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

Telelatino re the film *La Chiave Del Piacere (The Key to Sex)*

(CBSC Decision 06/07-0081)

Decided May 1, 2007

R. Cohen (Chair), R. Deverell, M. Hogarth, P. O'Neill,  
H. Pawley, M. Ziniak (*ad hoc*)

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**THE FACTS**

Telelatino (TLN) is a specialty service that broadcasts in Italian, Spanish and English. On September 24, 2006, from 2:00 to 4:00 am Eastern Time (1:00 to 3:00 am Central Time) the service broadcast a film entitled *La Chiave Del Piacere* (an Italian-dubbed version of an English-language erotic film, *The Key to Sex*).

The film tells the story of Simon, who was entrusted with looking after his boss's house while the latter was away. Simon, his friends and co-workers engaged in a variety of sexual encounters, both at the boss's house and at their office. The sexual activity involved male-female and female-female couples. Both male and female nudity were shown. The acts depicted included kissing and touching of various body parts, oral sex of both genders, as well as intercourse in various positions. There were frequent close-ups of bare breasts and less frequent close-ups of women's crotches.

TLN broadcast the following viewer advisory in both audio and video format at the beginning of the film and coming out of every commercial break:

Questo programma contiene scene a luci rosse. Si raccomanda la visione ai soli adulti.

According to TLN's letter, that is translated as

This program contains scenes with extreme sexual content and is intended for an adult audience only.

TLN broadcast an 18+ classification icon at the beginning of the film and also coming out of every commercial break. On each occasion, it broadcast the icon for 6 seconds.

The CBSC received a complaint on September 19 from an individual who noted that she had seen on an online television guide that this film was going to be aired on TLN. She thus submitted her objections prior to the broadcast (the full text of all correspondence can be found in the Appendix):

Clearly this is an ADULT ONLY movie and should be rated accordingly.

It would seem that all movies shown at that time slot on TLN are pornographic and should be rated accordingly.

The CBSC explained to the complainant that it could not pursue complaints about programming that had not yet aired. Nevertheless, the complainant sent another e-mail on September 21, addressed to her cable company and copied to the CBSC and TLN:

There has been, once again, an error in the rating of the TLN late Saturday night movie – actually early Sunday morning at 1:00 am.

This is 'cut and paste' from the TLN website: <http://www.tlntv.com>

Movie – *The Key to Sex* (Adult)

This is almost ALWAYS designated as ADULTS only on the TLN website! Once again, you have it under an R rating when it is clearly a soft porn film that should be under an ADULTS ONLY rating.

I was told by Shaw that you follow the rating of the network. Please make the necessary correction as soon as possible.

She wrote again on September 22:

I find it shocking and disturbing that after I made the complaint [...] that TLN CHANGED THE RATING OF THE MOVIE *KEY TO SEX* FROM 'ADULTS ONLY' (AO) TO R.

[...]

Who is fooling anyone here? If *Latin Lover*, the erotic soap opera, had an ADULT rating ... certainly both of these movies deserve the same distinction.

[...]

As a high school teacher, I truly would like to believe that the adults that control our television programming would think and act responsibly. It is just this type of programming and improper ratings that play a major role in how teenagers end

up perceiving sex, sex roles and what is “okay”. They are at a stage in their development where they are very impressionable and naturally curious. Either one of these movies should be rated ADULT. I personally don’t believe they should be allowed to be on network television ... but, if they are, rate them correctly ... at the very minimum.

By NOT putting an ADULT rating on these types of movies you are condoning this kind of programming for children to watch. I don’t suspect that if any of you have children between the ages of 11-17 you would want your children to have access to these kinds of movies without knowing the correct ratings.

By both programming this material and through improper rating, you ARE saying it is acceptable ... and THAT is unacceptable to me.

Once the film had aired, the complainant sent another e-mail on September 24:

This movie which aired on Sunday at 1:00 am was an Adult movie that had a number of highly graphic sex scenes in it.

[...]

It was a pornographic movie with an AO designation, BUT it was NOT blocked by Shaw Cable Systems in Winnipeg. [...] Porn movies should not be aired on network television. This IS against the *CAB Sex-Portrayal Code* [sic] by anyone’s standards.

TLN continues to show porn movies in this timeslot and Shaw Cable Systems does not give them an ADULT rating. THESE are two very big problems!

The President of Telelatino responded to the complainant on October 5:

The Canadian Broadcasting Standards Council (CBSC) has forwarded to us your letters of August 3, 2006, August 6, 2006 and your most recent complaint of September 24, 2006 in which you commented about discrepancies between the coding of programming on the TV listing of Telelatino Network Inc. (“TLN”) and your cable carrier.

As you know, TLN is one of Canada's premier specialty ethnic service broadcasters, delivering programming in Italian, Spanish, and English. TLN is an ethnic general entertainment service with a schedule that includes a wide variety of domestic and foreign produced programming, including programming that is directed to an adult audience.

*The Awakening of Gabriella*, *The Big Hustle*, and *Key to Sex*, the three movies that you inquired about, are late night Italian language programs that are intended for adults. Both programs were broadcast at 2 am Eastern Standard Time.

At TLN, we recognize that not all programs such as those that form the subject matter of your complaint, broadcast on TLN, are suitable for younger viewers. As such, we take all appropriate steps to adhere to the viewer advisory requirement mandated by the Canadian Association of Broadcasters’ *Code of Ethics* (“Code”) administered by the CBSC. The Code provides that “*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 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".* In compliance with this requirement, the Programs carried the following advisory after every commercial break, *"This program contains scenes with extreme sexual content and is intended for an adult audience only"* and an 18+ icon appears at the beginning of each of the nine segments throughout the program.

We appreciate your concern that some younger audiences may be able to access the Programs even at that hour. However, in previous decisions, the CBSC has held that while it appreciates that possibility, *"the scheduling provision is quite clear that 9:00 p.m. is the Watershed hour across Canada."* Consequently in that decision, the CBSC found no breach of the Watershed requirement when an explicit program was broadcast past 9:00 p.m.

As well, the TLN programming schedule, which is updated weekly and distributed to all TV Guides, identifies the films as adult content. For your information, TLN does not promote these movies on our website. How TV listing information in our programming schedule is used by cable systems across the country on digital TV guides depends on the various carriers and is beyond the control of TLN.

We recognize that it is not always possible to monitor and supervise our youth every minute of the day. In response to this need, the cable industry has developed a wide range of consumer products to assist us in managing our families' television viewing. These products provide ways to limit what our children have access to on television. With the agreement of the CRTC, Canadian programming services began to encode their programming for V-chip technology in 2001. This provides parents, guardians and caregivers with a new tool for exercising a greater degree of control over television programming when it comes into their homes.

Additionally, as a Western Canadian viewer of TLN on Shaw Digital, you also have access to yet another method to block unwanted programs, and that is to set up parental controls directly through your digital terminal. Simply refer to your instruction manual or contact your cable carrier who is equipped with information on these products and can advise you step-by-step.

We trust that the foregoing responds to the concerns you raised in your complaint. At TLN, we recognize the importance of viewer feedback and appreciate all comments. We thank you for taking the time to voice your concerns. Please be assured that your comments will be kept on file for future consideration.

The complainant replied to the broadcaster on October 11 with the following additional comments:

As a woman, a mother, a daughter, a grandmother, these movies offend and demean my gender. Furthermore, I am hardly alone in this thinking. Almost half of all Canadians would like to see pornography banned altogether according to *Maclean's Magazine's* latest opinion poll of this year - not simply controlled but banned altogether. As this is an enormous money-making industry, the chances of a complete ban are unlikely. There is no argument for that reality. However, there IS an argument for pornography not to be shown on network television. At the very least, the public deserves to have the correct information.

It would be impossible for you to establish any convincing rationale that the movies you air during the Sunday 1:00 a.m. timeslot adhere to this section of the code. "Sex-ploitation" abounds in the Playboy Home Movies as do they in any of the pornographic movies that TLN chooses to televise during this particular time slot.

I am, of course, well aware of how to use the Parental Blocker and I block all adult programming. However, if your network does not give these movies an ADULT ONLY rating then it doesn't solve the problem, does it? I would like to feel comfortable that when I have put on the adult blocker on my digital receiver that it is ACTUALLY blocking adult programming.

On numerous occasions, I have found out after the fact that a movie that is CLEARLY for ADULT eyes only (if for anyone), that the movie 'slid by' with an 'R' rating. Does the network WANT their viewing public to be deceived? I would sincerely hope not.

On a positive note, I AM a great fan of many of your programs and I watch TLN probably more than any other station. This is another reason why I am completely dismayed with the lack of correct ratings when they appear.

She submitted her Ruling Request to the CBSC on October 23 and added the further opinion that these movies

show a very distorted view of sex and the role of women. They are repeatedly televised on the TLN Network during this timeslot and, I believe that it is very irresponsible of a network to violate any section of the *CAB Sex-Portrayal Code* as cited above.

## **THE DECISION**

The National Specialty Services Panel examined the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Sex-Role Portrayal Code* and *Violence Code*.

*CAB Sex-Role Portrayal Code*, Article 4 (Exploitation):

Television and radio programming shall refrain from the exploitation of women, men and children. Negative or degrading comments on the role and nature of women, men or children in society shall be avoided. Modes of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex. The sexualization of children through dress or behaviour is not acceptable.

Guidance:

"Sex-ploitation" through dress is one area in which the sexes have traditionally differed, with more women portrayed in scant clothing and alluring postures.

*CAB Violence Code, Article 4 (Classification System):*

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 Panel Adjudicators read all of the correspondence and viewed a tape of the broadcast in question. The Panel concludes that the broadcast was not in violation of Article 4 of the *CAB Sex-Role Portrayal Code*, but was in violation of the frequency requirements set out in Article 4 of the *CAB Violence Code*.

**A Preliminary Point: Pornography**

The complainant described herself as a high school teacher, suggesting that, for that reason, she could reasonably make certain assertions. Thus, the Panel considers it material to take notice of her allegation that the film in question was “pornographic”. Before seeing the film, her communication to the CBSC stated:

It would seem that all movies shown at that time slot on TLN are pornographic and should be rated accordingly.

After seeing the film, she said,

It was a pornographic movie with an AO designation, BUT it was NOT blocked by Shaw Cable Systems in Winnipeg. [...] Porn movies should not be aired on network television.

The Panel strongly disagrees with this characterization and considers it important to refer to its earlier decision in *Bravo! re the movie Up!* (CBSC Decision 03/04-0930, December 15, 2004), in which it referred to a decision of the Ontario Regional Panel in *CITY-TV re the feature film Jade* (CBSC Decision 03/04-0382, October 22, 2004), where that Panel explained:

Acknowledging that some of the material in the film is explicit does not render it pornographic. CBSC Panels have in the past referred to the 1992 decision of the Supreme Court of Canada in *R. v. Butler* with respect to the issue of pornography. The Panel considers it useful on this occasion to cite more significant excerpts from that Supreme Court decision than it has done in the past. The late Mr. Justice Sopinka said:

Community standards must be contemporary. Times change, and ideas change with them. Compared to the Victorian era this is a liberal age in which we live. One manifestation of it is the relative freedom with which the whole question of sex is

discussed. In books, magazines, movies, television, and sometimes even in parlour conversation, various aspects of sex are made the subject of comment, with a candour that in an earlier day would have been regarded as indecent and intolerable. We cannot and should not ignore these present-day attitudes when we face the question whether [the subject materials] are obscene according to our criminal law.

[...]

The cases all emphasize that it is a standard of *tolerance*, not taste, that is relevant. What matters is not what Canadians think is right for themselves to see. What matters is what Canadians would not abide other Canadians seeing because it would be beyond the contemporary Canadian standard of tolerance to allow them to see it.

Since the standard is tolerance, I think the audience to which the allegedly obscene material is targeted must be relevant. The operative standards are those of the Canadian community as a whole, but since what matters is what other people may see, it is quite conceivable that the Canadian community would tolerate varying degrees of explicitness depending upon the audience and the circumstances.

[...]

Among other things, degrading or dehumanizing materials place women (and sometimes men) in positions of subordination, servile submission or humiliation. They run against the principles of equality and dignity of all human beings. In the appreciation of whether material is degrading or dehumanizing, the appearance of consent is not necessarily determinative. Consent cannot save materials that otherwise contain degrading or dehumanizing scenes. Sometimes the very appearance of consent makes the depicted acts even more degrading or dehumanizing.

This type of material would, apparently, fail the community standards test not because it offends against morals but because it is perceived by public opinion to be harmful to society, particularly to women. While the accuracy of this perception is not susceptible of exact proof, there is a substantial body of opinion that holds that the portrayal of persons being subjected to degrading or dehumanizing sexual treatment results in harm, particularly to women and therefore to society as a whole. [...]

Because this is not a matter that is susceptible of proof in the traditional way and because we do not wish to leave it to the individual tastes of judges, we must have a norm that will serve as an arbiter in determining what amounts to an undue exploitation of sex. That arbiter is the community as a whole.

The courts must determine as best they can what the community would tolerate others being exposed to on the basis of the degree of harm that may flow from such exposure. Harm in this context means that it predisposes persons to act in an anti-social

manner as, for example, the physical or mental mistreatment of women by men, or, what is perhaps debatable, the reverse. Anti-social conduct for this purpose is conduct which society formally recognizes as incompatible with its proper functioning. The stronger the inference of a risk of harm the lesser the likelihood of tolerance. [...]

[... E]xplicit sex that is not violent and neither degrading nor dehumanizing is generally tolerated in our society and will not qualify as the undue exploitation of sex unless it employs children in its production.

The Panel considers that the sexual activity in this film does not fall within, or even near, the boundaries of pornographic material. There is sexual explicitness, to be sure, but there is no degrading or dehumanizing context associated with it. There is violence but it is not associated with the sexuality itself. In conclusion, in the present matter, the Panel finds no element of pornography present.

After quoting that material, this Panel said, in the Bravo! decision:

As in the foregoing CITY-TV decision, the National Specialty Services Panel considers that the sexual activity in the present film does not fall within the boundaries of pornographic material. Although there is also sexual explicitness in *Up!*, there is neither a degrading nor a dehumanizing aspect associated with it.

In the matter at hand, the Specialty Services Panel applies the foregoing principles and concludes that there is neither a degrading nor a dehumanizing element associated with *La Chiave Del Piacere*. Although there is sexual explicitness in the film, there is not a scintilla of pornographic material present.

## Exploitation

The CBSC has dealt with complaints about erotic films in the past. In those decisions, it has always taken the position that sexually explicit content is not inevitably equivalent to exploitation. Provided that no degrading comments are made about the nature or role of either gender, and that neither gender is portrayed to the detriment of the other, the program will not be understood to be in violation of the *CAB Sex-Role Portrayal Code*. In *CKX-TV re National Lampoon's Animal House* (CBSC Decision 96/97-0104, December 16, 1997), for example, in which a complaint was raised about bare-breasted women shown in a late night movie, the Prairie Regional Panel stated:

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.

In *TQS re the Bleu nuit movie Mission de charme* (CBSC Decision 03/04-0976, February 10, 2005), the Quebec Regional Panel examined a complaint about an erotic movie that was aired at midnight. Without reviewing the facts of the case, suffice it to say that the Panel concluded that “the challenged feature film is sexually explicit but not sexually exploitative and that neither gender is degraded vis-à-vis the other.” That jurisprudential line was followed in *TQS re three episodes of Kama Sutra* (CBSC Decision 03/04-1233, February 10, 2005) and *TQS re the Bleu nuit movies Le journal de désirs and Hôtel Exotica* (CBSC Decision 03/04-1236, February 10, 2005).

In the case of the film under consideration here, the Specialty Services Panel finds that the circumstances are similar. There was nothing degrading or gender exploitative vis-à-vis the portrayal of either men or women during the course of the broadcast of the film. There was no breach of the provisions of Article 4 of the *CAB Sex-Role Portrayal Code*.

### **Airing of the Classification Icon**

The Panel agrees that Telelatino correctly rated the program as 18+, and finds it commendable that the broadcaster went beyond the requirements of the Code by broadcasting the icon coming out of every commercial break, rather than only at the beginning of the program and at the top of each subsequent hour. Nonetheless, the Code does require that the icon be displayed for at least 15 seconds on each mandated occasion. The excessive frequency of the display does not alleviate the broadcaster’s obligation to air the icon for the minimum required length of time. The Quebec Regional Panel encountered a similar situation in all of the following decisions: *TQS re an episode of Loft Story* (CBSC Decision 03/04-0200 & -0242, April 22, 2004), *TQS re the movie Film de peur* (CBSC Decision 02/03-0940, April 22, 2004), *TQS re the Bleu nuit movie Mission de charme* (CBSC Decision 03/04-0976, February 10, 2005), *TQS re three episode of Kama Sutra* (CBSC Decision 03/04-1233, February 10, 2005), and *TQS re the Bleu nuit movies Le journal de désirs and Hôtel Exotica* (CBSC Decision 03/04-1236, February 10, 2005), where the broadcaster displayed the icon for various periods between 5-8 seconds. Similarly, in *Bravo! re the movie Ordinary People* (CBSC Decision 03/04-1187, December 15, 2004), *Bravo! re the movie Up!* (CBSC Decision 03/04-0930, December 15, 2004), and *Bravo! re the movie Perfect Timing* (CBSC Decision 03/04-1719, December 15, 2004), the display of the icon was variously between 10-13 seconds in each of the broadcasts. In the last of the decisions cited, this Panel stated:

One of the tools that broadcasters are required to provide their audiences is an on-screen classification system. It is a source of information for viewers, which enables them to make informed viewing decisions. Moreover, it is but one of the panoply of tools provided by broadcasters to their audiences. When Canada's private broadcasters established the classification system with on-screen icons, they determined that the minimum duration of the visibility of the icon would be *15 seconds*. It can, of course, be longer, but it *must* be no less than 15 seconds.

In the matter at hand, the Specialty Services Panel again finds that the broadcaster has breached Article 4 of the *CAB Violence Code* for failing to display the ratings icon for the minimum period of 15 seconds mandated by the Code.

### **Viewer Blocking Controls**

The complainant has also expressed her concern that the titles (or descriptions) of the rating categories, on the one hand, and the ineffective operation of the blocking technology interfered with her ability to prevent access to this adult content film, on the other hand.

Neither of these issues is one with which this Panel can deal. It can, however, make an observation or two regarding the issues. First, the ratings levels or descriptions. The CBSC's members all respect the standard ratings established by the private broadcasters in 1997; namely, C, C8, G, PG, 14+ and 18+. Those are the ratings that appear on-screen on all programming requiring ratings icons (some categories of programs are exempt from classification). The Broadcast Distribution Undertakings (that is, the cable and satellite distributors of channels and services, hereinafter BDUs), on the other hand, apply a variety of classification titles (or descriptions) that they apply to the digital parental control set-top boxes they provide for their subscribers. Some of the ratings described by the complainant, such as R (restricted) and AO (adults only) appear to be inconsistent with the system applied by the broadcasters. Moreover, it must be acknowledged that the programming viewed on American channels will frequently display *their* categories, which are a horse of yet another colour. And those who are familiar with ratings in the cinema, which include R in some jurisdictions, will find this overlay an additional confusing element.

Second, the blocking technologies. In the Panel's view, the complainant may have implied that the broadcaster had not properly encoded the program so as to subject it to the parental blocking device, whether at the level of the television monitor (the V-chip) or the set-top digital box (supplied by the cable operator). On the basis of the letter from the President of the broadcaster, it would appear, though, that Teletatino was fully aware of both the required rating level and the encoding process. While it is possible either that the complainant did not have her television set or digital box properly set up or that Teletatino had, on this occasion, neglected to complete the encoding, such that the adult program was not blocked, the Specialty Services Panel is not in a position to assess the facts

in order to determine why the parental blocking did not work in this instance. In any event, it finds no fault with either the complainant or the broadcaster.

At the end of the day, however regrettable such a *variety* of information and blocking technologies may be, everyone must become familiar with the categories and tools. It may be, for example, that a 14+ designation is considered too libertarian for more traditional or conservative families with a 14-year old at home, and too conservative for others. And, if the BDU's R is customarily too liberal a categorization for some families, then they must set their parental controls a level down to block all the programming they wish to cut out. The bottom line is that it is up to each member of the audience who wishes to diligently use the variety of tools provided to make a special additional effort to, in effect, determine the levels appropriate for their own homes.

### **Broadcaster Responsiveness**

The CBSC considers, as a part of every decision, whether the broadcaster has complied with its obligation to respond appropriately to the complainant's concerns. That dialogue is not only a part of every broadcaster's CBSC membership obligations, it also represents the public's sense of security in the process of self-regulation. While broadcasters are always involved with the reaction of their audiences to what they put on air, this dialogue with a listener or viewer is the manifestation of that involvement to the complainant. In this case, the Panel considers that the response by the President of Telelatino was focussed, detailed and appropriate. Nothing more is required. Telelatino has effectively fulfilled its obligation of responsiveness on this occasion.

### **ANNOUNCEMENT OF THE DECISION**

Telelatino is required to: 1) announce the decision, in the following terms, once (in English) during prime time within three days following the release of this decision and once more (in Italian) within seven days following the release of this decision during the time period in which *La Chiave Del Piacere* 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 Telelatino.

The Canadian Broadcast Standards Council has found that Telelatino violated Article 4 of the Canadian Association of Broadcasters' *Violence Code*. On September 24, 2006, Telelatino failed to broadcast the classification icon for the required 15

seconds at the beginning of the first and second hours of the film *La Chiave Del Piacere*.

Il Comitato canadese per la disciplina delle trasmissioni radiotelevisive (Canadian Broadcast Standards Council) ha rilevato la violazione, da parte di *Telelatino*, dell'articolo 4 del codice sulla violenza dell'Associazione canadese delle stazioni radiotelevisive (Canadian Association of Broadcasters' *Violence Code*). Il 26 settembre 2006, Telelatino ha omesso di trasmettere il simbolo di classificazione richiesto per i 15 secondi iniziali della prima e della seconda ora di trasmissione del film *La chiave del piacere*.

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

## APPENDIX

### The Complaint

On September 19, 2006, the CBSC received the following complaint e-mail:

This was taken from the Zapit TV guide and Amazon's DVDs. Clearly this is an ADULT ONLY movie and should be rated accordingly.

It would seem that all movies shown at that time slot on TLN are pornographic and should be rated accordingly.

*Key to Sex (2004): Beautiful women unlock secret desires. AO*

Attached to that e-mail was an image of the DVD which provided the following description of the film:

When brainy office assistant Simon is left in charge of the boss's Hollywood mansion, the weekend becomes an opportunity of a lifetime. Entrusted by power-hungry movie producer Alan to guard the estate, Simon thinks he's finally made the grade until he learns that his friends and co-workers have their own plans for the place. The front entrance soon resembles a revolving door as a series of erotic escapades unravel before his eyes. But unassuming Simon soon finds himself living out his own fantasies in this whirlwind of sex. After a tantalizing strip show with the hottest woman in his office and a soapy bathtub rendezvous with Alan's drop-dead gorgeous girlfriend Christy, powerful agent Tina gives him the biggest surprise of all. Indeed, the key to sex for Simon turns out to be the key to his boss's house!

The CBSC informed the complainant that it could not deal with a complaint about a broadcast that had not yet aired. On September 21, the complainant sent an e-mail to her cable company and copied the CBSC and TLN:

Dear Shaw Cable,

There has been, once again, an error in the rating of the TLN late Saturday night movie – actually early Sunday morning at 1:00 am.

This is 'cut and paste' from the TLN website: <http://www.tlntv.com>

Movie – *The Key to Sex (Adult)*

This is almost ALWAYS designated as ADULTS only on the TLN website! Once again, you have it under an R rating when it is clearly a soft porn film that should be under an ADULTS ONLY rating.

I was told by Shaw that you follow the rating of the network. Please make the necessary correction as soon as possible.

She wrote another e-mail on September 22:

To All Parties Concerned:

I find it shocking and disturbing that after I made the complaint (see forwarded message below) that TLN CHANGED THE RATING OF THE MOVIE *KEY TO SEX* FROM 'ADULTS ONLY' (AO) TO R.

In the forwarded message, please find the original 'copy and paste'. This has NOW been changed on TLN's website.

The following has been taken from the Amazon website: <http://www.amazon.ca>

*The Key to Sex* by John Quinn (III), Scott Carson, Jeannie Millar, and Christian Malmin (DVD), Used & new from CDN\$ 106.53

*The Key to Sex* by John Quinn (III), Scott Carson, Jeannie Millar, and Christian Malmin (VHS Tape – 1998), Used & new from CDN\$ 52.11

Any movie going for this kind of money is OBVIOUSLY PORNOGRAPHY! Under the guise of being unrated!

Yet on the Zapit TV listings website, it says a different movie is going to be aired, but it sounds equally as bad. Please see below, *Life of a Gigolo* is a rather expensive movie to buy as well. Is the reason not clearly obvious to all?

*Life of a Gigolo* (1999) A journalist leaves her boyfriend for a popular male escort, the subject of her research. R

*Life of a Gigolo* is selling on Amazon for (cut and paste):

*Life of a Gigolo* by Leland Price, Mark Ritter, Lauren Hays, and Leslie Harter Zemeckis (DVD), Used & new from CDN\$ 119.70

And these are for used versions!

Who is fooling anyone here? If *Latin Lover*, the erotic soap opera, had an ADULT rating ... certainly both of these movies deserve the same distinction.

Under the Zapit description, we find this information about the *Life of a Gigolo*:

Category: Movie  
 Length: 120 minutes  
 Year: 1999  
 Adult Situations, Language, Nudity, Strong Sexual Content

As a high school teacher, I truly would like to believe that the adults that control our television programming would think and act responsibly. It is just this type of programming and improper ratings that play a major role in how teenagers end up perceiving sex, sex roles and what is "okay". They are at a stage in their development where they are very impressionable and naturally curious. Either one of these movies should be rated ADULT. I personally don't believe they should be allowed to be on network television ... but, if they are, rate them correctly ...at the very minimum.

By NOT putting an ADULT rating on these types of movies you are condoning this kind of programming for children to watch. I don't suspect that if any of you

have children between the ages of 11-17 you would want your children to have access to these kinds of movies without knowing the correct ratings.

By both programming this material and through improper rating, you ARE saying it is acceptable ... and THAT is unacceptable to me.

The complainant sent another e-mail on September 24 once the film had aired:

Dear TLN,

This movie which aired on Sunday at 1:00 am was a Adult movie that had a number of highly graphic sex scenes in it, which starred a porn star, Felicia Fox – see website: <http://www.feliciafox.com> and her movie *Key to Sex* – see below

site: [http://search.excaliburfilms.com/pornlist/starpgs/Felicia\\_Fox.htm](http://search.excaliburfilms.com/pornlist/starpgs/Felicia_Fox.htm). This is a 'copy and paste' from Excalibur Films and it is classified under Adult (pornographic films).

Your Adult DVD Movie Title Search Results:

Search For: *The Key to Sex*, Records 2/2

Eros Collection *Key to Sex*, DVD

Starring: Maria Ford, Scott Carson, Jeannie Millar, Monique Parent, and Jacqueline Lovell

This is the movie that was shown:

*Key to Sex*, DVD

Starring: Felicia Fox, Kimberly Kane, Ana Nova, Gina Rome, Miles Long, Venus

It was a pornographic movie with an AO designation, BUT it was NOT blocked by Shaw Cable Systems in Winnipeg. Below are pics from Ms. Fox's website .. it is an example of exactly what kinds of movies she does. Porn movies should not be aired on network television. This IS against the *CAB Sex-Portrayal Code [sic]* by anyone's standards.

TLN continues to show porn movies in this timeslot and Shaw Cable Systems does not give them an ADULT rating. THESE are two very big problems!

This week's movie, *Life of a Gigolo*, is described as follows on Zapit:

Category: Movie

Length: 120 minutes

Year: 1999

Adult Situations, Language, Nudity, Strong Sexual Content

Attached to that e-mail were photographs from Felicia Fox's website. They show Fox nude and posing provocatively. As indicated in that e-mail, however, there appear to be two films with the title *Key to Sex*. The complainant was mistaken; TLN aired the film starring Maria Ford, not the one starring Felicia Fox.

## Broadcaster's Response

Telelatino responded to the complainant on October 5:

The Canadian Broadcasting Standards Council (CBSC) has forwarded to us your letters of August 3, 2006, August 6, 2006 and your most recent complaint of September 24, 2006 in which you commented about discrepancies between the coding of programming on the TV listing of Telelatino Network Inc. ("TLN") and your cable carrier.

As you know, TLN is one of Canada's premier specialty ethnic service broadcasters, delivering programming in Italian, Spanish, and English. TLN is an ethnic general entertainment service with a schedule that includes a wide variety of domestic and foreign produced programming, including programming that is directed to an adult audience.

*The Awakening of Gabriella, The Big Hustle, and Key to Sex*, the three movies that you inquired about, are late night Italian language programs that are intended for adults. Both programs were broadcast at 2 am Eastern Standard Time.

At TLN, we recognize that not all programs such as those that form the subject matter of your complaint, broadcast on TLN, are suitable for younger viewers. As such, we take all appropriate steps to adhere to the viewer advisory requirement mandated by the Canadian Association of Broadcasters' *Code of Ethics* ("Code") administered by the CBSC. The Code provides that "*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 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*". In compliance with this requirement, the Programs carried the following advisory after every commercial break, "*This program contains scenes with extreme sexual content and is intended for an adult audience only*" and an 18+ icon appears at the beginning of each of the nine segments throughout the program.

We appreciate your concern that some younger audiences may be able to access the Programs even at that hour. However, in previous decisions, the CBSC has held that while it appreciates that possibility, "*the scheduling provision is quite clear that 9:00 p.m. is the Watershed hour across Canada.*" Consequently in that decision, the CBSC found no breach of the Watershed requirement when an explicit program was broadcast past 9:00 p.m.

As well, the TLN programming schedule, which is updated weekly and distributed to all TV Guides, identifies the films as adult content. For your information, TLN does not promote these movies on our website. How TV listing information in our programming schedule is used by cable systems across the country on digital TV guides depends on the various carriers and is beyond the control of TLN.

We recognize that it is not always possible to monitor and supervise our youth every minute of the day. In response to this need, the cable industry has developed a wide range of consumer products to assist us in managing our families' television viewing. These products provide ways to limit what our children have access to on television. With the agreement of the CRTC, Canadian programming services began to encode their programming for V-chip

technology in 2001. This provides parents, guardians and caregivers with a new tool for exercising a greater degree of control over television programming when it comes into their homes.

Additionally, as a Western Canadian viewer of TLN on Shaw Digital, you also have access to yet another method to block unwanted programs, and that is to set up parental controls directly through your digital terminal. Simply refer to your instruction manual or contact your cable carrier who is equipped with information on these products and can advise you step-by-step.

We trust that the foregoing responds to the concerns you raised in your complaint. At TLN, we recognize the importance of viewer feedback and appreciate all comments. We thank you for taking the time to voice your concerns. Please be assured that your comments will be kept on file for future consideration.

## **Additional Correspondence**

The complainant replied to Telelatino on October 11:

I am forwarding this email to all concerned parties.

Thank you for your response. I understand the CBSC *Code of Ethics* and their *CAB Sex Portrayal Code* [sic]. This is 'cut and paste' from the CBSC website directly from the *Sex-Role Portrayal Code for Television and Radio Programming*:

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.

Guidance: "Sex ploitation" through dress is one area in which the sexes have traditionally differed, with more women portrayed in scant clothing and alluring postures.

As a woman, a mother, a daughter, a grandmother, these movies offend and demean my gender. Furthermore, I am hardly alone in this thinking. Almost half of all Canadians would like to see pornography banned altogether according to *Maclean's Magazine's* latest opinion poll of this year - not simply controlled but banned altogether. As this is an enormous money-making industry, the chances of a complete ban are unlikely. There is no argument for that reality. However, there IS an argument for pornography not to be shown on network television. At the very least, the public deserves to have the correct information.

It would be impossible for you to establish any convincing rationale that the movies you air during the Sunday 1:00 a.m. timeslot adhere to this section of the code. "Sex ploitation" abounds in the Playboy Home Movies as do they in any of the pornographic movies that TLN chooses to televise during this particular time slot.

I am, of course, well aware of how to use the Parental Blocker and I block all adult programming. However, if your network does not give these movies an ADULT ONLY rating then it doesn't solve the problem, does it? I would like to feel comfortable that when I have put on the adult blocker on my digital receiver that it is ACTUALLY blocking adult programming.

On numerous occasions, I have found out after the fact that a movie that is CLEARLY for ADULT eyes only (if for anyone), that the movie 'slid by' with an 'R' rating. Does the network WANT their viewing public to be deceived? I would sincerely hope not.

On a positive note, I AM a great fan of many of your programs and I watch TLN probably more than any other station. This is another reason why I am completely dismayed with the lack of correct ratings when they appear.

I will be filing a further complaint subject to your response.

The complainant submitted her Ruling Request on October 23 with the following note:

This is directly from the *Sex-Role Portrayal Code for Television and Radio Programming*:

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.

Guidance: "Sex-ploitation" through dress is one area in which the sexes have traditionally differed, with more women portrayed in scant clothing and alluring postures.

As a woman, a mother, a daughter, a grandmother and educator, these movies offend and demean my gender. Furthermore, I am hardly alone in this thinking. Almost half of all Canadians would like to see pornography banned altogether according to *Maclean's Magazine's* latest opinion poll of this year - not simply controlled but banned altogether. As this is an enormous money-making industry, the chances of a complete ban are unlikely. There is no argument for that reality. However, there IS an argument for pornography not to be shown on network television. At the very least, the public deserves to have the correct information.

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On numerous occasions, I have found out after the fact that a movie that is CLEARLY for ADULT eyes only (if for anyone), that the movie 'slid by' with an 'R' rating. Does the network WANT their viewing public to be deceived? I would sincerely hope not.

As with the other complaints I have made regarding movies such as Playboy Home Movies that are being shown in this time slot, they show a very distorted view of sex and the role of women. They are repeatedly televised on the TLN Network during this timeslot and, I believe that it is very irresponsible of a network to violate any section of the *CAB Sex-Portayal Code* as cited above.