
CANADIAN BROADCAST STANDARDS COUNCIL

QUEBEC REGIONAL PANEL

V re *Call TV* (version 2)

(CBSC Decision 09/10-1563 and -1735)

Decided January 25, 2011

G. Moisan (Vice-Chair), Y. Bombardier, A. H. Caron, R. Cohen (*ad hoc*), V. Dubois

THE FACTS

A paid program called *Call TV* (of Austrian origin) has been broadcast in various languages and using local hosts in numerous European countries as well as Canada for more than a decade. A French-Canadian version of the program, produced by a company called Mass Response TV, was first broadcast in Canada in the summer of 2009 by TQS (now V). The program consists of a series of contests, games and puzzles with financial prizes which are enticements to viewers to text or call in with their answers. Each call or text costs the contestant one dollar, whether that individual succeeds or not in providing his or her answer on the air. The CBSC received 319 complaints about the original version of the show and this Panel rendered a decision about the program on August 11, 2009. A number of the complaints that were not received in time (or for which Ruling Requests had not been submitted in time) to be dealt with as a part of the first decision became the subject of a second *Call TV* decision rendered by this Panel on August 24, 2010. Both of those decisions related to the original version (version 1) of *Call TV*. The Panel will review those below.

V began to broadcast a new version of *Call TV* (version 2) in April 2010. The program airs from 11:30 pm to 1:30 am from Monday to Friday. Up to the date of the present decision, the CBSC has received 47 complaints about version 2. Each episode treated in the present decision was preceded by the following viewer advisory in audio and video format: [translation] “The current program is a paid commercial program.”

As was the case with the complaints received relative to version 1, many of the complaints relating to the more recent version a) commented on the program in general and provided insufficient details regarding the date and time of broadcast or b) raised questions about matters such as telecom company billing, which do not fall under the jurisdiction of the CBSC. Of the 22 complainants whose files would have been eligible for consideration by the Quebec Panel, only two ultimately submitted Ruling Requests to the CBSC. The descriptions of the relevant elements of the episodes that concerned them, and the germane correspondence, are as follows.

The episode of April 21, 2010

Leila Kay was the episode's host. At the start of the show, she explained the rules, including the requirement that one had to be at least 18 to participate. She also was careful to represent that the degree of difficulty of any of the games or contests was a matter of opinion for each viewer, and she said something about the method of functioning of the "lucky lines". The following information also scrolled across the top of the screen:

[Translation]

To reach the studio directly, you must hit one of the "lucky lines" during the period that it is active and identified as a lucky line on the screen or by the host, either at a moment chosen at random or at the end of a predetermined time that will be announced in advance. For more information or if you have questions concerning the cash prizes or the program, please contact us at public@calltv.ca. Only persons 18 years of age or over residing in Canada may participate in the game. Prizes are not awarded to minors. The text messages chosen for live participation in the program are selected at random. The system randomly chooses a text message received at a given moment. Participants who are transferred to the studio are selected at random by an independent system. Being the first to send a text message does not increase your chances of being chosen. The system is certified by an internationally-known accounting firm. Each text message you send will cost you \$1 regardless of whether you are chosen to participate in the game or not. Current game mode: "LUCKY LINE". To reach the studio directly, you must hit one of the lucky lines during the period that it is active and identified as a lucky line on the screen or by the host, either at a moment chosen at random or at the end of a predetermined time that will be announced in advance. Please note that the amount at stake is subject to change during a given game. The level of difficulty varies and it is up to you to decide if it is an easy game or a difficult one. Sound, light, graphics and musical effects, and other special effects such as countdowns serve only to enhance the atmosphere and have no influence over the selection process of participants transferred to the studio. Sending a text message does not guarantee you will be chosen to be transferred to the studio. Participants who are transferred to the studio are selected at random by an independent system. The solution to the game will be revealed at the end of the program. Each game may have several different rounds of various lengths that can be extended until the end of the program. During each round, the system chooses only one text message at random. When a text message is selected in this fashion, a new round begins. The current round will last until 01:29:45 maximum. Each text message you send will cost you \$1 regardless of whether you are chosen to participate in the game or not. Text messages are not stored in a data base; each text message is a distinct occurrence. If your text message is not immediately selected by the system for participation purposes, it is not stored and you no longer have any chance of being

chosen. All the information concerning the program and its rules is posted on our website at www.calltv.ca. If you do not have access to the Internet, call our toll-free information line at 1-877-264-2864, in order to listen to a recorded message that provides details regarding that information and the rules.

Other scrolled information indicated the telephone lines to reach the studio. The prize amount, instructions for sending a text message and [translation] « \$1 per text message » were indicated at the bottom of the screen. The names of previous winners, the city where they live and the amounts they won were also scrolled across the screen.

The first two games were entitled [translation] “Which picture is different?” In the first, there were three photos of a hockey player and there was a winner. In the second, with four hockey players, the amount of the prize increased and another “lucky line” was added. There were no calls for an extended period of time and then, finally, at 1:13 am, there was a winner. The last three games were equations on a blackboard and the question was: [translation] “Find the solution to this mathematics problem!” On the blackboard there were an equation and a choice of four answers. The game mode was [translation] “Hot Button”, which the host explained in the following terms:

[Translation]

You have 38 minus 39 times 2, I believe, I'll just get a bit closer. Times 2 plus 41. Yes, 38 minus 39 times 2 plus 41 equals 11, 39, 0 or 1? The choice is yours. You have four choices in hot button mode for one hundred and twenty dollars. Our automated system can select your text message at any time. So, if you send a text message, if you receive a text message you will not be selected, but if the phone rings, you were selected by our hot button.

In each case, a caller got through and won the prize. The first equation and the choices were as noted above:

$$38-39 \times 2 + 41 = ?$$

11 39 0 1

The answer was 1. The second equation and the choices were as follows:

$$5 \times 5 - 10 \times 1 = ?$$

5 15 16 25

The answer was 15. The third equation and the choices were as follows:

$$6 \times 3 + 4 \times 9 = ?$$

56 378 198 54

The answer was 54.

The Correspondence relating to the First Complaint

The first complainant filed his concerns via the CBSC webform on April 21. The complaint read in pertinent part as follows (the full text of all the correspondence can be found in the Appendix, in French only):

[Translation]

Concern: Game show produced in Austria featuring a host who incites people to send a text message by cell phone at one dollar per try, the purpose obviously being to accumulate a maximum number of calls and pay out a minimum amount of prizes.

The questions are generally of an elementary simplicity. When the prize is small, a call is quickly chosen and when the amount of the prize is somewhat high, an hour and a half can go by before the host takes the first call.

My concern is that there seems to be no external control over the manner in which these games and the allotment of prizes are carried out. This is in fact a television con game that has already been condemned in several other countries, and I couldn't say by what miracle it manages to escape our laws and regulations.

I made the broadcaster (V television) aware of my questions by e-mail on April 21, 2010 as well as of my wish to file a complaint with your organisation. I have not received any response from them as of this moment.

[...]

V's Director of Legal Affairs replied to the complainant on June 9. His letter read in pertinent part as follows:

[Translation]

The Canadian Broadcast Standards Council (CBSC) sent us your complaint concerning the *Call TV* infomercial that we aired on April 21 of this year. To begin with, we wish to emphasize that *Call TV* is an infomercial presented and paid for by Mass Response and that the latter is required to comply with all applicable regulations.

We are taking this opportunity to inform you that the technical process by which a text message is selected at random is monitored and audited by an independent third party, namely KPMG, and it complies with auditing standard "SAS 70". In addition, the design and conduct of the games have been submitted to legal and technical controls. There is no human intervention in the selection of a call or text message and the choice is not made according to the number of incoming calls or text messages.

The three different game modes are explained on the scrolling menu as well as on the *Call TV* website. Moreover, *Call TV*'s customer service centre will be happy to provide you with additional information concerning participation in the program. You also question the prize allotment. Please note that this process is explained in detail via *Call TV*'s various information sources, namely:

1. At **1-877-264-2864** – a line delivering a pre-recorded message detailing all the information;

2. At **1-888-627-7706** – a line where a customer service representative will give you additional information;
3. The *Call TV* website at www.calltv.ca.

The process is clear, transparent and is carried out in such a way as to ensure that winners receive their prizes as quickly as possible.

We hope these explanations have shed light on this situation [...]

The complainant was dissatisfied with the broadcaster's reply. He filed his Ruling Request on the same day.

[Translation]

The broadcaster V television sent me a near-response that, far from being satisfactory, reinforces my desire to see this matter through to the end. They insist on the fact that this is an infomercial, yet nothing in this program corresponds to the definition of even this hybrid entity since there is no product or service to sell or promote in this instance. They also insist that an independent firm sees to the proper functioning of the games and the prize allotments and that an automated system determines the way in which the calls are received in the studio, as if no human intervention controls at any distance, be it near or far, the manner in which these games are carried out. In addition, the questions involving mathematical calculations are completely ridiculous as nothing clearly determines the calculation process. Thus, $18+18-18 \times 2$ does not equal 36 as any good calculator would indicate, but rather 0 according to *Call TV*.

The episode of June 9, 2010

In this episode, the host was Sarah Lévesque. As did Leila Kay in the previous episode, Ms. Lévesque explained the rules:

[Translation]

Calls and text messages are not stored in a data base; each call and text message is a distinct occurrence. If your call or text message is not immediately selected by the system in order to transfer you to the studio to give your answer, it is not stored and you no longer have any chance of being chosen. All the information concerning the program and its rules is posted on our website at www.calltv.ca. If you do not have access to the Internet, call our toll-free information line at 1-877-264-2864, in order to listen to a recorded message that provides details regarding that information and the rules. Three selection modes are possible: Current game mode: "LUCKY LINE". (To reach the studio directly, you must hit one of the lucky lines during the period that it is active and identified as a lucky line on the screen or by the host, either at a moment chosen at random or at the end of a predetermined time that will be announced in advance.) For more information or if you have questions concerning the cash prizes or the program, please contact us at public@calltv.ca. Only persons 18 years of age or over residing in Canada may participate in the game. Prizes are not awarded to minors. Calls or text messages chosen for live participation in the program are selected at random. The system randomly chooses a call or text message received at that moment according to the current game mode. Participants who are transferred to the studio are selected at random by an independent system. Being the first to call or send a text message does not increase your chances of being chosen. Please note that a call does not guarantee your participation in

the program. The system is certified by an internationally-known accounting firm. Each text message you send or call you make will cost you \$1 regardless of whether you are chosen to participate in the game or not. Your call is not billed if the line is busy. Please note that the amount at stake is subject to change during a given game. The level of difficulty varies and it is up to you to decide if it is an easy game or a difficult one. The answers to certain questions are easier, while some others may prove more difficult to find. In that regard, please note that the hosts themselves are not told the answers to the questions in advance. Sound, light, graphics and musical effects, and other special effects such as countdowns serve only to enhance the atmosphere and have no influence over the selection process of participants transferred to the studio. Participants who are transferred to the studio are selected at random by an independent system. The solution to the game will be revealed at the end of the program. Each game may have several different rounds of various lengths that can be extended until the end of the program. During each round, the system chooses only one text message or call at random. When a text message or call is selected in this fashion, a new round begins. A Lucky line can be obtained with equal chance by phone or by text message. To participate by calling in, dial 1-900-528-9900 from a land line within Canada or send a text message saying "TV" at 77977 from a phone line within Canada. Each text message you send or call you make will cost you \$1 regardless of whether you are chosen to be transferred to the studio or not.

There was also scrolled information such as that described in the previous episode. The only game in this episode consisted of a grid of letters in which the producers were seeking the names of animals. In addition to the three winners, there were callers who said "alligator" but they did not win because the word on the grid was mis-spelled "aligator". As in the case of the other episodes of Call TV examined in the previous decisions, a long period of time elapsed before the last call was taken at the end of the program.

The Correspondence relating to the Second Complaint

On June 10, the second complainant filed his concerns about the episode of the previous night via the CBSC webform. He wrote:

[Translation]

Concern: In the case of one game (mystery word), the prize was \$1,600. Contestants had to call 1-900-528-9900 and hit one of the lucky lines 2, 11, 19, 26, 34, 40, 47, 53, 58 or 65 to speak with the host and give the correct answer. After several attempts over an hour and a half, I ascertained that it was impossible to hit one of those lines. I had the right answer. The objective was to find the name of an animal in a grid and I found four names, except that only one of them was spelled correctly. This program is a con game; it must be taken off the air as quickly as possible. There are numerous complaints (over 200). The problem is that it costs \$1 per attempt and you always hit the wrong line. And, the bill can go to a maximum of \$200, and everybody gets taken.

The broadcaster's Director of Legal Affairs replied to the complainant on July 14.

[Translation]

Call TV is an infomercial presented and paid for by Mass Response and the latter is required to comply with all applicable regulations. With respect to your complaint

concerning the “Lucky lines” game that took place during the program aired on the night of June 9 of this year, you allege that it is impossible to hit one of these lines, which is incorrect. In fact, during that game, four people hit a lucky line when it was active and identified as such.

I would like to inform you that the technical process for the random choice of a call or a text message is monitored and audited by an independent third party, namely KPMG, and it complies with auditing standard “SAS 70”. The design and conduct of the games have also been submitted to legal and technical controls.

In addition, you say there were four names of animals in the grid, but only one was spelled correctly. This is also incorrect. Several names of animals were spelled properly (as shown in red on the attached photograph of the game) and they all corresponded to correct answers. The incorrectly spelled names of animals did not constitute a good answer and were added to make the game more difficult.

Finally, you say that the problem is that it costs \$1 per call, that you always hit the wrong line and that the bill can reach a maximum of \$200. In that context, we wish to specify that the costs are clearly indicated on the screen and repeated by the host during the program. The information is therefore clearly visible and accessible for the viewers. The program is restricted to persons 18 years of age or older; they have the capacity and the freedom to participate or not, including accepting the costs indicated that are not hidden. Moreover, the \$200 maximum is a policy put in place by Mass Response Service GmbH in order to put a ceiling on participation, thereby protecting viewers. However, such a ceiling is not required.

Should you wish to obtain more detailed explanations on the games and the selection of participants, please use one of *Call TV's* information sources: the website at www.calltv.ca or the information line at 1-877-264-2864. In addition, the customer service centre at 1-888-627-7706 will be happy to provide you with more information.

The complainant was dissatisfied with that response and he filed a brief Ruling Request on July 16.

[Translation]

I don't agree with the response given by V television.

Their reply is nonsensical and they are protecting their program since it is their client.

I request a decision.

THE DECISION

The Quebec Regional Panel examined the broadcasts under Clause 12 of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* relating to contests and promotions. That Clause reads as follows:

All on-air contests and promotions shall be conceived and conducted fairly and legitimately and particular care shall be taken to ensure that they are not misleading,

potentially dangerous or likely to give rise to a public inconvenience or disturbance and that any prizes offered or promises made are what they are represented to be.

The Panel Adjudicators read all of the correspondence and viewed the two episodes of the program described above. The Panel concludes that V did not breach the foregoing provision of the *CAB Code of Ethics*.

The Previous *Call TV* Decisions

There are elements of the first two decisions that remain pertinent to the matter at hand. They are as follows. In the first *Call TV* decision, namely, *TQS re Call TV* (CBSC Decision 08/09-1834 & -1856, August 11, 2009), this Panel made it clear that it can “deal with the broadcast of the various contests and the representations of the hosts during the programs [...]. The Panel cannot, however, deal with the off-screen operations of Mass Response TV or the fairness of the billing by the various telephone companies for the 1-900 calls or the text messaging.”

The broadcaster had also explained that the program [translation] “was an infomercial”, the consequence being (in its view) that it did not have responsibility for the programming. As TQS put the matter in its letter to the complainants, the broadcaster’s viewer advisory was determinative. It read in part as follows: [translation] “*The following program is an infomercial presented and paid for by MASS RESPONSE.*” As this Panel explained in that decision, “In the broadcaster’s terms, it was an infomercial. This is not, however, the view of the Quebec Regional Panel. The Panel acknowledges that *Call TV* was what is sometimes known as ‘paid programming’, but it was not an infomercial.” The Panel went on to explain the importance of the distinction in the following terms:

While the goal of *Call TV* is to induce persons to *call*, the program’s goal is not to sell any product; it is to make money from the calls placed or texts sent by the participants. The question for the creators of the program was likely, “What is the best method for us to induce people to spend money on 1-900 calls or texts?” They appear to have concluded that it was to create a series of contests. In any event, the view of the Quebec Regional Panel is that *Call TV* takes, in the sense of Clause 12 of the *CAB Code of Ethics*, the form of an on-air contest, and is thus subject to the requirements of that Clause. That is to say, the contests (there were several of them on the four days of challenged programming) must: a) be conducted fairly and legitimately; b) not be misleading; and c) must ensure that any prizes offered or promises made are what they are represented to be.

On the issue of the contests themselves, this Panel was extremely concerned by the lack of transparency. The Panel explained the matter in the following terms:

Audiences ought to be able to know or understand the rules of a contest and the transparency of the outcome, *particularly when they are being asked to spend money to enter them*. The rule can be the seeking of a particular fact or piece of information, in which case the disclosure of the verifiable fact or information is the transparent element.

The rule can be the guessing of a number, as in Government-run lotteries, in which case the revelation of the numbers falling out of a basket is the transparent element. The rule can be that a disclosed committee of individuals will judge the dancing, singing or other skill set of an individual or group. And so on. Where, contrary to the reasonable and customary examples of the foregoing contests, the inherently dubious outcome is neither evident *nor explained*, the Panel considers that the absence of transparency renders the conduct of the contest neither fair nor legitimate, as required by Clause 12 of the *CAB Code of Ethics*.

Finally, for these purposes, the Panel expressed its concern about “an aspect of the conduct of the contests on the four dates reviewed about which the Panel is unable to draw a conclusion but which is important enough for it to provide advice to this and other broadcasters conducting similar contests in future.”

While the Panel notes the hosts' claims that the call system was totally automated, that is to say, without human intervention or choice-making, the timing of the final correct guesses seemed almost always to occur at the announced *end* of each contest. While it seems unlikely, if not inconceivable, to the Panel that this *could* happen time and again on the basis of chance alone (as represented by the hosts on several occasions), the Panel has no hard information on the basis of which to draw a conclusion that the producers in some way juggled the calls to arrive at such an outcome. If they had done so in any one of the contests, the result would have been inherently unfair, as the hosts continuously induced the audiences to call or text on the basis that they could still win the promised prize, when in fact they would have been too late to do so. Such a result would have been unfair and illegitimate in terms of Clause 12 of the *CAB Code of Ethics*. In the absence of the necessary information, the Panel cannot apply this principle to the challenged episodes of *Call TV*.

The second Call TV decision, *TQS re Call TV (version 1, round 2)* (CBSC Decision 08/09-1827+ & 09/10-0025+, August 24, 2010), followed the principles of the first decision. Having dealt with contests during the same time period as the first decision, that is to say, before the broadcaster had had notice of the need to modify its programming, the second decision added little to the earlier set of principles. It did, however, deal with different games and contests and encountered different examples of the absence of transparency, in breach of Clause 12 of the *CAB Code of Ethics*.

An Enduring Concern

The Panel retains an enduring disagreement with the broadcaster's understanding of the nature of its program. In the broadcaster's responses to the two complainants in the matter at hand, its spokesperson continues to refer to the challenged program as [translation] “the *Call TV* infomercial”, arguing, in consequence, that, as [translation] “an infomercial presented and paid for by Mass Response [...] the latter is required to comply with all applicable regulations.” There is, of course, no inherent problem in the broadcaster's attributing responsibility to Mass Response, *as long as that is not done in any attempt to deflect its own responsibility for what it has broadcast*. While V appears to have directed the complainants to Mass Response and Mass Response's website for

answers and explanations, it has not, on these occasions as it has in the past, *denied* its own responsibility for the content it has broadcast. That is a marked improvement.

As to V's characterization of *Call TV* as an infomercial, the Panel continues to advise viewers that it does not so consider the program. The Panel also notes that the first complainant in the matter at hand also disagreed with that characterization, saying in his Ruling Request that [translation] "nothing in this program corresponds to the definition of even this hybrid entity." In conclusion, the Panel acknowledges that it is paid programming, but not an infomercial; it considers that *Call TV* is nothing more or less than an on-air contest and fully subject to the rules of Clause 12 of the *CAB Code of Ethics*.

The Contests in the Two Episodes

In terms of Clause 12, the principal concern of the Quebec Panel relates to the fairness of the contests on the episodes of the night of April 21 and June 9. In those instances, the Panel has found none of the transparency problems present in the earlier decisions. In the [translation] "Which picture is different" game, the visual issues were obscure, but clear in the explanations of the winning contestants. In the three mathematical equations, the winning answers were dependent on the basic school level knowledge of the "order of operations" principle, namely, one begins by doing the calculations within parentheses, then performing the operations involving multiplication and division (working from left to right), and concluding with operations involving addition and subtraction (working from left to right). In the animal grid, the mis-spelling of "alligator" was the only issue and that, in the view of the Panel, was as elementary as the mathematical order of operations. There was nothing obscure, tricky, misleading or requiring further explanation in order to achieve the required level of transparency that would satisfy Clause 12 of the *CAB Code of Ethics*. As to the nature of the contests included in the two challenged episodes, the Panel finds no breach of Clause 12 by reason of a lack of transparency.

Some Residual Issues

There are issues raised by the two complainants with which the foregoing decision reasoning has not dealt. They are not of the variety of "My phone bill is too high" (an issue over which the CBSC has no jurisdiction) but they are nonetheless understandably important to the complainants. Moreover, they have a relationship with the principle of transparency. Those issues relate to matters like the "lucky lines", the "hot buttons", the allegedly random selection of callers/texters as on-air contestants, the allegedly genuinely lengthy periods without a single call from a contestant, and the

allegedly coincidental timing of the late-in-the-program contestants. The Panel appreciates the complainants' doubt about the *randomness* of the selection of participants. While the broadcaster's representative has explained that there is no *human* intervention in the selection of contestants, this does not, of course, mean that there has been no creation of a computerized or programmed method of selection. The Panel simply has no method of verifying the true randomness, fairness and transparency of the contestants' access to the contest process. The Panel is not suggesting that there have been any such impediments created. It merely points out that the response of the broadcaster's Legal Counsel does not *preclude* that possibility. While the presence in the process of an internationally-known accounting firm and the apparent application of Statement on Accounting Practices No. 70 (SAS 70 in Legal Counsel's responses) breed a measure of confidence, even that must depend on what the firm is being asked to audit or verify. In other words, it is not clear to the Panel what the substance of SAS 70 is or how pertinent it is to the concerns expressed by the complainants. Moreover, no copy of SAS 70 has been supplied to either the complainants or to the CBSC. The bottom line for the Panel is that all of *those* concerns of the complainants, which leave an element of doubt or concern in their minds (and the Panel's, to some extent), go to off-screen process issues, and such matters do not fall within the Panel's jurisdiction. The Panel can do no more than express its understanding of the basis for the complainants' concerns. Although the Panel notes the first complainant's observation that "I couldn't say by what miracle it manages to escape our laws and regulations," it notes that the CBSC's jurisdiction is limited to the broadcaster codes. At the end of the day, the Panel reiterates its concern expressed in the first *Call TV* decision and cited above; namely, that

the Panel has no hard information on the basis of which to draw a conclusion that the producers in some way juggled the calls to arrive at such an outcome. If they had done so in any one of the contests, the result would have been inherently unfair, as the hosts continuously induced the audiences to call or text on the basis that they could still win the promised prize, when in fact they would have been too late to do so. Such a result would have been unfair and illegitimate in terms of Clause 12 of the *CAB Code of Ethics*. In the absence of the necessary information, the Panel cannot apply this principle to the challenged episodes of *Call TV*.

In the absence of hard information on this point, the Panel has no basis to question the *off-air* issues, which do not fall within the jurisdiction of the CBSC. That said, there is no doubt that the provision by the producer and broadcaster of information that would confirm the pertinence of SAS 70 and the role of the respected accounting firm on the issue of transparency would be reassuring.

Broadcaster Responsiveness

In all CBSC decisions, the Council's Panels assess the broadcaster's responsiveness to the complainants. In the present instance, the Panel finds that the response of the broadcaster's Legal Counsel was a punctilious attempt to respond to the complainants while walking through a minefield of issues. While, as explained above, the Panel retains its concern regarding the characterization of *Call TV* as an infomercial, it does acknowledge that the broadcaster has avoided passing the complainants off to Mass Response for all answers. The broadcaster's Director of Legal Affairs has dealt with the contests on a precise basis and has explained matters of process of concern to complainants, but not falling within the jurisdiction of the CBSC. While the CBSC has no ability to assess these on a substantive basis, it acknowledges that issues relating to transparency, access, oversight by a major accounting firm, and apparent contest standards ("SAS 70") were all brought to the attention of the complainants, although the standards themselves were not (as has been noted in the previous section). On the level of responsiveness, the Panel concludes that the broadcaster has fulfilled its CBSC membership obligation on this occasion.

This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.

ANNEXE

Décision du CCNR 09-10-1563 et -1735

V concernant *Call TV* (version 2)

Les plaintes

V a commencé à diffuser une nouvelle version de l'émission *Call TV* en avril 2010. Jusqu'à date, le CCNR a reçu 47 plaintes concernant cette nouvelle version. Plusieurs de ces plaintes soulevaient des questions concernant les factures des services téléphoniques et d'autres questions qui ne tombent pas dans la juridiction du CCNR. De plus, d'autres plaintes n'ont pas mentionné une date de diffusion précise. Des 47 plaintes, seulement 22 tombaient dans la juridiction du CCNR et ont fourni une date de diffusion précise. Jusqu'à date, de ces 22 plaintes, seulement deux personnes ont soumis une Demande de décision. Leurs plaintes sont notées ci-bas.

Dossier 09-10-1563

Le 23 avril 2010, le CCNR a reçu la plainte suivante via le formulaire Web :

diffuseur : V télé
émission : *Call TV*
date: 21 avril 2010
heure : 23 h 30 à 1 h 30

préoccupation : Jeu questionnaire produit en Autriche où l'animatrice incite les gens à envoyer un message texte par téléphone cellulaire moyennant un dollar par tentative. Le but étant de toute évidence d'accumuler un maximum d'appels pour distribuer un minimum de prix.

Les questions sont en général d'une simplicité élémentaire. Lorsque le prix est petit un appel est sélectionné rapidement et lorsque le prix est moyennement élevé il peut s'écouler jusqu'à 1 h 30 avant que l'animatrice ne prenne un premier appel.

Mon souci est qu'il ne semble y avoir aucun contrôle extérieur sur la façon dont ces jeux et la remise des prix s'effectue. En réalité il s'agit d'une arnaque télévisuelle condamnée déjà dans plusieurs autres pays et qui je ne sais trop par quel miracle réussit à se soustraire à nos lois et règlements.

J'ai signifié le 21 avril 2010 par courriel au télédiffuseur concerné (V télé) mon questionnement ainsi que mon désir de déposer une plainte auprès de votre organisme. À cette heure je n'ai reçu aucune réponse de leur part.

TQS à l'époque avait cessé au mois d'août 2009 de diffuser cette émission et depuis étant devenu V télé, *Call TV* est revenu sur leurs ondes et ainsi récidivant. Je récidive à mon tour car il s'agit ici de la seconde plainte que je dépose concernant cette émission,

la première ayant été faite il y a plus de 8 mois et dont l'étude de votre part n'est toujours pas complétée.

En espérant considérant votre autorité sur la question que vous preniez au sérieux mes récriminations.

Dossier 09-10-1735

Le 10 juin, le CCNR a reçu la plainte suivante via le formulaire Web :

diffuseur : V
 émission : *Call TV*
 date : 9 juin 2010
 heure : 23 h 30

préoccupation : Il y avait un jeu (mot mystère). Le prix était 1600 \$. Il fallait appeler au numéro de téléphone 1-900-528-9900. Et tombé sur une des lignes chanceuses 2, 11, 19, 26, 34, 40, 47, 53, 58, 65 afin de parler à l'animatrice et donner la bonne réponse. Après plusieurs tentatives pendant 1 h 30, j'ai constaté qu'il était impossible de tomber sur une de ces lignes. J'avais la bonne réponse. Il fallait trouver un nom d'animal dans la grille. J'ai trouvé 4 noms. Sauf qu'un seul était écrit correctement. Cette émission est une arnaque. Il faut qu'elle soit retirée des ondes le plus vite possible. Il y a de nombreuses plaintes (plus de 200). Le problème c'est que cela coute 1 \$ par tentative d'appel et on tombe tout le temps sur une mauvaise ligne. Et la facture monte au maximum à 200 \$. Et tout le monde se fait prendre.

Les réponses du télédiffuseur

Dossier 09-10-1563

V a répondu au plaignant le 2 juin :

Monsieur,

Le Conseil canadien des normes de la radiotélévision (CCNR) nous a fait parvenir votre plainte concernant l'infopublicité *Call TV* diffusée sur nos ondes le 21 avril dernier. Nous tenons tout d'abord à souligner que *Call TV* est une infopublicité présentée et payée par Mass Response et que ces derniers ont l'obligation de respecter tous les règlements qui y sont applicables.

Nous saisissons l'occasion des présentes afin de vous indiquer que les procédures techniques par lesquelles un appel ou un texto est choisi au hasard, ont été contrôlées et vérifiées par une tierce partie indépendante (à savoir KPMG) et sont conformes au standard de vérification « SAS 70 ». Par ailleurs, la conception et le déroulement des jeux ont été soumis à des contrôles juridiques et techniques. Il n'y a aucune intervention humaine lors du choix d'un appel ou d'un texto et le choix ne se fait d'ailleurs pas en fonction du nombre d'appels ou de textos entrants.

Les trois différents modes de jeux sont expliqués sur le menu déroulant ainsi que sur le site Web de *Call TV*. D'autre part, le service à la clientèle de *Call TV* se fera un plaisir de vous fournir un complément d'informations au sujet de la participation à l'émission. Par ailleurs, vous remettez en question la remise des prix. Veuillez noter que cette procédure est expliquée en détails dans les diverses sources d'informations de *Call TV*, soit :

1. Numéro **1-877-264-2864** : ligne par laquelle il est possible d'écouter un message préenregistré détaillant toutes les informations;
2. Numéro **1-888-627-7706** : numéro grâce auquel vous pouvez obtenir des informations additionnelles en parlant à une représentante du service à la clientèle.
3. Site Web *Call TV* : www.calltv.ca

La procédure est claire, transparente et s'effectue afin de faire en sorte que les gagnants reçoivent leurs prix le plus rapidement possible.

Nous espérons que ces explications ont pu éclairer cette situation et vous prions d'agréer, Monsieur, l'expression de nos sentiments les meilleurs.

Dossier 09-10-1735

V a répondu au plaignant le 14 juillet :

Monsieur,

Le Conseil canadien des normes de la radiotélévision (CCNR) nous a fait parvenir votre plainte concernant l'infopublicité *Call TV* diffusée sur nos ondes le 9 juin dernier.

Call TV est une infopublicité présentée et payée par Mass Response et ces derniers ont l'obligation de respecter tous les règlements qui y sont applicables. En ce qui concerne votre plainte relative au jeu « Lignes de la Chance » durant l'émission diffusée dans la nuit du 9 juin dernier, vous alléguiez qu'il est impossible de tomber sur une de ces lignes, ce qui est inexact. Dans les faits, 4 personnes durant le jeu sont tombées sur une ligne de la chance lorsqu'elle était active et déclarée comme telle durant le jeu.

Pour votre information, sachez que les procédures techniques entourant le choix, au hasard, d'un appel ou d'un texto, ont été contrôlées et vérifiées par une tierce partie indépendante (à savoir KPMG) et elles sont conformes au standard de vérification « SAS 70 ». La conception et le déroulement des jeux ont eux aussi été soumis à des contrôles juridiques et techniques.

Par ailleurs, vous indiquez qu'il y avait 4 noms d'animaux dans la grille mais qu'un seul était écrit correctement. Ceci est également inexact. Il y avait plusieurs noms d'animaux écrits correctement (indiqués en rouge sur la photo du jeu en annexe) et tous correspondaient à une bonne réponse. Les noms d'animaux qui n'étaient pas écrits correctement, ne constituaient pas une bonne réponse mais étaient présents afin de rendre le jeu plus difficile.

Finalement, vous dites que le problème est que cela coûte 1 \$ par appel, que vous tombez tout le temps sur une mauvaise ligne et que la facture s'élève à un maximum de 200 \$. Dans ce contexte, nous aimerions préciser que les frais sont clairement indiqués sur l'écran et répétés durant l'émission par l'hôtesse. L'information est donc clairement

visible et accessible pour les téléspectateurs. L'émission est réservée à des personnes de 18 ans et plus, lesquelles ont la capacité et la liberté de participer ou pas incluant l'acceptation des frais indiqués qui ne sont pas cachés. Par ailleurs, le maximum de 200 \$ est une politique instaurée par Mass Response Service GmbH dans le but de plafonner la participation afin de protéger les téléspectateurs, un tel plafond n'étant cependant pas requis.

Dans la mesure où vous souhaiteriez obtenir des explications plus détaillées sur les jeux et sur le choix des participants, nous vous invitons à consulter une des sources d'informations de *Call TV*, soit le site web (www.calltv.ca) ou à appeler la ligne d'informations (1-877-264-2864). Le service à la clientèle rejoignable au 1-888-627-7706 se fera un plaisir de vous fournir plus de renseignements.

Nous vous prions d'agréer, Monsieur, l'expression de nos sentiments distingués.

Correspondance additionnelle

Dossier 09-10-1563

Le plaignant a soumis sa Demande de décision le 9 juin :

J'ai reçu de la part du diffuseur V télé un semblant d'explication qui loin de me satisfaire renforce mon désir de mener au bout cette affaire. On insiste ainsi sur le fait qu'il s'agit d'une infopublicité or rien dans cette émission ne correspond à la définition même d'une telle entité hybride puisqu'il n'y a aucun produit ni service à vendre ou promouvoir ici. On insiste aussi sur le fait qu'une firme indépendante veille au bon déroulement des jeux et des remises de prix et qu'un système informatisé détermine la façon dont les appels sont reçus en studio comme si aucune intervention humaine ne venait contrôler de près ou de loin le déroulement de ces jeux. De plus les questions de calcul mathématique sont tout à fait ridicules car rien ne détermine d'une façon claire la manière d'effectuer les calculs ainsi $18+18-18 \times 2$ ne donne pas 36 comme toute bonne calculatrice le dirais mais bien 0 d'après *Call TV*.

En espérant qu'il ne s'écoulera une année avant d'obtenir une décision de votre part.

Pendant le mois d'août, ce plaignant a envoyé trois courriels demandant ce qui se passe avec son dossier.

Dossier 09-10-1735

Le plaignant de ce dossier a envoyé le courriel suivant le 16 juillet :

Je ne suis pas d'accord avec la réponse de V télé.

Leur réponse est dénuée de sens et ils protègent leur émission car c'est leur client.

Je demande une décision.