell phone.]

[...]

Jessi: Well apparently, more than fifty percent of Canadians flirt by text sex. So it's pretty, it's a huge phenomenon. And I understand you [points at male audience member] had a funny experience, on, uh, white mike.

Young man #2: Uh, yeah, I actually had someone message me on Yahoo Messenger and

offer to pay me twelve hundred dollars to have virtual sex on my webcam with him.

Daryn: Really?

Young man #2: Yep.

Diane: What?! Did you do it?

Daryn: Some, some dude –

Young man #2: No. I actually didn't. It, it was very awkward.

Diane: Twelve hundred dollars?

Daryn: I would've done it for about eighty. [laughter] But whatever. We all have our prices, I guess. Wow. Now –

Diane: People get brave when you're, like, typing stuff, man.

Daryn [points at female audience member]: – you got sucked in, didn't you, uh, the yellow mike?

Young woman #1: Yeah. What happened was I had a friend that, we, whatever, he sent me a message, we were having a little bit of fun and then he took it a little bit too far and we're not friends anymore because of it. So I'm not into the text messaging that's flirting and sexual anymore.

Jessi: Ooh.

Daryn: We do have an expert, uh, on this topic. Uh, the book is, uh, *Bedside Manners: Sex Etiquette Made Easy*. The column is "My Messy Bedroom". Ladies and gentlemen, Josey Vogels is in the house. [applause]

Josey Vogels talks about how technology has changed dating and sex.

Young woman #2 [in audience]: Don't you kinda think that it's a little weird? Like, I mean, if someone wanted to look for chemistry or a relationship, they kinda do it in person. Like, or if they want to get laid, I guess, it would be, like, over online is kind of really weird that you take the human interaction out of that and you're, like, "well, I'll just sex chat". And then all of a sudden it goes sour and then people are telling, like, my friends do it and they're, like, wondering why their relationship went sour. I'm like "well, you started off online. There was nothing there except sex."

Jessi: Fair enough. Our friend Ben who e-mailed us at MTV.ca from London, Ontario says, uh, [reads e-mail] "I think that online sex for some is good because, really, if they have to go online to get it, I'm assuming they're really ugly or have a missing limb."

Diane: Ooh.

Josey: Ouch.

Daryn: I have all my limbs.

Jessi: Ben from London, Ontario.

[Josey talks about using online means as a way to meet people.]

Josey: And if it's just about sex, it's sort of like safe casual sex because there's no, you know, bodily fluids being exchanged.

Daryn: But is it safe, Jessi?

Jessi: Is it safe? That's the question. All right, well, we want to move on because we have someone on the phone. And, uh, if you've ever, you know, looked into renting an apartment or buying a car or having dirty, crazy sex with a total stranger in a public washroom, you've probably headed to Craigslist.com. And we have Craig himself on the line.

Daryn: Oh cool.

Jessi: Craig, the founder of Craigslist.com. Craig, are you there?

[Jessi asks Craig about the "Casual Encounters" area of the website]

Craig: Well, the idea is we saw that there were people who wanted, let's say, something brief and physical.

Jessi: Right.

Craig: And we figured, well, we need to give a voice to people who, who want that as well as people who want other stuff. It only seems fair and democratic, so we did it.

Jessi: Right. Okay. Now, I want to. for some people who aren't familiar, I, I have been on, just for research purposes, but –

Daryn: Riiight, riiight.

Jessi: – for others, uh, here are some of the postings: uh, "Wanna videotape or watch me have sex with your wife?"; "Phone sex right now with guy with sexy accent"; "Meet me at Starbucks on the corner of Fourth and Wallman".

Daryn: I wonder what the sexy accent is. Like some German dude.

[The conversation continues. Jessi asks Craig how popular the "Casual Encounters" section is; Daryn asks Josey about how the internet facilitates all types of sexual behaviour; Daryn asks Craig if he takes responsibility for what appears on the site & Craig says that the users have their own monitoring system.]

[...]

Jessi: This weekend I had a chance to hang out with Pink and get her take on virtual sex, so take a look.

Daryn: You hang around, Josey.

Pre-taped interview with singer Pink

Jessi: Speaking of you being a lover, you're, you just got married.

Pink: I did.

Jessi: When you were performing your bling was, like, blinding me from, from below. [Pink laughs] I read that, I mean, you guys are apart all the time.

Pink: Mm hm.

Jessi: He's this world-class motorcross guy and you're touring all the time. So I read that you have some pretty steamy webcam sessions?

Pink: That was made up. Sorry.

Jessi: Really?!

Pink: No. It's boring. That was made up.

Jessi: So how do you keep, how do you ... ?

Pink: We meet in random hotel rooms all over the world. And it's been like that our whole relationship, which I find very exciting.

Jessi: That's really exciting.

Pink: Hell yeah. "Baby, meet me in Paris and be naked when I get there."

Jessi: You don't business with, uh, webcam sex or virtual sex?

Pink: Hell no. What if, there's hackers. [laughs]

Jessi: Right.

Pink: "Pink has a new sex tape, everyone. She *is* a 'stupid girl'."

[short clip from Pink's music video for her song "Stupid Girl" in which she makes fun of socialite Paris Hilton for having made a sex tape]

Jessi: But it was saying that you didn't want your dad to be involved so you had all these privacy clauses. No?

Pink: That's bullshit.

Jessi: Nothing like that. It's bullshit. Pink doesn't business with, with virtual sex.

Pink: No.

[...]

Daryn: And, uh, we are talking, uh, virtual sex and text sex. And, uh, all right. Everybody be cool. This is going to get a bit weird. Uh, there's a gentleman who's created something called the Virtual Sex Machine. No, he's not talking about me. [laughter] It's actually a thing you plug into your computer. It's, it's very, very unusual. He's on the webcam. Please welcome Eric J. White, creator of the Virtual Sex Machine. [applause] Hello, Eric.

Eric: How're you doing?

Daryn: How are you?

Eric: I'm just great.

Daryn: Okay. All right. So let's all be cool. Let's wade into this one very carefully. Mr. White, what is this machine and how does it work?

Eric: Well, it, this machine is the most advanced virtual sexual experience you could possibly have. Um, essentially what you do is you plug into this. Literally. [holds up large cylindrical device]

Jessi: Oh.

Diane: Oh my. The thing's huge.

Daryn: Where does that go, dude?

Brian: It looks like it hurts.

Eric: Well, I'll give you a hint. [shows the end of device to camera] It's got a little hole here in the end.

audience: Aww.

Eric: And you can probably use your imagination. It's just for the boys right now. But, uh, you hook this up to your computer, put in your disc of choice [holds up a CD], just pick a girl [Jessi laughs] and you can experience everything there is to know about that girl. In the carnal sense.

Daryn: Oh my god. [someone in audience says something inaudible] Good question. How much is this thing?

Eric: Right now it sells for about four hundred dollars for the complete set, everything you need and there's nothing more to purchase after that unless you want to get a different girl.

Daryn: Okay, so, so let me clarify here. You, um, you, uh, [makes motion with hand] right, okay and then the CD's rollin' and does it do anything other than just, does the, the, the thing do anything?

Eric: Absolutely. What, what the thing does is it recreates the experience that you're watching on the screen exactly. Right down to the every move, every action, every movement of air. You'll feel it right inside the machine.

Diane: Now, does one size fit all, Eric? [Daryn snickers]

Eric: Uh, well, yeah. It, it's designed to accommodate a wide var-, variety of men. Uh, there are some different modules for larger or smaller extremes, but, uh, –

Daryn: Does –. Wow.

Eric: – the basic machine covers just about everybody.

Daryn: Does the program allow for me to, uh, give a virtual apology after the act is complete? [laughter]

Eric: That's the best thing: It never says no, it never gets a headache, it never gets tired and it's always ready.

Daryn: All right. Eric, what about the idea that, uh, this, this machine is just taking people away from each other in that there's no more, um, personal contact, you don't have to go to a bar to meet somebody or even in the park or wherever it is. You're just sitting at your computer and go online.

Eric: Well, there, there's some people that would say that, but let's look at this from a different perspective. Men and women have very different sexual drives, okay? And, and, and men are ready to go about every twenty seconds and, you know, there's not a woman out there that could satisfy that. Plus there's those men that can't get satisfaction from, from a woman, so they need a little help.

Daryn: All right, now, we, we have Josey Vogels here, uh, sex expert. Josey, what's, what ... ? [laughs]

Josey: Where do I begin? [Jessi laughs]

Daryn: What do you think?

Josey: Well, people have been making [forms quotation marks with fingers] "virtual sex machines" since the internet and technology started to, you know, sex is always been the thing that drives technology. From photography to film to video, it's always been the thing, pornography, and this idea that you can create some kind of virtual experience. I don't know. Really, I don't know if I can say this, but I will anyway. Um, a really skilled hand and some lube and you could probably get the same effect, honestly. And I don't know how sexy it would be to have this big machine.

Daryn: Eric, what's your take?

Josey: I don't know.

Eric: But you see, that's the point exactly. The hand and the lube, you don't have to do; the machine does it all for you. And –

Josey: Right, because we're so lazy now because you can't even do that.

Eric: Well, speaking from a male perspective, okay, I mean, I have to kind of be a man to understand a man –

Jessi: Well, we have a man here. We have Brian Byrne here. Brian, let's get your perspective, my friend.

Brian: Evidently I, I mean, it's, it's –

Eric: You're on the spot, buddy.

Brian: What's, yeah, exactly. Well, it's just, it's no surprise that a man created it, that's for certain. Um –

Daryn: Would you use it, Brian? Assuming you're not married and assuming that we, you're not on TV. Would you use it?

Brian: Yeah, no, I think I'd have to go for the, uh, for the hand and the lube.

Jessi: Oh.

Brian: Also, I mean, you know, four hundred bucks, I mean, who, you know, ...

Eric: Well, now, how much does a good date cost? You know, I mean, [Brian laughs] you've got no guarantee of success there.

Josey: Depends who asked who and who's paying.

Daryn: All right, okay, hang on, hang on. [Jessi laughs] Uh, now, Eric, are there any plans, are there any plans for something to, uh, to, uh, for the women?

Eric: Absolutely. Uh, the, the, there's already been a, uh, prototype done. Um, it's just a matter of putting it into production, although there is a, a lot more detail to, to the female model because it takes a whole lot more to, uh, satisfy a woman.

Jessi: Mmm hmm.

Daryn: All right. Eric, uh, we're going to thank you very much for joining us. Very interesting stuff. VirtualSexMachine.com if you have four hundred bucks. Uh, Eric, thank you very much. Eric, everybody. [applause]

Jessi: Thank you, Eric.

Daryn: And the Virtual Sex Machine.

Diane: Thanks, Eric. Oh man, that's so funny. Let's see what Paul the weirdo intern is up to. Oh god.

Sketch involving Paul the Intern

Paul is carrying a female blow-up doll with a photo of Gilson taped to it. Paul is talking to it as if it is Gilson and asking it which shirt it wants to wear. The real Gilson finds Paul and asks what he is doing.

[...]

Daryn: By the way, you all did very well with the Virtual Sex Machine discussion. Thank you very much. Your mothers would be proud. Thank you.

Jessi: Mm, it could've gotten out of hand very easily. All right, so our next guest has gone from producing, uh, video games for Disney and, uh, now she's producing Naughty America. It is a very filthy online sex game. Quite the transition. She's here today. Let's welcome Tina Courtney. [applause] Hey, Tina. She's on webcam.

Daryn: Tina, are you there?

Jessi: Oh, she's on the phone.

Tina: I am here. That's a tough act to follow, guys, but I think I'm ready.

Jessi: [laughs] Hey, Tina. So Naughty America the Game, describe it for us.

Tina: Oh, it is the antithesis of what Eric was talking about, actually. This is a mutually consensual online sex game, men and women. Everything that you do is consensual with

another person so there is no computerized, you know, virtual sex machine here.

Jessi: Right.

Tina: It's all about interacting with other people in a new kind of sexy way.

Jessi: Okay, so, so walk me through it. I'm, I, I want to set up my profile, I, I get on the game and I, I get to design my character? Is that right?

[Images from the game appear on screen. There is the intro to the game, which features a series of cartoon human figures. Then there are cartoon humans interacting at a bar.]

Tina: Exactly. The first thing you're gonna do is create your fantasy persona. So that can look however you want. You can get a boob job, you can get tattoos, the sky's the limit. And then you enter this, uh, very stylized, sexy world and start meeting people.

Daryn: And these are real people?

Tina: These are real people, behind every character, absolutely. And, uh, you know, uh, you can engage in, well, you start out as a virgin and you have to gain sexperience, of course.

[A cartoon man and woman are seen in a bedroom, standing beside a bed. They are then on the bed and the image is pixellated.]

Jessi: Right.

Tina: So you, you know missionary in the beginning and in order to learn some other tricks of the trade, you interact with other people.

Jessi: Right. But everyone starts out at, as a virgin and then as you gain experience you, the sex gets crazier?

Tina: Exactly.

Jessi: Ohh.

Tina: You learn, uh, new moves, new, new interesting tricks, yeah. And, and since this is a virtual game, we go beyond the standard missionary and doggie and it gets really creative.

Jessi: All right. Now the other element of this that kind of moves it away from other online games is that you can actually watch the person that you're, uh, [makes quotation marks with fingers] "fake sexing with" via webcam. Is that right?

Tina: That's true. There's a webcam functionality. You can also allow other players in the game to be voyeurs, to watch what you're up to.

Daryn: Wow.

Jessi: Okay, so here's my question. Because I, I mean, in the little ad that we just showed, there's a really hot blonde in a little tank top on her webcam.

Tina: Yeah.

Jessi: But I'm wondering, are you really expecting to get that many hot women or women in

general playing the game? [Daryn laughs]

Tina: Hey, we're all beautiful. C'mon now. [applause]

Jessi: Or any women? Are you expecting any women?

Daryn: Hang on, hang on. No, no, no. No, no, no.

Jessi: No, here's the question.

Daryn: That's a good question.

Jessi: Because dudes, dudes who are clapping, if you're playing this game, how do you know you're not playing with another dude? That's what I want to know.

Tina: That's a great question. And so the other component to this, it's very much the evolution of online dating. You have a real world profile that you can fill out. You can upload real pictures of yourself. You can do the webcam. So you can reveal who you really are too.

Jessi: Okay, but my question is how many women do think really are gonna, are gonna play the game? And how are you enticing them to play?

Tina: Well, based on the numbers of women that are doing online dating and that are really into this whole sexual revolution online, we're anticipating a lot of lovely ladies, for sure.

Daryn: Jo-, Josey Vogels, would you play this game?

Josey: Oh, I, I love this. I love this concept much more than the, the turbo whatever. [laughter]

Jessi: Sex machine.

Brian: The milking machine.

Josey: The milking machine, yes, exactly. Um, yeah, I think it's really fun and I, 'cause I think then it's that the idea of, like, taking control, right. And you can do what you want and I think actually something like this would appeal to women because they can sort of explore and experiment, but it's really safe and they can, they can decide how far they want to go and that's some of the power and the appeal of online dating and online interaction, sexual interaction for women.

Jessi: Right. And, I think, Tina, you actually have said that the game empowers women. Is that right? Because it's not like Grand Theft Auto where you just, you know, banging prostitutes. Women have an equal say. Is that right?

Tina: Absolutely. Women are going to be in control. We're going to be the stars of this game because if guys are saying and doing things we don't like, we can leave. You know, it's that simple. So, yeah, we're going to be in control.

Josey: I like it.

Jessi: There you go. Well, you guys can check out all the hype for yourself. It's NaughtyAmericaTheGame.com. Thank you so much. [applause]

Tina: Thank you.

Daryn: Thanks, Tina.

Diane: I want to check it out, man.

Daryn: I do too.

Jessi: Uh huh. All right.

Diane: Should be fun.

Jessi: We'll be right back.

Diane: Woo.

Daryn: I'm hot. I'm hot under the collar here.

Bumper going to commercial is an image of a sign outside First Baptist Church which reads: "It's not wrong if she's made of rubber. Sun AM meeting."

The last segment of the episode was an interview with singer Brian Byrne about his new album. They made passing reference to the sex machine:

Jessi: Okay, now here's something that I didn't believe about you. Your, uh, your wife is pregnant. I believe that.

Brian: Yes.

Jessi: But –

Brian: I did that all myself. [applause]

Jessi: I believe that. We, we know, we know you don't want, you don't use the machine. But –

Brian: Yeah, we [???].

Jessi: My, my question is, I heard that, I heard that you wanted to name your kid Gypsy, is that true?

APPENDIX B

CBSC Decision 05/06-1459 MTV Canada re an episode of *MTV Live* ("Virtual Sex")

The Complaint

The CBSC received the following complaint dated April 19, 2006 (via the CRTC):

They interviewed a creepy middle-aged guy who sold a masturbation device for boys. The interview was by far the most indecent thing I've ever seen on television at any time, anywhere.

At 8:30 am, April 17/06 (Easter Monday) MTV was talking to youth about sex and they featured a creepy middle-aged guy who was selling his \$400.00 masturbation device. It was the creepiest, most distasteful thing I've ever seen on television!! This was cable TV, Easter Monday at 8:30 am!! They asked this "inventor" how it worked and they posted his website ([www.virtualsex ...](http://www.virtualsex...)); it was disgusting! Please review the tapes for yourself; you'll be flabbergasted. I was, and I don't consider myself to be religious or even conservative; this, however, crossed so many lines of decency.

What can MTV say:

"Oh, we just want teens to know what alternatives exist for masturbation."

"Oh, it was funny."

"Oh, we didn't realize that providing a 50-year-old guy who invents sex toys and promotes its use and sales through the internet might be a little creepy!"

Come on!!! If this is allowed, then anything at any time is!

Broadcaster's Response

MTV Canada responded with the following on May 19:

The Canadian Broadcast Standards Council (CBSC) has forwarded to us a copy of correspondence dated April 19, 2006 regarding a segment on *MTV Live*.

The thread on April 12, 2006 for *MTV Live* was "Virtual Sex". Numerous guests were interviewed in studio and via webcam including Eric J. White creator of the virtual sex machine.

We recognize that the topic of virtual sex can be subjective and every television viewer is entitled to his or her opinion and choice. As our flagship program *MTV Live* is intended to be an innovative, interactive television experience that generates healthy debates about a wide range of topics.

Having said that we do regret that this segment on *MTV Live* offended you, please be assured that it is not our intention to offend our audiences. We appreciate that you have

taken the time to express your concerns and we hope that you will continue to watch and find entertainment value in some of the other MTV Programs on our schedule.

MTV is a member in good standing of the Canadian Broadcast Standards Council and follows the Council's guidelines. If you remain dissatisfied with our response to your concerns, please be aware that you may contact the CBSC at complaints@cbsc.ca.

Additional Correspondence

The complainant wrote back to the CBSC on May 26:

Hello CBSC:

Below is my response letter to MTV which follows their "apology". I really want you, the CBSC, to view the tape for yourself and remember that I saw it Easter Morning at 8:30 am!

Thank you [Assistant to Sr. Vice-President] and [Sr. Vice-President & General Manager] for responding.

Your generic form letter is what I expected and perhaps we the public simply have to adjust to the "new permissive media" that can pass off anything as "exploring an issue".

I suppose you would like to suggest that, at 8:30 am on Easter Monday, you were doing my kids and me a favour by exposing them to all the virtual sex options that they may find on the internet.

Get real!

I bet you ... yes you, can't watch the clip and think there was nothing wrong with it. If you and your producers think it's fine, please provide warnings and restrictions with all of your programming and keep the porno exploration themes to late in the evening ... if at all. Of course there's a lot of channels and a lot of competition, but just because that's the case, doesn't mean you have to "out-do" the competition by crossing boundries of decency by leaps and bounds.

The media is the new superpower today. Just listen to the parents and the teachers instead of feeding their kids crap. There is some responsibility with this power and I suppose, in the end, all we can do is ask you not to abuse it.