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**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL COUNCIL**

CITY-TV re a broadcast promo for *SexTV*

(CBSC Decision 99/00-0133)

Decided July 6, 2000

R. Stanbury (Chair), P. Fockler (Vice-Chair), M. Hogarth (*ad hoc*),  
M. Oldfield and S. Whiting

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**THE FACTS**

During its regular broadcast of *Seinfeld* on November 2, 1999, CITY-TV showed a promo (at 7:15 pm) for its late night *SexTV* show, which began with the message "The average male has a sexual thought every 8 seconds." The camera then panned slowly over the body of a nude woman, who was lying sideways, facing the camera. The woman's arms and legs were discreetly positioned to obscure her breasts and genitalia. The promo ended with the message "But who is counting?".

On the following day, the complainant wrote, in part: "I want this ad banned. If it isn't illegal, it is morally wrong, degrading to women, and harmful for children to see and think about how often their fathers, uncles, grandfathers think about sex." The full text of this letter and the broadcaster's response are provided in the Appendix to this decision. The Vice President, Communications, for CITY-TV acknowledged a traffic error on its part in the logging of the particular promo before the generally accepted 9 pm Watershed hour. She said:

Upon looking into the promotional logs for that day, we discovered that due to a manual logging error, we did indeed air the spot you describe. The show in question has two promotional spots on the air, one specifically designed to run in the early prime time hours when children may be watching and one for airing post 9pm for an adult audience. Unfortunately, on that one particular occasion, the catalogue numbers for the two spots were mixed and the wrong spot ran. Rest assured, I have personally met with our on air promotions people to ensure this does not happen again.

The viewer was unsatisfied with this response and requested, on January 4, 2000, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

## THE DECISION

The CBSC's Ontario Regional Council considered the complaint under the Canadian Association of Broadcasters' (CAB) *Sex-Role Portrayal Code* and *Violence Code*. The relevant provisions of those Codes read as follows:

### *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 3.1.1 (Scheduling)

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 Regional Council members viewed a tape of the promo in question and reviewed all of the correspondence. While the Council, like the complainant, has some concerns about the time of the broadcast, it does not consider that the promo is in violation of either of the Code provisions cited above.

## The Sex-Role Portrayal Issues

Like all *Code of Ethics* and many, if not most *Violence Code* issues, those relating to gender portrayal are unrelated to the time of broadcast. It is only those limited categories of issues which, while inherently acceptable, may be unacceptable if broadcast to an audience more likely to be populated by non-adults. Article 3.1.1, as extended by the decisions of the CBSC over the years, provides, in effect, that programming containing scenes of violence or other material intended for adult audiences have a time-constrained period in which it may air. On the other hand, in this case, as with most of the matters with which the Council deals, there is no time after which it becomes acceptable to air negative or degrading comments about one sex or the other. In this case, the complainant has raised two aspects of the promo which the Council has considered pursuant to Clause 4 of the *Sex-Role Portrayal Code*, namely, the possible degrading nature of the portrayal of a nude woman, on the one hand, and the possible degrading or negative comment regarding the sexual proclivities of men.

## The Woman

Regarding the portrayal of the naked woman, the Council considers it useful first to refer to certain earlier decisions of the Ontario Regional Council. In *CFTO-TV and CFMT-TV re Walk to Work Commercials* (CBSC Decision 93/94-0015, June 22, 1994), for example, the 30-second commercial depicted a naked man walking to a bus stop, wearing a set of headphones and carrying a briefcase that hid his genitals. The commercial also briefly depicted a naked woman, sitting on a bench at the bus stop, whose torso was materially hidden by a large portable stereo. The voice-over to the commercial stated, near the end of the spot, "CHUM-FM: it's all you need to put on." In that case,

the Regional Council members felt that the spot did not contain any sexual overtones or any attempt to encourage viewers to emulate any activity depicted on screen. It was, if anything, tongue-in-cheek, a double-entendre, a play on the radio verb "to put on (the radio or the station)".

As this Council also observed, in the case of *CHCH-TV re an episode of Baywatch* (CBSC Decision 94/95-0045, August 23, 1995), "Unless and until genitalia become *publicly* exposed, these anatomical parts remain *private*." In that decision, the Council was dealing with a complaint about a program concerning lifeguards which were often depicted in revealing bathing suits on the beach. In the case at hand, the "private parts" of the nude woman remain as private and unrevealed as those in the *Walk to Work* and *Baywatch* decisions.

While, in the present matter, the promotional message is meant to be more sexually alluring than was the case in either the *Walk to Work* or the *Baywatch* decisions, it is not, in the view of the Council, problematic in this regard. It cannot be forgotten, after all, that the promo is intended to induce the watching of a program whose title *SexTV* tells almost everything a prospective viewer (or non-viewer) needs to know. (The complaint is not, of course, about the late-night show itself, which clearly falls into the *Broadcasting Act's* contemplated diversity of programming designed to meet the needs and special likes and desires of all Canadians.) The Council notes that the promo did not involve any overly gratuitous use of the naked woman; the artistically and discreetly photographed individual was relevant to both the nature of the program underlying the 30-second promotional spot and the attention-grabbing message of the promo itself. While the Council notes that the advertisement perpetuates to some extent the stereotype of the woman as sexual object, it also notes that many elements of the depiction of the woman in the promo, such as the strong eye contact of the woman with the camera (and thus the viewer), go a long way to attenuating the objectification of the woman as a sexual play-thing. In the circumstances, the Council does not find that either the individual woman, or women in general, were demeaned by the promo and concludes that no breach of the *Sex-Role Portrayal Code* is disclosed.

## The Man

The Council had more difficulty with the question of the negative or degrading commentary regarding men. The Council's concern, however, is not, as seems to be the case with the complainant, that children might "see and think about how often their fathers, uncles, grandfathers think about sex", but rather that anyone might conclude that the theme of the promo is, simply put, that men are unidimensionally sex-obsessed, which could be understood as a negative or degrading comment regarding men. That men (and, presumably, women) think about sex seems, to the Council, quite straightforward and natural. It is, the Council assumes, the basis for the very existence of the late-night program *SexTV*. It is hardly necessary to say that the Council sees no harm in that.

The question for the Council, though, is whether men are being *unattractively* portrayed as being driven on a one-track mind set toward sexual thoughts. The Council does not so conclude. On balance, the Council considers that it would be unreasonable to conclude that the promo suggests that there is no other side to men than their sex drive. Moreover, the promo is obviously tongue-in-cheek and attempting to solicit the interest of the viewer to plumb the male sex drive and other "mysteries" of the sexual world. If anything, it believes that the principle laid down in *CHFI-FM re the Don Daynard Show* (CBSC Decision 94/95-0145, March 26, 1996) is applicable here. There, the Council dealt with a series of "light bulb jokes", one of which targeted Jewish mothers. The Council found that the Jewish mother joke "while ethnically pointed, was neither demeaning nor abusive." It stated, and these words have since become the cornerstone of the CBSC's decisions regarding discriminatory humour, "[the joke] poked fun but did not bludgeon. It tickled but was not nasty." Based on that principle, the Council concludes that, while the "8 seconds" comment is pointed and suggestive, it is not in breach of the *Sex-Role Portrayal Code*.

## The Scheduling Issue

The Council wishes, first of all, to make it absolutely clear that a show which can itself only air in a post-Watershed time frame, namely, after 9:00 p.m. in the originating time zone, *can* be promoted prior to the Watershed. While there is, it goes without saying, an evaluation to be made of the content of the promo itself, the fundamental entitlement to promote the post-Watershed program itself is beyond contestation.

The question for the Council, then, is whether *the promo* was "intended for an adult audience." While the broadcaster acknowledges that it had separate promos, one which was pre-Watershed in orientation and the other post-Watershed, and that the one which played at 7:15 pm was run during *Seinfeld* in error, the Council does not conclude that CITY-TV was thus *in breach of the Code*. It was, *from the broadcaster's perspective* "intended for [their] adult audience"; the Council's interpretation of those words, though, must be more rigorous than that of the broadcaster since it is upon the Council that the mandate to interpret and apply the Code rests. It is those words, "intended for an adult audience", which set out the test under which the Council evaluates the scheduling of all

programming pursuant to Clause 3 of the *Violence Code*. In the Council's view, to fall afoul of the scheduling provision of the *Violence Code*, the challenged programming must not merely be "attractive" *mainly* to adults, it must be intended for an adult audience *to the exclusion of a non-adult audience*. The Council considers that the view of the Quebec Regional Council, which reviewed the various *Fashion Television* and other decisions on the showing of women's breasts, in *TQS re the Movie Strip Tease* (CBSC Decision 98/99-0441, February 21, 2000) is apposite in the present context. It said:

[T]he Council considers that the absence of sexual contact or lovemaking in the film rendered it, to all intents and purposes, sufficiently innocent that there would not even be a requirement that its broadcast occur only in a post-watershed time frame.

Similarly, the Council finds no breach in the present matter. It does, however, agree with both the broadcaster and the complainant that it would be more appropriate *not* to run such promos at a time when children could be expected to be watching.

### **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. This is one of those cases in which the broadcaster has been particularly responsive. The Council commends the broadcaster for admitting its pragmatic error and for assuring the complainant that it would not occur again. As the Council has often observed, broadcasters frequently demonstrate their responsiveness to complaints of their viewers or listeners, even when the challenged programming is not in breach of any Code provision. That is the case here. Nothing more could be required of the broadcaster. Consequently, the broadcaster has not breached the Council's standard of responsiveness.

*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.*

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**APPENDIX**  
**TO CBSC DECISION 99/00-133**  
***CITY-TV re a broadcast promo for SexTV***

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**I. The Complaint**

The following complaint dated November 3, 1999 was sent to the CRTC and forwarded to the CBSC in due course:

“A MAN THINKS OF SEX EVERY 8 SECONDS”

This, along with a pictorial of a nude woman, shown seductively by the camera from head to foot. Is this how we want to destroy the innocence of children?

Seen at 7:15 p.m., prime time, during Seinfeld. Date, Tuesday November 2, 1999. Purpose to promote Sex TV on CITY-TV.

I want this ad banned. If it isn't illegal, it is morally wrong, degrading to women, and harmful for children to see and think about how often their fathers, uncles, grandfathers think about sex.

Surely you, the reader of this letter can understand how us parents feel. We are distressed at how there is a great lack of control we have over the large amount of sexual content our children are subjected to.

I am counting on the CRTC to help us here.

Thank you for your attention on this serious matter.

On behalf of many, many parents.

**II. The Broadcaster's Response**

The Vice-President Communications, CITY-TV, dated November 26, 1999 with the following:

The Canadian Broadcast Standards Council has forwarded your letter of complaint regarding a promotional spot that aired for “Sex TV” during “Seinfeld” on City-TV November 2<sup>nd</sup>.

Upon looking into the promotional logs for that day, we discovered that due to a manual logging error, we did indeed air the spot you describe. The show in question has two promotional spots on the air, one specifically designed to run in the early prime time hours when children may be watching and one for airing post 9pm for an adult audience. Unfortunately, on that one particular occasion, the catalogue numbers for the two spots were mixed and the wrong spot ran. Rest assured, I have personally met with our on air promotions people to ensure this does not happen again.

Citytv has a long standing commitment to ensure our programming and promotion adhere with all community standards and have in fact, had our own in-house policy regarding issues of programming standards that predate the CBSC. We apologize for any embarrassment this may have caused you and your family. We appreciate all viewer complaints and compliments as this is the only way we can continue to improve our programming.

The complainant was unsatisfied with the broadcaster's response and requested, on January 4, 2000, that the CBSC refer the matter to the Ontario Regional Council for adjudication.