
**CANADIAN BROADCAST STANDARDS COUNCIL
QUEBEC REGIONAL COUNCIL**

TQS re the movie *L'inconnu*

(CBSC Decision 98/99-0176)

Decided June 23, 1999

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THE FACTS

On November 5, 1998, at 7:30 pm, TQS aired a psychological thriller feature film entitled, in French, *L'inconnu* (the original English language title was *Never Talk to Strangers*). The film tells the story of a woman psychiatrist (played by Rebecca DeMornay), whose professional specialty is multiple personality disorders. She begins to be harassed by threatening messages and horrible "gifts" at a time which coincides with two important events; the first being the inception of an important psychiatric evaluation she must perform on a man accused of multiple rapes and murders; and the second being her sudden meeting and rapid intimate involvement with a mysterious stranger (played by Antonio Banderas).

The harassment quickly escalates when the psychiatrist's beloved cat is mutilated and delivered to her in pieces in a box. Her life is later threatened with electrocution when an electric heater is rigged to fall into her bathtub. The movie is replete with other frightening moments and culminates in a showdown between the psychiatrist, her father and the mysterious lover, both of whom are shot by the psychiatrist who, it is revealed, suffers from her own multiple personality disorder as a result of traumatic childhood experiences.

The film was preceded by a viewer advisory in both visual and audio format which stated: "[Translation] The following program contains scenes of violence and sexuality which may not be suitable for children. Parental discretion is advised." This advisory was also scrolled once along the bottom of the screen shortly after the third commercial break. In addition, an on-screen icon, displayed at the beginning of the movie and after the fourth commercial break, indicated that the movie was rated 13+.

The Letter of Complaint

On December 20, 1998, two viewers sent the following letter to the CRTC, which forwarded the matter to the CBSC in due course:

[Translation] We are surprised and shocked to see, not for the first time, movies containing very erotic scenes intended for adult audiences broadcast on television in the early evening, namely 7:30 p.m. (e.g. Thursday evening, November 5, *L'inconnu*, TQS, Hull). How can we allow children to see such things? The programming directors do not appear to be aware of their role to play vis-à-vis today's youth. Must we remind them of that very important societal role which they play; it is on them that the responsibility and duty for ensuring the moral content of television at that time of day falls. It seems that they believe that a disclaimer at the bottom of the screen (Attention: Contains scenes of violence and eroticism) makes the film acceptable for broadcast at 7:30 or 8:00 p.m.

In a world where everything is becoming more and more modern, homes are known to have more than one television and, therefore, maintaining supervision can be difficult, e.g. where kids have a t.v. in their rooms for video games. As parents, we should be confident that our children will be respected by programmers who are competent and vigilant in their programming choices. I hope to regain this certainty.

This is our recollection of *L'inconnu*:

A young criminologist is receiving anonymous messages and packages. It's obvious that this woman is an important character. She has a lover and risqué scenes of violence and eroticism are shown. For example, we see her lover nude and she licks and bites his back all the way down to his buttocks. The camera gives us a very clear image of the action.

She receives anonymous messages and packages. In one box she finds her dead cat. She is scared and vomits. She asks the police to help her. She even suspects her lover. He, for his part, is investigating her and installs a camera to see who is doing these things to her. Her father visits and we discover the traumatic incident she went through when she was about 5 years-old. Her father had violently beaten her mother and he asked his little girl to kill her mother with a gun. She couldn't do it so her father told her he'd help her. With his help, she killed her mother. He told her she didn't do anything wrong because 'mommy was mean to daddy'. She became a psychopath with a split personality. In a standoff with her father and her lover, she kills them both. She then told the story (without ever having to go to trial) that her lover had killed her father and that she shot her lover in self-defence.

In the end, she's on the elevator with a friend who tells her that he's happy to see his good old friend again.

Must we turn a blind eye and say nothing? We don't think so. Is this what boys between the ages of 10 and 13, who are just beginning to discover their sexuality, should be watching? Domination, violence, submissive women and other vermin.

We shouldn't be surprised to see more and more violence against women. We ask that you step in to ensure that no television station ever broadcasts this type of film again.

The Broadcaster's Response

The Vice-President of Communications at TQS replied to the complainants on January 4, 1999, with the following short letter:

[Translation] We acknowledge receipt of your letter to the CRTC in which you expressed concerns regarding the broadcast of *L'inconnu* on November 5, 1998.

We are very sorry that you were shocked by certain scenes in this movie. However, at the beginning of the broadcast we aired the following advisory: "This film contains scenes of violence and sexuality unsuitable for young viewers. Parental guidance is advised." This advisory was also aired after the third commercial break. Furthermore, the movie was aimed at an audience aged 13 and over as this was indicated at the beginning of the movie as well as at the top of the second hour.

The complainants were unsatisfied with the broadcaster's response and requested, on March 1, 1999, that the CBSC refer the matter to the appropriate Regional Council for adjudication. With their request, the complainants added the following note which further explained their position.

The response sent to us by TQS is not what we were hoping for. We believe that preserving our children's morality is an established value in our society. We are not puritans, just responsible parents who share in the values of love and respect for children.

THE DECISION

The CBSC's Ontario Regional Council considered the complaint under the *Voluntary Code regarding Violence in Television Programming*. The relevant clauses of that Code read as follows:

Violence Code, Clause 1 (Content)

1.1 Canadian broadcasters shall not air programming which:

- ! contains gratuitous violence in any form*
- ! sanctions, promotes or glamorizes violence

(*"Gratuitous" means material which does not play an integral role in developing the plot, character or theme of the material as a whole).

Violence Code, Clause 3 (Scheduling)

3.1.1 Programming which contains scenes of violence intended for adult audiences shall not be telecast before the late evening viewing period, defined as 9 pm to 6 am.

Violence Code, Clause 4 (Classification)

Canadian broadcasters are in the process of co-operatively developing with other segments of the industry, a viewer-friendly classification system, which will provide guidelines on content and the intended audience for programming.

Once complete, the classification system shall complement this Voluntary Code. As it is recognized that a classification system will have a bearing on program scheduling, the provisions of article 3.0 above shall be reviewed at that time.

Violence Code, Clause 5 (Viewer Advisories)

- 5.2 Broadcasters shall provide a viewer advisory at the beginning of, and during programming telecast outside of late evening hours, which contains scenes of violence not suitable for children.

Violence Code, Clause 7 (Violence Against Women)

- 7.1 Broadcasters shall not telecast programming which sanctions, promotes or glamorizes any aspect of violence against women.
- 7.2 Broadcasters shall ensure that women are not depicted as victims of violence unless the violence is integral to the story being told. Broadcasters shall be particularly sensitive not to perpetuate the link between women in a sexual context and women as victims of violence.
- 7.3 Broadcasters shall refer to the Canadian Association of Broadcasters' code on Sex Role Portrayal for guidance regarding the portrayal of women in general.

The Regional Council members viewed a tape of the movie in question and reviewed all of the correspondence. In the Council's view, the movie in question contained scenes of violence and sexuality intended for adult audiences. By broadcasting the movie in the early evening and by providing only one additional viewer advisory after the first at the beginning of the movie, TQS has breached Clauses 3 and 5 of the *Violence Code*.

The Content of the Program

The complainants appear to consider that the movie promoted violence against women. Indeed, in their concluding paragraph, they state "We shouldn't be surprised to see more and more violence against women" and they admonish the Council to "ensure that no television station ever broadcasts this type of film again." The Council, however, found nothing in the movie which *in any way* "sanctions, promotes or glamorizes any aspect of violence against women", in contravention of Clause 7 of the *Violence Code*. While the Council acknowledges that the movie is about a woman who is threatened by a mysterious stalker, the Council can hardly fail to note that it is only the *men* in the movie who suffer any bodily harm and, moreover, this harm is inflicted *by the female protagonist herself*.

To the extent that the complainants are concerned with the *general* violent and erotic content of the movie, though, the Council agrees with them that some scenes could reasonably be understood as being intended for adult audiences. In *CKCO-TV re Kazan* (CBSC Decision 96/97-0226, February 20, 1998), the Ontario Regional Council laid down some criteria which may be helpful in determining whether scenes of violence are “intended for adult audiences”. That decision concerned a Sunday matinee movie which told the story of a canine (part dog/part wolf) named Kazan whose personal challenge was to decide whether he belonged in the wilderness or in the company of humans. The movie included scenes depicting the strangulation of a man as well as the beating, shooting and near drowning of Kazan himself. While the complaint principally related to the issue of cruelty to animals, the Ontario Regional Council considered the full gamut of the violence in the film in order to determine whether those scenes of violence could be described as “intended for adult audiences”. The Council concluded that they were not.

The Council does not consider that the scenes of violence contained in *Kazan* are of such a nature as to be intended for adult audiences only, although they contain more violent elements than do the scenes contained in *Before It's Too Late* and in the episode of *Matrix* considered by the Council. While it is difficult to propose any cut-and-dried formula to apply in coming to any such conclusion, the Council does consider that the presence of the combined elements of fear, suspense, gore and explicitness may help characterize programming containing scenes of violence as *adult*. The Council notes that the scenes of violence in the movie *Kazan* were short and often obscured to limit their scariness. The Council finds that, overall, the movie was very tame; in the Council's view, the few scenes of violence do not negate this characterization. Given the viewer advisories which preceded the broadcast of the movie and were repeated during the first commercial break, the Council is comfortable with CKCO-TV's scheduling of the movie *Kazan* at 1 p.m.

In this case, the Council has no hesitation in concluding that the combined elements of fear, suspense, gore and explicitness, referred to in the *Kazan* decision, are present in at least the scenes showing the mutilated cat, the bloody writing on the wall and the final showdown where the psychiatrist kills her father and her lover. The Council considers that the presence of these elements, in combination with the overall suspenseful and frightening nature of the movie, renders the aforementioned scenes as “intended for adult audiences”.

The Council also considers that some of the erotic scenes, in particular the very first sex scene which depicts “rough” lovemaking, come within the purview of what would generally be considered as material “intended for adult audiences”. In *CITY-TV re Ed the Sock* (CBSC Decision 9495-0100, August 23, 1995) and in *CFMT-TV re an Episode of “The Simpsons”* (CBSC Decision 94/95-0082, August 18, 1995), among others, the CBSC has noted that broadcasters have tended, over the five years in which they have been adhering to the *CAB Violence Code*, to apply the watershed hour principle not only to programming containing *violent* material but also to programming containing other kinds of material deemed by the broadcaster itself to be more suitable for mature audiences. The same can also be said in regard to the provision of viewer advisories and classification issues. In *CFJP-TV (TQS) re Été sensuel* (CBSC Decision 95/96-0233, August 14, 1998), when

considering a complaint concerning an erotic film aired under TQS' series title *Bleu Nuit*, the Quebec Regional Council noted the following:

It should ... be noted that, while the thrust of the required policy [on the classification system] was toward violence in television programming, the Public Notice ["Classification System for Violence in Television Programming" (Public Notice CRTC 1997-80, June 18, 1997)] also provided the Commission's recognition that the proposal of the Action Group for Violence on Television (AGVOT) went further.

The Commission notes AGVOT's intention to incorporate the violence classification system into a comprehensive ratings system for television programs that will also include information about such other content elements as coarse language, nudity and sex.

Having determined that the movie contained scenes of violence and sex intended for adult audiences, the Council *must* conclude that the movie should not have been broadcast in a pre-watershed time period. Accordingly, the Council concludes that the broadcaster is in violation of Clause 3.1 of the *Violence Code* which states that "programming which contains scenes of violence intended for adult audiences shall not be telecast before the late evening viewing period, defined as 9 pm to 6 am."

The Issue of Viewer Advisories

Moreover, the Council finds that TQS' provision of viewer advisories was inadequate in light of the movie's content and its scheduling. Given that the movie was broadcast outside of late evening hours, it is subject to the requirements of Clause 5.2 of the *Violence Code* which states that "broadcasters shall provide a viewer advisory *at the beginning of, and during* programming telecast outside of late evening hours, which contains scenes of violence not suitable for children [Emphasis added]". To fully appreciate the meaning of the emphasized words, one must consider the requirement of Clause 5.1, which requires the viewer advisories be provided "at the beginning of, and during the first hour of programming telecast in late evening hours [i.e. post-watershed]" which contains elements of violence intended for adult audiences. In the Council's view, the effect of these provisions is that the broadcaster must provide viewer advisories during the full length of a pre-watershed program which contains violent scenes "not suitable for children." If the codifiers had intended that advisories be limited to "the first hour" of programming requiring advisories at all, they would have chosen parallel language for the two sub-clauses.

In any event, the broadcaster in this case failed on either count. The Council does not consider that the *one-time* scroll of the viewer advisory meets the requirements of providing viewers advisories *during* programming. In *CTV re Poltergeist - The Legacy* (CBSC Decisions 96/97-0017 and 96/97-0030, May 8, 1997), in dealing with a program broadcast after the watershed hour, the Ontario Regional Council made general comments on the rationale underlying the requirement for the provision of advisories which can easily apply to the requirements relating to pre-watershed programming such as here. It stated:

The rationale underlying the requirement of viewer advisories is found in the background section of the Code, which state that "... creative freedom carries with it the responsibility of ensuring ... that viewers have adequate information about program content to make informed viewing choices based on their personal tastes and standards." The repetition of viewer advisories *during the course of* the first hour serves as a second, third and fourth chance for viewers to receive important information concerning the program they are considering watching, *even where they may tune in late*. The Code takes into account that many viewers make their viewing choices *after* the first few minutes of a program, which may result in a viewer missing an initial advisory. The Council is of the view that CTV's approach to viewer advisories in this case, *i.e.* other than the initial advisory, providing them only in the *second* hour of the program, is insufficient for viewers and in breach of the spirit and wording of the Code. [Emphasis added.]

The Council finds that, by providing only a late second chance for viewers to receive important information concerning the program they might have been considering watching, TQS failed to meet the requirements of Clause 5.2 of the *Violence Code*.

Program Classification

As stated in *CFJP-TV (TQS) re Été sensuel* (CBSC Decision 95/96-0233, August 14, 1998), pursuant to the CRTC's policy regarding a "Classification System for Violence in Television Programming" (Public Notice CRTC 1997-80, June 18, 1997), the CBSC is charged with acting "as an arbitrator in disputes regarding the classification of television programs."

Where it must deal with classification issues relating to feature films broadcast on French-language broadcasters in Quebec, the Council has the benefit of the reasons set out by the *Régie du cinéma du Québec* for its rating of the movie in question. In assigning the rating of 13+ with the additional notes of "Eroticism and Violence" to *L'inconnu*, the *Régie* made the following comments regarding the movie:

the jury considers that an early adolescent audience would be capable of adopting a critical perspective vis-à-vis scenes which would threaten the sense of security of of a younger audience. Consequently, the jury finds that this movie can be seen by an audience in the early stages of maturity.

The Council considers that TQS' decision to rate the movie at the same level as did the *Régie du cinéma* was appropriate in this case.

Broadcaster Responsiveness

In addition to assessing the relevance of the Codes to the complaint, the CBSC always assesses the *responsiveness* of the broadcaster to the substance of the complaint. In this case, the Council considers that the broadcaster's response was extremely brief and could

hardly have been said to have attempted to address fully and fairly all the issues raised by the complainants. In the circumstances, the broadcaster was on the edge of also being in breach of the Council's standard of responsiveness. It would be beneficial for the continuing dialogue between broadcasters and members of the public to deal somewhat more fully with concerned and serious complainants, even though the broadcaster is under no obligation to share their point of view regarding the program itself.

CONTENT OF THE ANNOUNCEMENT OF THE DECISION

The station is required to announce this decision forthwith, in the following terms, during prime time and, within the next thirty days, to provide confirmation of the airing of the statement to the CBSC and to the complainants who filed a Ruling Request.

The Canadian Broadcast Standards Council has found that Télévision Quatre Saisons breached provisions of the Canadian Association of Broadcaster's *Violence Code* in its broadcast of the feature film entitled *L'inconnu* on November 5, 1998. In the Council's view, the movie contained scenes of violence and sexuality intended for adult audiences. By broadcasting the movie in the early evening, at 7:30 p.m., rather than after the watershed hour and by failing to provide additional viewer advisories at each commercial break, TQS has breached both the scheduling and advisory requirements set out in Clauses 3 and 5 of the *Violence Code*.

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