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

Showcase Television re an episode of *Queer as Folk*
(CBSC Decision 01/02-0217)

Decided September 13, 2002

R. Cohen (Chair), Sarah Crawford (Vice-Chair), E. Duffy-MacLean, M. Hogarth,
H. Pawley

Since R. Cugini, who customarily sits on this Panel, is employed by the corporate group that owns Showcase, she did not participate in this decision.

THE FACTS

On November 12, 2001, Showcase Television rebroadcast the premier episode of the drama series *Queer as Folk* from 10:00-11:00 pm EST. *Queer as Folk* follows the lives of a group of homosexual men and women living in Pittsburgh, Pennsylvania. It offers a realistic and often humorous look at the relationships, careers and ambitions of the main characters.

This premier episode contained very coarse language, frank discussions about sex, scenes of sexual activity and some nudity, though no genitalia were shown.

One of the main plots of this opening episode centred on one adult male character's relationship with an adolescent who is depicted as being 17 years old. Brian, the 30-something character, meets Justin, the teenager, outside a gay bar. Brian invites Justin home with him and the two engage in sexual activity. Although Justin feigns broad experience, the viewer soon learns that this is, in fact, Justin's first homosexual sexual experience. The two males have sex twice more during the episode. The sex scenes are quite explicit, but, as noted above, no genitalia are ever shown.

A rating icon of 18+ appeared at the beginning of the episode. The episode also began with a viewer advisory in audio and visual format, which stated:

The following program contains nudity, sexuality and coarse language. Viewer discretion is advised.

Another viewer advisory, in audio format only, was broadcast coming out of the second commercial break, which stated, “We now return to *Queer as Folk*. Viewer discretion is advised.” No advisories were broadcast coming out of either the first or third commercial breaks.

The CBSC received a complaint on November 15 from a viewer who was “appalled to see blatant, explicit sexual acts playing on [her] television screen.” (The full text of all correspondence can be found in the Appendix.) Showcase responded on November 29 explaining Showcase’s programming policy to

offer an alternative to other broadcasters’ offerings. One way we have achieved this distinction is to broadcast high-quality international drama series and world-class films. The decision to air *Queer as Folk* is consistent with Showcase’s mandate to be the number one destination for critically-acclaimed programming from around the world.

Showcase also addressed the complainant’s specific concerns about the episode:

Queer as Folk, a drama based on Britain’s provocative series of the same name, depicts the lives of a group of gay men and women living in Pittsburgh, Pennsylvania. The series has garnered significant critical acclaim in North America for its brave, realistic, funny and sometimes graphic slice of gay life, focussing on the relationships, careers, loves and ambitions of the characters. The Washington Post TV critic Tom Shales selected *Queer as Folk* as one of the year’s Top 10 television programs, citing “it gets points just for its courage in presenting a totally unapologetic portrait of part of the homosexual subculture.”

We understand that certain sex scenes may have caused you grave concern. Our view is that these scenes must be viewed within the context of the program as a whole. The sex scenes depicted in *Queer as Folk* are consensual and are essential to the story line. They help define the emotional relationships of the characters and their experiences.

Showcase further explained that it adheres to all broadcaster Codes and screens each program before broadcast to ensure that it complies with these Codes. It also stated that *Queer as Folk* is rated and encoded as 18+ for viewers who use V-chip technology; the program is broadcast at 10:00 pm, one hour after the Watershed of 9:00 pm; and that Showcase ran a “viewer advisory warning of scenes with violence, nudity and coarse language [...] before the broadcast of *Queer as Folk* and after each commercial break.”

The complainant requested on December 10 that this matter be referred to the appropriate CBSC Adjudicating Panel for review. She also provided the following comments on this episode of *Queer as Folk*:

When I go to the cinema to see an “R” rated movie, I expect that the sexually explicit scenes and some violence, some language will be edited out of the movie to be shown on television regardless of the hour it is played. It is. I always thought it was out of respect for the Canadian “public”. I believe that this or any other television program should be no different.

Is an explicit sexual courting and explicit sex between a high school student and a thirty

something man fall within our country's guidelines of what is acceptable for television?

THE DECISION

The National Specialty Services Panel considered the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Voluntary Code Regarding Violence in Television Programming* and *Sex-Role Portrayal Code*:

CAB 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.

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 last evening hours which contains scenes of violence intended for adult audiences.

The National Panel Adjudicators viewed a tape of the episode in question and reviewed all of the correspondence. For reasons provided at greater length below, the Panel concludes that Showcase is not in breach of the exploitation article of the *CAB Sex-Role Portrayal Code*, but that it is in violation of the viewer advisory article of the *CAB Violence Code* for its failure to broadcast advisories coming out of every commercial break.

The Sexual Content

The National Specialty Services Panel acknowledges that there is significant sexual content in the challenged episode of *Queer as Folk*, which is more than merely suggestive. It further acknowledges that the sexual content in question is intended for adult audiences. Although undeniably present, such sexual content is not in violation of any codified standards when played after the Watershed hour. As the National Conventional Television Panel explained in *CTV re W-Five (Swingers)* (CBSC Decision 99/00-0347, February 14, 2001) (which dealt with the subject of swinging, that is, the exchange of sexual partners):

It is the experience of the CBSC that programs dealing with such an overtly sexual subject sometimes lead to some sensitivity of reaction on the part of the viewing audience. This does not, of course, mean that the broadcaster ought not to air such a program. As the broadcaster correctly points out, the *Broadcasting Act* itself provides, in Section 3(1)(i), that

the programming provided by the Canadian broadcasting system should

(iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern.

To this the Panel would add that Section 3(1)(i) also provides that

the programming provided by the Canadian broadcasting system should

(i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes

Nor does the Panel consider that the sexual content is at all exploitative, in terms of Article 4 of the *Sex-Role Portrayal Code*. In any event, the complainant's concerns lay with sexual explicitness rather than with gender representation. That is fair enough. There was, however, nothing in the content that violated any Code provision such that the program ought not to have been accessible for those persons who might have wished to see it. That, indeed, is the reason for which audiences are entitled to have sufficient information about program content to enable them to exercise a knowledgeable viewing decision.

Viewer Advisories

The *CAB Violence Code* is clear regarding the need for advisories in the case of programming including scenes with violent content (which has been extended by CBSC decisions to include all forms of content intended for adult audiences). In the case of that programming which is directed exclusively at adult audiences, which on that account must be aired after 9:00 pm, viewer advisories are required at the start of the program and coming out of every commercial break. In *CTV re The Sopranos* (CBSC Decision 00/01-0130+, March 8, 2001), the National Conventional Television Panel explained the importance of viewer advisories to adult audiences:

The purpose of viewer advisories is sometimes thought to be oriented toward children. While their utility for that purpose is clear and important, they are, as a tool, media literacy based and oriented toward adults as much as children. They are intended to provide viewers with sufficient information to enable them to determine, whether for their children *or for themselves*, what will be suitable viewing fare. It is of the essence of the Canadian broadcasting system, which, the *Broadcasting Act* provides, encourages diversity of programming for the broad range of interests and tastes of Canadians, that potential viewers be advised, even after the protective Watershed hour (which is principally children-oriented), that programming may contain elements which they may not find palatable.

Given the importance of such advisories, it is also required that they be broadcast with a frequency and in a format that will be useful to audiences. In *WTN re Sunday Night Sex Show* (CBSC Decision 99/00-0672, January 31, 2001), this Panel explained that it is

important to emphasize

the informative value to viewers of advisories coming out of *every* commercial break. It is not reasonable to expect that viewers who may be channel-surfing or simply turning on their television sets ten or fifteen or more minutes into a show should be deprived of such important viewing information. [...] In the matter at hand, the broadcaster inserted viewer advisories at the beginning of the program and after the second commercial break. There were none after the first, third or fourth commercial breaks. In this respect, despite the care which was taken in the scheduling of the program, the absence of the required advisories during the entire first hour of the show constitutes a breach of the Code.

In *Showcase Television re the movie Rats* (CBSC Decision 99/00-0772, August 23, 2001), this Panel also ruled that the broadcast of an advisory that simply stated “Viewer discretion is advised” in audio-only format was insufficient because

this warning in audio format only is of no assistance to the hearing impaired or to those who may be glancing at their television sets at a distance or with the volume turned down or otherwise rely on visuals only to determine the viewing choices for their household.

In the broadcast at hand, Showcase has failed to provide advisories coming out of *every* commercial break. Moreover, in the case of the second commercial break, the advisory was in audio format only; it also provided no information to the audience about the reason for which the program required a viewer advisory. The second advisory consisted of only a reminder of the name of the program and the general statement that “viewer discretion is advised”. It did not reiterate the informative statements associated with the initial advisory as to the sexuality, coarse language and mature content. Both failures constitute breaches of Article 5.1 of the *CAB Violence Code*.

Broadcaster Responsiveness

It is a fundamental obligation of broadcasters to be responsive to complainants who take the time to express in writing their concerns about programming they have heard or seen on the airwaves. It is equally the duty of the CBSC Panels to assess the thoughtfulness of the broadcaster replies on each occasion that they adjudicate a file. In this case, the letter was lengthy and thoughtful, although it did err with respect to the number of advisories actually broadcast. While the Panel is puzzled by the inaccuracy of this statement, it finds that, in terms of its content, the broadcaster has met its obligations of responsiveness. Nothing more was required in this respect on this occasion.

ANNOUNCEMENT OF THE DECISION

Showcase Television 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 *Queer as Folk* was broadcast; 2) within the fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the statement 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 Showcase.

The Canadian Broadcast Standards Council has found that Showcase Television breached provisions of the Canadian Association of Broadcasters' *Violence Code* in its broadcast of the episode of *Queer as Folk* on November 12, 2001. The program contained scenes of sexuality intended for adult audiences. By failing to provide viewer advisories to this effect following each commercial break in audio and video formats, Showcase has breached the viewer advisory requirements set out in Clause 5 of the *Violence Code*.

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

APPENDIX

CBSC File 01/02-0217 Showcase re an episode of *Queer as Folk*

The Complaint

The following complaint dated November 15, 2001 was sent to the CBSC:

CBSC

Please accept this formal complaint about a program aired on Showcase, November 12/01. See attached letter to Showcase detailing my complaint.

November 13/01

Showcase

To Whom It May Concern;

I have left a message complaining about a program called "Queerfolk"?? which played on November 12/01 around 10:00pm.

I was appalled to see blatant, explicit sexual acts playing on my television screen.

I am formally requesting that you hold that tape and am asking the Broadcast Standards Council to review what you have deemed to be appropriate for television.

I expect only written communication from you.

Broadcaster Response

The broadcaster responded to the complainant's letter on November 29 with the following:

Showcase appreciates and considers all viewer feedback and we thank you for taking the time to express your concerns about our programming. We regret that you were offended by Showcase's broadcast of ***Queer as Folk*** on November 12, 2001.

I would like to take this opportunity to explain Showcase's programming policy. It is our programming mandate at Showcase to offer 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. The decision to air ***Queer as Folk*** is consistent with Showcase's mandate to be the number one destination for critically-acclaimed programming from around the world.

Queer as Folk, a drama based on Britain's provocative series of the same name, depicts the lives of a group of gay men and women living in Pittsburg, Pennsylvania. The series has garnered significant critical acclaim in North America for its brave, realistic, funny and

sometimes graphic slice of gay life, focusing on the relationships, careers, loves and ambitions of the characters. The Washington Post TV critic Tom Shales selected **Queer as Folk** as one of the year's Top 10 television programs, citing "it gets points just for its courage in presenting a totally unapologetic portrait of part of the homosexual subculture."

We understand that certain sex scenes may have caused you grave concern. Our view is that these scenes must be viewed within the context of the program as a whole. The sex scenes depicted in **Queer as Folk** are consensual and are essential to the story line. They help define the emotional relationships of the characters and their experiences.

Queer as Folk is intended for adult audiences only and Showcase has taken steps to broadcast this series responsibly. Before we decide to broadcast a program, 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 applicable broadcast laws and industry codes including, but not limited to, the Canadian Association of Broadcasters (CAB) "Code of Ethics", the CAB "Sex-Role Portrayal Code for Television and Radio Programming", and the "Voluntary Code Regarding Violence in Television Programming".

In addition, Showcase also complies with the new program classification system developed by the Action Group on Violence on Television to give Canadian parents the most advanced control system in the world. This six-level rating system is used to classify any levels of violence, language or sex/nudity in all drama, feature film and children's programming broadcast in Canada. The "18+" icon was shown during our broadcast of **Queer as Folk** to warn parents that this film contains themes or content elements which might not be suitable for viewers under the age of eighteen.

We are also concerned with the content of shows broadcast during hours when children may be watching. As required by the Voluntary Code Regarding Violence in Television Programming, Showcase is sensitive to the scheduling of programs with violent and other adult-oriented content. Such programming may not be aired prior to 9 p.m. However, in the case of **Queer as Folk**, it was decided that an even later viewing time (10 p.m.) would be appropriate so as to lower the likelihood of younger viewers inadvertently seeing the program.

Finally, 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. In this instance a viewer advisory warning of scenes with violence, nudity and coarse language was before the broadcast of **Queer as Folk** and after each commercial break.

It is certainly not our intention to offend our viewers but to introduce them to the wealth of quality, unique drama from Canada and around the world. Not all shows will suit all tastes, but we have tried to construct the Showcase schedule to deliver something for everyone, and to permit viewers to make their choices on an informed basis.

Thank you for taking the time to voice your concerns. We do appreciate feedback and hope that this letter has addressed your concerns.

Additional Correspondence

The complainant returned her Ruling Request dated December 10 along with the following letter:

To Whom It May Concern;

Please allow me the following comments before reviewing "Queer as Folk".

When I go to the cinema to see a "R" rated movie, I expect that the sexually explicit scenes and some violence, some language will be edited out of the movie to be shown on television regardless of the hour it is played. It is. I always thought it was out of respect for the Canadian "public". I believe that this or any other television program should be no different.

Is an explicit sexual courting and explicit sex between a high school student and a thirty something man fall within our country's guidelines of what is acceptable for television?

I read in the brochure that you will view an episode of the program in question. Do watch the program shown on Nov. 12. I do not watch this program. It could be that I happened on "the" episode that was inappropriate.