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

Bravo! re *Love on the Line*

(CBSC Decision 00/01-1050)

Decided May 3, 2002

R. Cohen (Chair), P. O'Neill (Vice-Chair), R. Cugini, R. Deverell, E. Duffy-MacLean,  
M. Hogarth, F. Niemi

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**THE FACTS**

The Specialty Service Bravo! aired the National Film Board (NFB) documentary film *Love on the Line* (the subtitled version of the Board's *Les miroirs aveugles*) on August 3, 2001 from 4:00-6:00 pm. The documentary is told through the experiences of a number of individuals, most of whom were involved in the use of telephone dating or telephone sex services. Their interviews included comments on their attitudes toward such dates, acknowledgment of their addiction (in many of the cases) to such services, their own understanding of why they used such services, the recounting of some of their erotic experiences, and, in one case, an interview with a person hired to answer such calls. In the latter instance, since Luc was filmed in the course of actual calls, some of the language used was very explicit. The broadcast was preceded by the following viewer advisory in both written and oral form:

The following program contains scenes with coarse language. Parental discretion is advised.

On that very day, the complainant contacted the CRTC by e-mail, saying in part (the full text of all of the correspondence is included in the Appendix):

This is an official complaint against the Bravo TV channel 40 (in the London Ont area). Today, 3rd of August 2001, Bravo TV was transmitting between the hours of 4-5 pm what can only be considered to be extreme vulgarity. The program focussed on homosexual phone sex and moreover, was very explicit, as it included detailed discussion and reaction to sexual acts. I do not wish to tolerate this type of television broadcast at any time, and much less at 4 pm in the afternoon when children are watching. In addition, it is degrading to our Canadian culture.

The complainant appeared to emphasize the gay aspect of the calls although, it is only reasonable to note, it did not represent more than a fraction, perhaps 15%, of the screen time. The broadcaster's Director of Programming and Acquisitions replied on August 27, in part:

*Love on the Line* is not about homosexual phone sex. It is a program about how more and more men and women are using communications technology to alleviate their isolation and solitude. The program deals with personal ads in the print media, telephone chat lines and online dating services. The particular segment to which you refer looks at phone sex through someone employed in that industry. We do see and hear him at work, but only to highlight the phoniness of what he provides, and as background to his eloquent comments about the needs and pathos of his clients, and his doubt that the virtual world can substitute for real personal relationships.

By its very nature, a channel related to the arts will sometimes include programming that is more adult in its content. It represents a very small part of our schedule. Furthermore, as an arts channel, our audiences have a particular expectation that we will not interfere with the artistic integrity of a film by bleeping or editing, and most of our viewers feel comfortable with the system of disclaimers and ratings we provide. *Love on the Line* was rated 14+ and prefixed with an advisory as to the coarse language it contained. It has played previously on the channel, and yours has been the only complaint.

In addition to the ratings and disclaimers we provide, we have adopted the V-chip technology, which enables concerned viewers to block out programming that is not to their taste.

The segment you caught was only part of a program that is two hours long, and that played from 4.00 pm to 6.00 pm I hope that the information I have provided puts it into context.

The complainant replied on September 3, in part:

Whether or not the main topic of the program was homosexual phone sex is irrelevant and you appear to miss the point. The fact that any portion of the program (small or not) discusses the topic at the 4-6 PM timeslot is completely distasteful and unacceptable to any parent of young children such as myself. I am sure that you are well aware that it is prime watching time for youngsters and there is no excuse for broadcasting such inappropriate programs. In addition, if such shows are to be broadcasted [*sic*], which I prefer not, they should be rated for the audience of 21+ and not 14+, as it is not exactly viewing material for teenagers but is as you point out "adult content" material.

The show is sexually explicit and should be classified as pornography not art.

In a letter of September 12 that dealt with the artistic recognition for the film (reproduced in full in the Appendix), the broadcaster's Director of Programming added:

The program showed no on-screen sex or pornographic acts, in other words, it was not designed to have any prurient appeal. It was a factual program in which the homosexual phone sex segment was - in the broader context - not part of a dominant theme. The program was prefixed with appropriate disclaimers and ratings, relating specifically to the coarse language.

A television channel cannot replace the role of responsible parenting. We provide you with the tools with which to make viewing choices for your children. Program descriptions are on our website. We have adopted the V-chip technology, and encourage parents with concerns such as yours to use

it, so they can block out programming they deem unsuitable. With respect to this particular program, according to A.C. Nielsen Media Research, no teenagers watched it.

After expressing his dissatisfaction with several aspects of the broadcaster's letter, the complainant wrote finally, in part:

Moreover, the fact whether sex was the dominant or peripheral theme is utterly irrelevant. Let me make it clear: I vehemently oppose any program with sexual content on TV at 4PM in the afternoon.

The broadcaster courteously replied a few days later that there was nothing she could add to the dialogue.

## THE DECISION

The National Specialty Services Panel considered the complaint under the following provisions of the Canadian Association of Broadcasters' *Violence Code*:

*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.

*CAB Violence Code*, Article 4.0 (Classification System):

### **Exempt**

#### Descriptive

Exempt programming includes: news, sports, documentaries and other information programming; talk shows, music videos, and variety programming.

Note: Exempt programming does not require an icon for on-screen ratings.

### **14+ Over 14 Years**

#### Descriptive

Programming with this classification contains themes or content elements which might not be suitable for viewers under the age of 14. Parents are strongly cautioned to exercise discretion in permitting viewing by pre-teens and early teens without parent/guardian supervision, as programming with this classification could deal with mature themes and societal issues in a realistic fashion.

#### Violence Guidelines

- while violence could be one of the dominant elements of the storyline, it must be integral to the development of plot or character.
- might contain intense scenes of violence.

Other Content Guidelines

Language:	Ø	could possibly include strong or frequent use of profanity
Sex/Nudity:	Ø	might include scenes of nudity and/or sexual activity within the context of narrative or theme

*CAB Violence Code*, Article 5.2 (Viewer Advisories):

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.

The National Panel Adjudicators viewed a screener tape of the program in question and reviewed all of the correspondence. For the reasons explained below, the Panel finds that the program ought to have aired post-9:00 pm. The broadcaster is not in breach of any of the other Code provisions cited above.

**The Aspect of the Complaint relating to the Portrayal of Homosexual Activity**

The complainant's initial focus (in the complaint of August 3) appeared to be on the fact that the "program focussed on homosexual phone sex and moreover was very explicit." He went on to describe the broadcast as "degrading to our Canadian culture" although it is unclear whether this comment was intended to be focussed on the homosexual aspects of the broadcast. His focus was such that this was the first substantive comment made by the broadcaster's Programming Director in her letter of response. While the complainant appeared to back away *slightly* in his next correspondence, he never disassociated himself from that initial reaction to the program. Moreover, the Panel finds it quite clear that the scenes involving Luc Huot (or his alter ego, Sébastien) represent but a small portion of the entire documentary and are not, insofar as they can be understood as being tied to *homosexual* sexual behaviour, at all determinative of the Panel's conclusion in this matter.

In *CFJP-TV (TQS) re "Quand l'amour est gai"* (CBSC Decision 94/95-0204, December 6, 1995), for example, the documentary film, which dealt with love and sexuality among homosexual men and the challenges facing the homosexual community, included segments of interviews and individuals discussing their personal experiences, as well as approximately 10 brief scenes of nude men, in strip clubs, in bars or in bed, kissing or caressing each other, as well as a longer scene with two nude men in bed, caressing each other. The Quebec Panel said:

The Council further acknowledges that this program will not be everyone's "cup of tea" and it assumes that some members of society would be offended by the film. *That* is not, however, the criterion by which the program must be judged. It is rather that the film discusses a controversial subject which is an acknowledged component of Canadian society. By the nature of the medium, this discussion occurs in images rather than in words alone. Nothing else could be expected and the broadcaster can hardly be faulted on this account.

The Council also wishes to make certain comments regarding the nature of the scenes portrayed within the film. The Council members are of the view that the depiction of sexuality between men was entirely appropriate for this film whose theme was love and sexuality among homosexual men. In this context, the scenes are not gratuitous, excessive or exploitative.

There have been several other decisions of the CBSC that have made it perfectly clear that abusively or unduly discriminatory comments made about gays and lesbians on the airwaves will be in breach of the human rights provision of the *CAB Code of Ethics*. None, though, has dealt with the broad issue of those rights more clearly than *CFYI-AM and CJCH-AM re the Dr. Laura Schlessinger Show* (CBSC Decisions 99/00-0005 and 98/99-0808, 1003 and 1137, February 9 and, 2000), in which the Ontario and Atlantic Panels said of the radio host's comments about homosexuals:

The host's perspective is clear and unambiguous. Whether the terms she uses are "abnormal", "aberrant", "dysfunctional", "disordered", "deviant", "an error" or the like, her terminology is *clearly* pejorative. She is unhesitatingly critical, negative and unambiguous and her words are as critical and unrelenting as she can make them. In the end, she is utterly rigid about a *fundamental* issue which goes to the *nature*, the *essence* of gays and lesbians. It is the view of the Councils that the host's argument that she can "surgically" separate the individual persons from their *inherent* characteristics so as to entitle her to make comments about the *sexuality* which have no effect on the *person* is fatuous and unsustainable. As the Supreme Court has said, where an identifiable group of persons is "defined by an innate or unchangeable characteristic", it *will* be protected by the human rights provision of the broadcasters' *Code of Ethics* in Canada just as all Canadians are protected by the *Canadian Charter of Rights and Freedoms*. The sexual practices of gays and lesbians are as much a part of their being as the colour of one's skin or the gender, religion, age or ethnicity of an individual. To use such brutal language as she does about such an essential characteristic flies in the face of Canadian provisions relating to human rights.

[... In Canada,] gays and lesbians constitute a group benefiting from overwhelming judicial and legislative acknowledgment of gay and lesbian rights, not to mention popular support, under the human rights provisions in *this* country. The words of Supreme Court Justice La Forest cited in the previous paragraph from his opinion in *Egan v. Canada* [1995] 2 S.C.R. 513 were applied by him in the context of a decision on the constitutional validity of a statute challenged as being in breach of the *Charter's* protection of individuals based on their sexual orientation. He also held:

I have no difficulty accepting the appellants' contention that *whether or not sexual orientation is based on biological or physiological factors*, which may be a matter of some controversy, it is a deeply personal characteristic that is either unchangeable or changeable only at unacceptable personal costs. [Emphasis added.]

Since the sexual practices of gays and lesbians *define* them as homosexuals and are inseparable from their *personas*, any attempt by the host to justify her statements on the basis that she is speaking about the *practices* rather than the *individuals* must fail. In other words, the Councils have no hesitation in concluding that the statements are discriminatory vis-à-vis gays and lesbians on the basis of their sexual orientation. [... T]he host's unremittingly heavy-handed and unambiguously negative characterisation of those sexual practices is abusively discriminatory and in breach of the Code.

While this Panel will turn to the other aspects of the complaint that *are* material, the Panel considers that it is extremely important to make its views relating to the issue of gay and lesbian activity clear. The position of the CBSC regarding the broadcast of matters relevant, and of interest, to the gay community has always been unequivocal. Gays and lesbians are full participants in Canadian life, emotionally, sexually and otherwise. Thus, a program that involves their sexuality will, or will not, be acceptable on the basis of its graphic content and the appropriateness of the hour at which it is broadcast, not on the basis that the activity is of a same sex variety, as opposed to between men and women.

### **The Program Content: Intended for Adults?**

On this issue, the Panel agrees with the complainant, at least in the conclusion, although not necessarily in the terminological route taken to the result. It is not the thoughtful analysis, or the frequently sad, lost and solitary personal stories, of the telephone sex addicts that are problematic, even at 4:00 pm. The problem for the Panel is rather in the periodic use of coarse language ("fuck" and its derivatives) spoken by various people interviewed and the explicit sexual descriptions of Luc Huot/Sébastien. These are individually, and the moreso collectively, post-Watershed material.

In *Showcase Television re the movie Destiny to Order* (CBSC Decision 00/01-0715, January 16, 2002), this Panel found

it useful to observe that, were it called upon to characterize the severity and frequency of the coarse words and expressions in *White Men Can't Jump* and the *Sopranos*, it would find that, in both cases, the language would be "intended for adult audiences" and entirely inappropriate for broadcast in a pre-Watershed context. Similarly, in *Destiny to Order* the Panel finds that the coarse language [the f-word and derivatives thereof] was "intended for adult audiences" and equally inappropriate for broadcast in a pre-Watershed context.

In *WTN re the movie Wildcats* (CBSC Decision 00/01-0964, January 16, 2002), this Panel added:

It is these same words that cause the National Specialty Services Panel concern in *Wildcats*. The use of "fuck" and "motherfucker" in a dramatic film renders it programming "intended for adult audiences". In such circumstances, WTN had two options: either edit all instances of these words or air the film post-Watershed in the originating time zone. On the basis of the broadcaster's letter and the five instances in which such coarse words were muted, it appeared that the broadcaster had selected the first option. It is not clear, in the circumstances, why the broadcaster had muted out "fuck" and "motherfucker" in some instances but left them in on five other occasions. Whether a purposeful choice or an inadvertence, their inclusion in a film aired prior to the Watershed constitutes a breach of Clause 3.1.1 of the *Violence Code*.

With respect to explicit sexual discussion, the Panel refers to a recent *radio* decision of the British Columbia Regional Panel, namely, *CFMI-FM re Brother Jake Morning Show* (CBSC Decision 00/01-0688, January 23, 2002), since, despite the television context, words alone are at issue here. In the *CFMI-FM* decision, the Panel did not, of course, rely on a comparable Watershed provision. There is none in radio. Nonetheless, that Panel was clear that the broadcast of sexually explicit

descriptions at times of the day when children could be expected to be listening is unsuitable. The Quebec and Ontario Panels ruled similarly in *CHOM-FM and CILQ-FM re The Howard Stern Show* (CBSC Decision 97/98-0001+, October 17-18, 1997), as did the Ontario Panel on its own in the subsequent decision in *CILQ-FM re The Howard Stern Show* (CBSC Decision 97/98-0487, -0488, -0504 and -0535, February 20, 1998). That Panel elaborated, using terminology consistent with CBSC radio-related decisions, saying, “[I]t remains the Council’s view that the description of explicit sexual acts, abetted in these December and January episodes by explicit discussions of violent acts, constitutes *improper* comment” as “the suitability of subject matter for children is a time-related issue.” That, of course, is what the Watershed is about and the National Specialty Services Panel finds the following statements made by Luc Huot/Sébastien to be examples of explicit sexual discussion exclusively intended for adult audiences, and this despite the fact that there were no images of a corresponding nature accompanying Huot on his end of a telephone conversation:

“I’d caress you all over, take your cock in my hand.”

“I like that, yeah.” “Come on, come!” “Come on me, all over.” “Yes, I’m coming too.” [groans]  
“Yes, that’s good.” “I’m all sticky too.”

“I’d like you to put your cock in my mouth, so I can feel it in my throat.”

“I’m pumping. Keep it up and I’ll come.”

### **Broadcaster Responsiveness**

The requirement that a broadcaster be responsive to the letter of complaint sent by a member of the public is considered by the Adjudicating Panels to be a significant part of the membership requirements of the CBSC. That responsiveness is an essential part of the dialogue by which the CBSC considers that matters that trouble members of the public sufficiently to compel them to write are often successfully resolved. When accomplished in thorough and sensitive ways, such correspondence is also a way of letting the public know that broadcasters care about their audience’s concerns. This Panel has had occasion to review responses by Bravo!’s Director of Programming on several occasions. Her responses are *always* thoughtful and are a clear attempt to get to the bottom of the issues. Moreover, she returns to the process when a subsequent substantive response from the complainant arrives. Although matters only arrive at an adjudication stage when even those efforts are unsuccessful, it is, in the view of the Panel, a credit to the broadcaster that the dialogue is marked by such consistent effort.

## **CONTENT OF THE ANNOUNCEMENT OF THE DECISION**

Bravo! is required to: 1) announce this decision, in the following terms, once during prime time within three days following the release of this decision and once more within seven days following the release of this decision during the time period in which the documentary film *Love on the Line* had been broadcast; 2) within fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the announcements to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by Bravo!.

The Canadian Broadcast Standards Council has found that Bravo! has breached the scheduling provision of the Canadian Association of Broadcasters' *Violence Code* in its broadcast of the documentary film *Love on the Line* on August 3, 2001. By broadcasting the film, which contained coarse language and sexually explicit content, at 4:00 pm, Bravo! violated the provision of the *CAB Violence Code* which provides that programming which contains scenes with content intended for adult audiences shall not be telecast before the late evening viewing period, defined as 9 pm to 6 am.

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

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## APPENDIX

### CBSC File 00/01-1050 Bravo! re *Love on the Line*

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#### I. The Complaint

The following e-mail complaint dated August 3, 2001 was forwarded to the CBSC by the CRTC:

PROGRAMMING - Bravo!

This is an official complaint against the Bravo TV channel 40 (in the London Ont area). Today, 3rd of August 2001, Bravo TV was transmitting between the hours of 4-5 PM what can only be considered to be extreme vulgarity. The program focussed on homosexual phone sex and moreover, was very explicit, as it included detailed discussion and reaction to sexual acts. I do not wish to tolerate this type of television broadcast at any time, and much less at 4pm in the afternoon when children are watching. In addition, it is degrading to our Canadian culture. Bravo has routinely broadcasted unacceptable garbage and I request that their licence be suspended until an investigation in this matter is completed. Thank you for your attention in this matter.

#### II. Broadcaster Response

Bravo!'s Director of Programming and Acquisitions responded via e-mail on August 27, 2001:

Re: Love on the Line (File # 00/01-1050)I am responding to your complaint to the CBSC about our telecast of the above program on August 3 at 4.00 p.m.*Love on the Line* is not about homosexual phone sex. It is a program about how more and more men and women are using communications technology to alleviate their isolation and solitude. The program deals with personal ads in the print media, telephone chat lines and online dating services. The particular segment to which you refer looks at phone sex through someone employed in that industry. We do see and hear him at work, but only to highlight the phoniness of what he provides, and as background to his eloquent comments about the needs and pathos of his clients, and his doubt that the virtual world can substitute for real personal relationships. By its very nature, a channel related to the arts will sometimes include programming that is more adult in its content. It represents a very small part of our schedule. Furthermore, as an arts channel, our audiences have a particular expectation that we will not interfere with the artistic integrity of a film by bleeping or editing, and most of our viewers feel comfortable with the system of disclaimers and ratings we provide. *Love on the Line* was rated 14+ and prefixed with an advisory as to the coarse language it contained. It has played previously on the channel, and yours has been the only complaint.In addition to the ratings and disclaimers we provide, we have adopted the V-chip technology, which enables concerned viewers to block out programming that is not to their taste.The segment you caught was only part of a program that is two hours long, and that played from 4.00p.m. to 6.00p.m. I hope that the information I have provided puts it into context. Our range of programming is wide, and I hope that in our varied schedule there are programs to your personal taste.Your comments are important to us, as we continue to try to improve our service, and we encourage you to contact us directly with your concerns.

#### III. Additional Correspondence

The complainant responded to the broadcaster on September 3 and copied the CBSC on this response:

Whether or not the main topic of the program was homosexual phone sex is irrelevant and you appear to miss the point. The fact that any portion of the program (small or not) discusses the topic at the 4-6 PM timeslot is completely distasteful and unacceptable to any parent of young children such as myself. I am sure that you are well aware that it is prime watching time for youngsters and there is no excuse for broadcasting such inappropriate programs. In addition, if such shows are to be broadcasted [*sic*], which I prefer not, they should be rated for the audience of 21+ and not 14+, as it is not exactly viewing material for teenagers but is as you point out "adult content" material. The show is sexually explicit and should be classified as pornography not art. I remind you that true art greats, although relative to the eye of the beholder, never touch on topics in such a direct, in-your-face way, but express very subtle and tasteful hints towards topics that may be taboo. I am suggesting that the show is not only offensive to me, but defames artists in general if it was intended as art. I demand an apology from your channel in this matter and strongly suggest that it refrains from broadcasting such programs during times when young children are watching television and advise that you select your programs with much more care.

The broadcaster responded to that letter on September 12:

Re: "Love on the Line" (File #00/01-1050)

Thank you for taking the time to reply to my letter. Your correspondence reflects your obvious deep personal concern, and we respect your feelings, and regret any discomfort the program may have caused you personally. As I said previously, yours was the only complaint.

I can only reiterate that the subject of the film was about new technologies and how they impact on people's personal lives. In the words of its well-known Quebec director, Jean Tessier: "The desire to understand, to forgo links between the private sphere and the society in which we live. The desire to communicate with the audience, to disclose the realities of its era."

The program has been selected for several international festivals, and has received accolades in the press. *Journal de Montreal* said: "One of the most striking portraits of the tremendous emotional solitude of our time and the quite legitimate desire to escape it." *Hour* said: "It's a fascinating insight, one that strips away the false hope conjured by these services." And *Sequences*: "...an essential document of great cultural interest."

The program showed no on-screen sex or pornographic acts, in other words, it was not designed to have any prurient appeal. It was a factual program in which the homosexual phone sex segment was - in the broader context - not part of a dominant theme. The program was prefixed with appropriate disclaimers and ratings, relating specifically to the coarse language.

A television channel cannot replace the role of responsible parenting. We provide you with the tools with which to make viewing choices for your children. Program descriptions are on our website. We have adopted the V-chip technology, and encourage parents with concerns such as yours to use it, so they can block out programming they deem unsuitable. With respect to this particular program, according to A.C. Nielsen Media Research, no teenagers watched it.

As I said earlier, we acknowledge and respect your concern, but by the same token, hope that you will consider the broader picture and larger role of an arts channel.

We appreciate hearing from our viewers, as we strive to improve our service.

The complainant wrote to Bravo! again on September 18. The CBSC considered this response to be the equivalent of sending in a Ruling Request:

Your reply is totally unacceptable and misses the point. Just because mine was the only complaint doesn't mean that you can present this type of trash whenever you like. And just because a director from Quebec appreciates your broadcast does not mean that it is suitable for a young audience. Furthermore, the program is a blight on Canadian culture and not of "great cultural interest" as suggested by your reference to *Journal de Montreal*. Moreover, the fact whether sex was the dominant or peripheral theme is utterly irrelevant. Let me make it clear: I vehemently oppose any program with sexual content on TV at 4PM in the afternoon. I am escalating this case for a number of reasons. First, it is clear that you have no regard for the innocence of young children who are watching TV at such a time. Second, you offer no apologies with regard to this matter. Third, it is clear you do not take this matter seriously, which is evidenced by your suggestion that "no teenager" watched the program, something which you could not possibly verify. Finally and for reasons stated above, I will not settle for the poor excuses you have offered.

Bravo! responded to that letter on September 19 with the following:

Thank you for taking the trouble to write again.

At this time there is nothing more I can add to the information I supplied as context to the above program and the circumstances of its telecast, other than to say that it is useful for us to have the opportunity to engage in a dialogue with our viewers, even though our positions may ultimately differ.

Once again, thank you for the time you have taken on this matter.