

---

## APPENDIX

### CBSC Decision 06/07-0244 Sun TV (CKXT-TV) re an infomercial for a telephone sex line

---

#### The Complaint

The CBSC received the following complaint dated October 8, 2006 via the CRTC:

CKXT, Sun TV, Channel 52 on the antenna, in Toronto, Ontario at 1530h showed a half-hour infomercial for a "phone sex" telephone line. The women portrayed in the commercial were acting in a manner that was not suitable for airing on TV for this time of the day, especially on a Sunday! The images were, in my opinion, pornographic. I took personal offence to seeing this on a holiday weekend. I would expect that there are regulations for time-of-day airings of this type of content. The website to contact the station directly only provides a fax number -- <http://suntv.canoe.ca/contact.html>. It appears that media relations and sales are more important to them than the public. Is there anything that can be done? Thank you.

#### Broadcaster's Response

The broadcaster responded on October 30:

Dear Mr. Coulter,

I am writing to respond to your e-mail to the CRTC and CBSC regarding the infomercial which aired on SUN TV. First of all, thank you for your e-mail as it is through correspondence with our viewers that we strive to constantly improve our service.

I would like to apologize on behalf of the station for the unfortunate incident in which we aired an infomercial intended for late night telecast during the afternoon. Although the content was approved for telecast anytime, we self-regulate where these air on our station, and never schedule these type of infomercials prior to 1:00 am. This one was scheduled incorrectly in our system, and the infomercial that was supposed to air that afternoon was scooters for seniors.

What happened is unacceptable to us as well, and we have subsequently put forth measures to ensure this does not happen again.

Again, please accept my sincere apologies, and do not hesitate to contact me directly if you have any questions.

## Additional Correspondence

The complainant submitted his Ruling Request on November 23 with the following note:

I have waited for a response from Sun TV regarding my complaint as filed above and have not received anything. I have read the CBSC's material that pertains to "Watershed Hours" and Clause 9 [sic] of the *Code of Ethics*. I firmly believe that Sun TV in Toronto is in gross violation of both these guidelines. I am very disappointed that Sun TV did not respond, and I feel that they expected I would just go away and/or forget. A commercial portraying women in sexual/seductive context is inappropriate for this time of day, and was very irresponsible on the part of the broadcaster.

As a responsible citizen, I now ask for a ruling by the CSBC with respect to violations of the watershed hour for airing sexual content, intended for adults only, at 3:30 pm. I would also ask for a follow-up as to why SUN TV did not respond to my concerns when asked by the CBSC. And lastly, I request comments from the CBSC -- after viewing the logger tapes that were supposed to be secured as per [the CBSC Correspondence Officer]'s request on 1 Nov 06 -- as to the ethical correctness of SUN TV's airing. I request that a copy of any rulings or other correspondence be mailed to my address that you have on file.

I have an extended absence from my office, so I would ask that e-mail regarding this file not be sent to the e-mail [xx@xx.xx] but instead to my personal email below.

I can be reached after 4:30 pm weekdays at [###-###-####] until 11 Dec 06. I will be out of the country after this date until mid-January. I hope that this will be taken into consideration if I am requested to respond to Sun TV or the CBSC during this time.

I am very interested in hearing from the CBSC on this matter in the near future.

Since the complainant indicated that he had not received the response from Sun TV, the CBSC forwarded him a copy of the October 30 response. The complainant wrote back on November 24:

Thank you for forwarding this to me; however something does not seem to add up. [The CBSC's Correspondence Officer] sent me an email on the 1 Nov 06 indicating that I should receive a response within 21 days. If Sun TV had sent a response on 30 Oct 06 why wouldn't she have forwarded it to me on 1 Nov 06 instead of telling me to wait 21 days?

I can't help but to feel concerned with the handling of my issue by the CBSC. The first e-mail I received from [the CBSC's Correspondence Officer] stated something to the effect that she would not be able to pursue my case as I did not provide a date. However, the letter that I received from the CRTC, that was cc'd to the CBSC and caused the CBSC to respond to me, was titled at the top of the page in bold letters with the date and time of the airing. I faxed a letter to the CBSC to give amplifying detail on this. I later received an e-mail from her referencing a telephone conversation with her that I never had.

Now, having read the response from Sun TV I ask that you address and respond to the following concerns:

1. On what basis/regulation/code of ethics can a phone sex infomercial be "approved for airing anytime" when there is material intended for adults only? And what of the Watershed hour?
2. Can you please provide an explanation as to why the CBSC misunderstood the date and time of my case when it was clearly stated on the letter sent by the CRTC?
3. Why did the CBSC send me an email stating that I would receive a response from Sun TV within 21 days when the CBSC had a response on 30 Oct 06?

I fully understand that there are a lot of complaints received by the CBSC and there is a process that must be followed, both of which take time to handle. However, as you can see from my concerns above I believe there are shortcomings that need to be addressed. In light of them all, I am losing confidence in the system.

I would ask that you ensure that this e-mail be included as a document for consideration when a ruling is made by the CBSC.

The CBSC responded to that letter on November 28 with the following explanation:

The Canadian Broadcast Standards Council (CBSC) has received your e-mail of November 24, 2006 in which you raise questions about the handling of your file. Upon close examination of your file, it appears that there were indeed a couple of "slip-ups" in the initial handling of your complaint and we sincerely apologize for these oversights. The CBSC receives a large amount of correspondence in a day and we are an office of only five individuals. Rest assured that your complaint is now following normal procedure and will be adjudicated at the next meeting of the CBSC's Ontario Regional Panel. The date for that meeting has yet to be set, as we generally wait until we have more than one file to discuss before calling a meeting. It will, however, be held within the next six months.

In response to your question about the infomercial being "approved for airing anytime", that comment by the station likely referred to the process by which television advertisements are assessed by the Telecaster Services of the Television Bureau of Canada (TVB). Telecaster Services pre-clear commercials and infomercials based on a set of guidelines. Telecaster is completely separate from the CBSC and the guidelines administered by both organizations are not identical. The CBSC has explained in its previous decisions that approval by Telecaster does not mean that the content cannot be found in violation of the codes administered by the CBSC. Under Clause 10 of the Canadian Association of Broadcasters' (CAB) *Code of Ethics*, broadcasters shall not air sexual material intended for adults only before the Watershed hour of 9:00 pm. The CBSC has had to determine in previous decisions what type of content constitutes "sexual material intended for adult audiences". It is under that code provision and based on those precedent decisions that your complaint will be examined.

Your e-mail of November 24 will be included in the review of this file. We apologize again for the oversights that occurred in the initial treatment of your complaint.

The complainant replied on November 28:

Your timely response is appreciated and has rejuvenated my confidence. Thank you.

I look forward to the CBSC's ruling.