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

Showcase Television re the movie *Caniche*

(CBSC Decision 01/02-0032)

Decided May 3, 2002

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

Since R. Cugini, who customarily sits on this Panel, is employed by the corporate group that also owns the broadcaster in question, she did not participate in the resolution of this matter.

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**THE FACTS**

The Specialty Service Showcase Television broadcast the Spanish film *Caniche* on September 6, 2001 from 12:15 to 2:00 am. *Caniche* is the story of the strained relationship between a brother and sister, Bernardo and Eloisa, which results from their respective obsessions with dogs, especially Eloisa's relationship with her poodle Danny. It contains scenes of bestiality and incest and also implies that they kill other dogs to grind up as food for Danny. In the penultimate scene of the film, Bernardo and Eloisa have sex with Eloisa screaming and the dogs barking in the background. The film concludes with their friend and business partner finding the brother and sister in a heap on the floor, dead and bloodied. The following viewer advisory appeared at the beginning of the broadcast in both audio and visual format:

The following program contains scenes of nudity and sexuality. Viewer discretion is advised.

Advisories did not occur again until the end of the fourth and fifth commercial breaks and then they were in audio format only, stating that "*Caniche* returns on the Showcase Late Revue. Viewer discretion is advised." No classification icon was present at the beginning of the film, although an 18+ icon did appear at 1:00 am.

The complaint was originally registered with the Cable Television Standards Council (CTSC), which takes complaints by telephone. The CTSC then forwarded the complaint to

the CBSC. The summary of what the complainant told the Cable Standards Council on the telephone follows:

Additionally, [the complainant] is registering his complaint regarding the programming content of a show which was shown on September 7 between 12 a.m. and 2:30 a.m. The show viewed sexual activities between humans and animals which [the complainant] feels is disturbing and of bad taste. He feels Showcase should disapprove of such types of programming to be shown on television.

Since the CTSC had also sent a copy of the complaint directly to the broadcaster, Showcase replied to the complainant on September 17, even before being requested to do so by the CBSC as a part of its standard process. A representative of the service in the Viewer Relations department replied, in part (the full text of this letter and all other correspondence can be found in the Appendix):

The decision to air **Caniche** is consistent with Showcase=s mandate to provide an alternative to other broadcasters= offerings. One way that we have achieved this distinction is to broadcast high-quality international drama series and world-class films in our movie slot called *The Showcase Revue*. Premiering at the Director=s Fortnight at the Cannes International Film Festival, **Caniche** is a Spanish film directed by Bigas Luna. The movie tells the story of how greed for an inheritance leads a bickering couple to grief. An important element of the plot is the lead female character=s relationship with her dog, which becomes a driving force in the demise of the couple. However, the film does not actually show any sexual activity between the two.

Showcase is proud to broadcast a wide range of films, however, it is our policy to carefully consider each film that is aired on the network and to ensure that any film with a mature subject matter is aired after the watershed hour of 9 p.m. As well, before we decide to broadcast a film, our Programming Department screens it to ensure that it is suitable for broadcast. The determination of suitability includes ensuring that the broadcast would not contravene the Canadian Association of Broadcasters' "Sex-Role Portrayal Code for Television and Radio Programming" the "Broadcast Code for Advertising to Children" or the "Voluntary Code Regarding Violence in Television Programming"

There are indeed mature subject matters in some of our films but we take viewer advisories very seriously. In order to assist our viewers in making their viewing choices, we run a viewer advisory before such programs indicating whether they contain scenes of violence, nudity and/or coarse language. If appropriate, a "viewer discretion is advised" advisory is shown not only before the broadcast begins, but also after commercial breaks. The following is the viewer advisory that ran at the beginning of and throughout the broadcast of **Caniche**: "The following program contains scenes with nudity and sexuality. Viewer discretion is advised."

Once the CBSC became involved, the broadcaster's Viewer Relations representative wrote a further reply to the complainant on October 9. She said, in part (duplicated aspects of the first letter have been eliminated from the October letter here; the full text of this letter is also present in the Appendix):

Each film is carefully considered before it is aired on the network and any film with a mature subject matter is aired after the watershed hour of 9 p.m.

[...] The movie tells the story of how greed for an inheritance leads a bickering couple to grief. An important element of the plot is the lead female character=s relationship with her dog,

which becomes a driving force in the demise of the couple. However, the film does not actually show any sexual activity between the two.

The complainant was not satisfied by these letters and filed his Ruling Request on October 12.

## **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 4.0 (Classification Icon - Frequency of Use Protocol)

The rating icon is to be keyed over the first 15-16 seconds of the program. It is expected the Americans will have their ratings up for 15 seconds. For programs which run longer than one hour, the icon is to be repeated at the beginning of the second hour. These are minimal use standards; stations may wish to use the icons more frequently on programs with particularly sensitive content.

### *CAB Violence Code*, Article 5.1 (Viewer Advisories):

To assist consumers in making their viewing choices, broadcasters shall provide a viewer advisory, at the beginning of, and during the first hour of programming telecast in late evening hours which contains scenes of violence intended for adult audiences.

### *CAB Violence Code*, Article 9.1 (Violence against Animals)

Broadcasters shall not telecast programming which sanctions, promotes or glamorizes violence against animals.

The National Panel Adjudicators viewed a tape of the program in question and reviewed all of the correspondence. The Panel does not find the broadcast in breach of any substantive provisions of the *Violence Code*; however, it considers that the broadcaster has failed to meet the Code's requirements regarding the frequency of broadcast of both viewer advisories and icons.

## The Program Substance

*Caniche* falls into the category of art films and, as is sometimes the case with such films, its themes are unusual, to say the very least. There is sexuality, indeed bizarre sexuality (in the form of incest and bestiality), which is clearly intended for adults. There is almost an implication of the destruction of dogs as food for Eloisa's dog, Danny. Of all such scenes, it could be said that the themes are disturbing; however, there is nothing overt or gratuitous, or glamorized or positively promoted in the film nor, in the view of the Panel, is there any issue relating to the substance of the film that involves any possible Code breach. Moreover, since the film was broadcast very late at night, well after the start of the Watershed hour of 9:00 pm, there is only the issue of advice to viewers for the Panel to consider.

## Advice to Viewers

The *Broadcasting Act* provides in Section 3 (1)(j)(i) that "programming [...] should be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes." In that provision, Parliament acknowledges equally that not all programming will be appealing to all audience members. With that freedom, indeed encouragement, in mind, regarding their content, broadcasters strived to ensure in their Codes that viewers would at least be advised of the content of programming that might not be suitable for their household in order to put them in a position to make fully informed viewing choices.

One method of telling viewers something about suitability of content is the use of classification, or rating, icons. These speak to the codifiers' view, broadly speaking, of the level of age or maturity to which different programs are targeted. The other broadly accessible broadcaster tool is the viewer advisory which aims at letting audiences know more precisely what the nature of the content is, namely, nudity, violence, coarse or offensive language, etc. By using not one, but both, broadcasters are entitled to expect that their audiences will be aware of what programming they may wish to avoid, even in late evening hours. The system does, however, depend on the proper use of the tools by the programming undertaking. As the National Conventional Television Panel explained in *CTV re The Sopranos* (CBSC Decision 00/01-0130+, March 8, 2001), classification icons and viewer advisories are a "package" not meant to be separated, that "are collectively essential to the operation of the broadcasters' *Violence Code* safeguards for public viewing."

In the present case, the classification icon was displayed only once, some 45 minutes into the movie, despite the Code requirement that it be "keyed over the *first 15-16 seconds* of the program [emphasis added]." The provision then requires that, for "programs which run longer than one hour, the icon is to be repeated at the *beginning of the second hour* [emphasis added]." The requirement does not relate to the hour of the clock at which the

broadcast began but rather the “internal clock” of the program itself. Thus, the broadcast in question is twice in violation of classification icon display protocol.

Insofar as the viewer advisory is concerned, it was run at the start of the film, as it ought to have been; however, notwithstanding the broadcaster’s letter, no advisory was again run until the end of the fourth and fifth commercial breaks. As the National Conventional Television Panel stated in *CTV re The Sopranos* (CBSC Decision 00/01-0130+, March 8, 2001),

Despite all of the foregoing positive observations regarding the excellent advisory structure, the Panel is disappointed by the failure of the broadcaster to adhere to the provisions of the *Violence Code* regarding the *frequency* of its use. In Article 5.1 of the Code, it is provided that, where advisories are required, they must be broadcast “at the beginning of, and during the first hour of programming telecast in late evening hours.” This means that, where advisories are required, they must be shown *coming out of each commercial break*. As the Ontario Regional Panel said in *CTV re Poltergeist - The Legacy* (CBSC Decisions 96/97-0017 and 96/97-0030, May 8, 1997), in which there was an advisory at the start of the film, no others in the first hour and sporadic advisories during the second hour,

The rationale underlying the requirement of viewer advisories is found in the background section of the Code, which states 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.

Similarly, in *Showcase Television re the movie Police 10-07* (CBSC Decision 00/01-0613, January 16, 2002), as in the matter at hand, the broadcast was preceded by a viewer advisory in audio and visual form, but contained no other viewer advisories until the final two commercial breaks and then they were in audio form only. This Panel said, on that occasion,

The provision of oral-only viewer advisories towards the end of the film’s second hour seems almost to have been an afterthought and was clearly inadequate in terms of the Code requirements. Apart from anything else, the inadequacy of the gesture is exacerbated by the fact that the film was nearing its conclusion and that many of the most disturbing scenes appeared well before these advisories.

Consequently, the Panel finds the broadcaster in breach of Article 5.1 of the *CAB Violence Code*.

## **BROADCASTER RESPONSIVENESS**

Broadcaster responsiveness is always an issue considered in CBSC adjudications. The CBSC considers that the dialogue between broadcasters and complainants is an extremely positive component of the self-regulatory process; it is in fact a membership responsibility of all CBSC broadcaster members. In this case, the Panel considers that the broadcaster has adequately addressed the complainant's concerns, despite the fact that the response did not satisfy the complainant. Nothing more is required in this regard.

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

Showcase 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 movie *Caniche* was broadcast; 2) within the 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 the same 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 Showcase.

The Canadian Broadcast Standards Council has found that Showcase Television breached the classification icon and viewer advisory provisions of the Canadian Association of Broadcasters' *Violence Code* in its broadcast of the movie *Caniche* on September 6, 2001. By failing to provide the classification icon of 18+ at the beginning of the film and again at the start of the second hour, Showcase breached Article 4.0 of the *CAB Violence Code*.

By failing to provide viewer advisories coming out of each commercial break during the first hour of the film which contained material intended for adult audiences, Showcase also breached Article 5.1 of the *CAB Violence Code*.

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

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## APPENDIX

### CBSC File 01/02-0032 Showcase Television re the movie *Caniche*

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#### I. The Complaint

The CBSC received the following complaint on September 18, 2001. It was forwarded by the Cable Television Standards Council (CTSC). The CTSC receives complaints via telephone, thus this is the summary of what the complainant told them on the telephone:

Additionally, [the complainant] is registering his complaint regarding the programming content of a show which was shown on September 7 between 12 a.m. and 2:30 a.m. The show viewed sexual activities between humans and animals which [the complainant] feels is disturbing and of bad taste. He feels Showcase should disapprove of such types of programming to be shown on television.

#### II. Broadcaster Response

Since the CTSC had sent a copy of the complaint directly to the broadcaster, a representative in Showcase's Viewer Relations department replied on September 17, 2001 with the following:

We are in receipt of your complaint, which was forwarded to us by the Cable Television Standards Council. We regret that you were offended by the film *Caniche* seen on Showcase on September 6, 2001 at 12:30 a.m. Given your concerns, I would like to take this opportunity to explain a little bit about Showcase's programming policy.

The decision to air *Caniche* is consistent with Showcase's mandate to provide an alternative to other broadcasters' offerings. One way that we have achieved this distinction is to broadcast high-quality international drama series and world-class films in our movie slot called *The Showcase Revue*. Premiering at the Director's Fortnight at the Cannes International Film Festival, *Caniche* is a Spanish film directed by Bigas Luna. The movie tells the story of how greed for an inheritance leads a bickering couple to grief. An important element of the plot is the lead female character's relationship with her dog, which becomes a driving force in the demise of the couple. However, the film does not actually show any sexual activity between the two.

Showcase is proud to broadcast a wide range of films, however, it is our policy to carefully consider each film that is aired on the network and to ensure that any film with a mature subject matter is aired after the watershed hour of 9 p.m. As well, before we decide to broadcast a film,

our Programming Department screens it to ensure that it is suitable for broadcast. The determination of suitability includes ensuring that the broadcast would not contravene the Canadian Association of Broadcasters' "Sex-Role Portrayal Code for Television and Radio Programming", the "Broadcast Code for Advertising to Children" or the "Voluntary Code Regarding Violence in Television Programming".

There are indeed mature subject matters in some of our films but we take viewer advisories very seriously. In order to assist our viewers in making their viewing choices, we run a viewer advisory before such programs indicating whether they contain scenes of violence, nudity and/or coarse language. If appropriate, a "viewer discretion is advised" advisory is shown not only before the broadcast begins, but also after commercial breaks. The following is the viewer advisory that ran at the beginning of and throughout the broadcast of **Caniche**: "The following program contains scenes with nudity and sexuality. Viewer discretion is advised."

Thank you for taking the time to voice your opinion about the scheduling of this film. We appreciate feedback from our viewers and hope that this letter has addressed some of your concerns.

Once the CBSC became involved, the broadcaster's Viewer Relations representative wrote a further reply to the complainant on October 9, 2001:

We are in receipt of both of your complaints to the Cable Standards Council and most recently to the Canadian Broadcast Standards Council regarding the film **Caniche** that aired on Showcase, September 6, 2001 at 12:30 a.m. I hope that you received our original response on September 17, 2001 outlining the programming decisions for Showcase and that the letter addressed some of your concerns.

Again, we regret that you were offended by the movie, but please note that the decision to air **Caniche** is consistent with Showcase's mandate to provide an alternative to other broadcasters' offerings. Each film is carefully considered before it is aired on the network and any film with a mature subject matter is aired after the watershed hour of 9 p.m.

**Caniche** itself is a Spanish film directed by Bigas Luna and premiered at the Director's Fortnight at the Cannes International Film Festival. The movie tells the story of how greed for an inheritance leads a bickering couple to grief. An important element of the plot is the lead female character's relationship with her dog, which becomes a driving force in the demise of the couple. However, the film does not actually show any sexual activity between the two.

Before we decide to broadcast a film, our Programming Department screens it to ensure that it is suitable for broadcast. The determination

of suitability includes ensuring that the broadcast would not contravene the Canadian Association of Broadcasters' "Sex-Role Portrayal Code for Television and Radio Programming", the "Broadcast Code for Advertising to Children" or the "Voluntary Code Regarding Violence in Television Programming".

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Again, I hope that we have addressed some of the issues you were concerned about. Thank you for taking the time to voice your concerns and please know that we appreciate all viewer feedback.

The complainant returned his signed Ruling Request Form on October 12, 2001.