
**CANADIAN BROADCAST STANDARDS COUNCIL
QUEBEC REGIONAL PANEL**

TQS re two episodes of *Sexe et confidences*

(CBSC Decision 01/02-0329)

Decided April 5, 2002

G. Bachand (Chair), S. Gouin (Vice-Chair), S. Chamberland,
R. Cohen (*ad hoc*) and T. Rajan (*ad hoc*)

Since B. Guérin, who customarily sits on this Panel, is employed by the broadcaster, he did not participate in this adjudication.

THE FACTS

At 1:00 pm on November 20 and 22, 2001, Télévision Quatre-Saisons (TQS) broadcast episodes of its hour-long show *Sexe et confidences*, hosted by Louise-Andrée Saulnier, a sexologist, who daily deals with subjects relating to human sexuality. She provides information, responds to questions from the viewing audience and speaks to experts in specific areas, using video clips to illustrate the subjects she is discussing.

On the November 20 show, entitled “Autrefois, on disait bestialité” (“We used to call it bestiality”), there was an 18+ classification icon broadcast at the start of the show for six seconds but no viewer advisories. On that episode, Saulnier dealt with the subject of bestiality, proposed to her by a viewer. After reading that letter, she read another from a viewer requesting that the show on bestiality not be broadcast at that time since, due to a teachers= strike, children could be at home watching television. The host responded by saying that the purpose of the program was to provide fair and relevant information for parents to enable them to respond better to questions put to them by their children. Moreover, she proposed that parents who did not want their children to see the particular episode could turn off their television sets or change the channel.

During the course of the show, she discussed the word origins and definitions of bestiality and zoophilia, related legends and folklore, laws relating to the practice, academic studies

on the subject, and methods of performing bestiality, including licking, masturbation and penetration. The host invited calls on the subject and the audience responded. Persons called with stories they had heard, descriptions of films they had seen involving bestiality, and their own personal experiences. Two of these calls involved personal experiences of young men who had masturbated their dogs when they were adolescents and another from a woman whose friend had done the same thing.

The November 22 show was called “Qu=est-ce qu=un bon strip-tease ?” (“What constitutes a good strip-tease?”). It began with a 16+ icon which was on-screen for ten seconds but, like the previous episode, there were no viewer advisories either at the start or coming out of any of the commercial breaks. In fact, before the icon appeared, the program began with a 25-second silhouetted perspective of a woman performing a strip-tease. The host began the show with the definition and word origin of the term “strip-tease” and spoke of the history of the seductive ritual. There were visuals of one woman in undergarments and another naked but with hands and arms judiciously placed to cover her breasts and genitalia. A professor of cinematic arts was then invited to talk about the history of the strip-tease in films. He used filmed excerpts, some of which showed bare breasts. During the second half of the show, a member of the program team discussed what she had learned during interviews with dancers, strip-club clients and others. Some video clips were used in this part of the episode as well.

On December 19, a complainant sent the CRTC an e-mail, which was forwarded to the CBSC in due course (the full text of that e-mail and all other correspondence can be found in the Appendix, available in French only). His concern about the November 20 show was principally that it could be seen by children, who, he specially noted, were home at the time due to the teachers’ strike. He complained that Louise-Andrée Saulnier totally ignored that advice, declaring that her right to inform viewers was more important than leaving them to themselves on the Internet. He went on:

She explained that some children had had the experience of masturbating their pets in such a matter of fact fashion, that it almost seemed she was presenting this as a natural thing to do. She even took the time to mention that one could go to prison for distributing this type of material on the Internet. What nerve, after all, to then turn around and present that type of material. (Trans.)

Of the episode on the 22nd, he said:

Can you tell me if it is appropriate to broadcast this type of content on the airwaves at such times of the day? The host showed women doing a strip-tease, showing their breasts and buttocks, shaking and shimmying in front of men. ... What a fine example to show to young children, who might view this type of material by chance, and who could conclude that it is normal to undress in front of people as a form of entertainment. That too, would be a normal thing to do. (Trans.)

He then went on to make the general point that stores would not sell a magazine of this nature to a child:

Explain to me why a television station, therefore, has more of a right to promote sexuality and bestiality during the daytime in the presence of our young people. [...] a station that shirks its civic responsibilities by promoting adult programs in the afternoon. (Trans.)

The broadcaster responded on January 24, 2002. In her letter, the Vice-President, Communications, said of the first episode:

When the image you refer to was aired, she [Ms. Saulnier] was in fact talking about the kind of pictures available on the Internet. However, we agree with you that this image was inappropriate and we have alerted the team to that fact. (Trans.)

Of the second, she said:

Once again, it is clear that the program is in no way intended for a young audience and that, in any case, parental supervision is advised. (Trans.)

She made a final observation regarding programming of this type in general:

Finally, Louise-Andrée Saulnier was careful to point out that the viewer always has the option to change channels or to turn off his or her TV to avoid being exposed to images which may be disturbing. (Trans.)

On February 27, the complainant expressed his dissatisfaction with the broadcaster's reply. He argued that the posting of the ratings icon was insufficient:

Louise-Andrée Saulnier's responsibility to young viewers consists not only of pointing out that the viewer always has the option to change channels or to turn off his or her TV to avoid being exposed to images which may be disturbing, but also of presenting adult content at times of the day when only adults, not young children, can see the content of her sex oriented program. (Trans.)

Moreover, he added, if the broadcaster rated the show 18+, how could it run in the afternoon? Could it not be broadcast, he asked, in the evening, at an hour far more acceptable for a program targeted to an audience of informed adults?

THE DECISION

The Quebec Regional Panel considered the matter under various provisions of the Canadian Association of Broadcasters' (CAB) *Voluntary Code Regarding Violence in Television Programming* relating to scheduling, classification icons and viewer advisories:

CAB Violence Code, Article 3.0 (Scheduling):

3.1 Programming

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.

CAB Violence Code, Article 4.0 (Classification System):

Frequency

The rating icon is to be keyed over the first 15-16 seconds of the program. [...] 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.

Exempt Programming

This classification applies to the following:

- News programming: news, current events, public affairs
- Sports programming: sports events, sports news
- Variety programming: variety shows, talk shows, quiz shows, game shows, video clips
- Magazines
- Documentaries
- Infomercials

Description of the Régie du cinéma du Québec classifications

16 +

Description

This program is not suitable for those under 16 years of age. It contains frequent scenes of violence or scenes of intense violence.

Régie du cinéma

“At this stage in his or her development, the young adult is capable, without grave personal repercussions, of viewing films complex in their nature dealing with violent or erotic themes such as those which all adults must ultimately confront.

Contemporary cinema brings us face to face with a wide-ranging panoply of criminal activities, everything from drug trafficking, to hoodlumism, to prostitution, to gang rivalry. Examiners must reflect continuously on the extent to which such cinematic imagery remains within the bounds of the tolerable, at what point the violence becomes unbearably raw and gratuitous and oversteps the limits of what can fairly be classified ‘16 years and over’.

In any of today’s films, the sexual component is bound inextricably to other elements of the story line. Whatever the genre – comedy, suspense, drama – this sexual dimension

depending on its importance may often determine a classification of '16 years and over'. Treatment, as ever, is the ultimate consideration, each film being unique in its own right."

18 +

Description

This program is intended for adults only. It contains sustained violence or scenes of extreme violence.

Régie du cinéma

ΔIn the '18 years and over' category are to be found films showing explicit sexual activity. Films of exacerbated violence would also be placed in this category, particularly those depicting torture or other forms of cruelty, heightened through special effects to a level of harrowing realism."

CAB Violence Code, Article 5.0 (Viewer Advisories):

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

Panel members viewed tapes of the broadcasts in question and reviewed all of the correspondence. The Panel finds that TQS is in breach of Articles 3.1.1 and 5.2 of the *CAB Violence Code* but not of Article 4.0 relating to the use of classification icons.

The Watershed Requirement

The *CAB Violence Code* clearly requires that programming containing scenes of violence intended for adult audiences be broadcast after 9:00 pm. It is not necessary to reiterate the position developed by this Panel (and followed uniformly by other CBSC Panels) that all programming including material intended for adult audiences, whether violent or otherwise, must respect the Watershed hour. See *WTN re Sunday Night Sex Show* (CBSC Decision 99/00-0672, January 31, 2001) and *TQS re the movie L=inconnu (Never Talk to Strangers)* (CBSC Decision 98/99-0176, June 23, 1999), among others.

It follows that the issue for the Quebec Panel to resolve in the case of the challenged episodes of *Sexe et confidences* is whether the content was or was not intended for adult audiences. The Panel's view is divided on the two episodes. It considers that the explicit references to sexual activity (of, it should be added, a distinctly aberrant variety) coupled with the images render the episode on bestiality clearly intended for adults. Moreover, TQS itself has acknowledged this by determining that 18+ was the appropriate rating for the show. In the case of *WTN re Sunday Night Sex Show* (CBSC Decision 99/00-0672, January 31, 2001), where the broadcast involved explanations of sexual subjects without

images, the National Specialty Services Panel concluded that, while the host's

explanations are positive, useful, focussed and helpful, and not salacious, gratuitous, exploitative or even titillating, the foregoing principle leaves no doubt that here, too, the show is unquestionably directed toward adults. While the *Sunday Night Sex Show* is not graphic, it does include sexually explicit dialogue and adult-oriented explanatory discussion.

Similarly, in *Discovery Channel re an episode of The Sex Files* (CBSC Decision 00/01-0791, January 16, 2002), the same Panel concluded that "It is very clear that the sexually explicit scenes and discussions found in this episode of *The Sex Files* [dealing with anal sex] are targeted to an exclusively adult audience."

On the other hand, the Panel finds that the discussion and images in the episode dealing with strip-tease are no more oriented exclusively toward adults than the film of the same name. In *TQS re the movie Strip Tease* (CBSC Decision 98/99-0441, February 21, 2000), the Quebec Panel said:

While acknowledging that the showing of bare breasts on strip tease dancers was intended by the filmmaker to be sexual, the 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.

Accordingly, the Panel concludes that TQS has breached the scheduling provision of the *CAB Violence Code* by airing the episode on bestiality prior to the Watershed hour but that it has not breached the Code by airing the episode on strip-tease at 1:00 pm in the afternoon.

Classification Icons

It is the view of the Quebec Regional Panel that *Sexe et confidences* can be characterized as both a talk show and a public affairs program and, as such, falls into the category of programming that does not require a classification icon. That being said, the Quebec Panel highly commends the broadcaster for understanding that the use of ratings icons is extremely beneficial for viewers. It provides parents with information that is of great assistance in enabling them to intelligently make their family viewing choices. By including the ratings icons on both episodes when they were not required to do so, TQS has rendered an important service to its audience. As the National Specialty Services Panel said in *Discovery Channel re an episode of The Sex Files* (CBSC Decision 00/01-0791, January 16, 2002),

Given the classification exemption accorded to this type of program under Article 4, there is no question of finding a breach for the failure to provide a rating icon; moreover, the Panel commends Discovery and encourages the service to continue its practice of featuring a

classification icon in *The Sex Files*. It demonstrates special sensitivity to viewers who may wish to be made aware of the sexually explicit nature of this program and to block it out with V-chip technology.

It should also be noted that the Panel considers that the respective ratings levels of 18+ and 16+ on the two shows was correct in each case.

It should, however, be pointed out that the icon must be displayed from the start of the program and not, as in the case of the November 22 episode, 25 seconds after the broadcast had begun, particularly in circumstances in which a woman was performing a strip-tease over those opening 25 seconds, thus highlighting the need for the icon in the first place. In addition, broadcasters should be reminded that the icon must be displayed for no less than fifteen seconds, not merely for the six or ten second time periods that were used in the case of the two episodes under consideration. Nonetheless, the Panel commends TQS for including the icons and hopes that it will continue to do so on this program (and on any other programs which, even if exempt from icon requirements, would serve the public interest by their inclusion).

Viewer Advisories

Viewer advisories are another important tool for audiences. In fact, they provide more focussed information permitting viewers to make even more informed watching choices. Moreover, these are required in all circumstances in which a program which is broadcast prior to the Watershed is not suitable for children. The Panel considers that viewer advisories were required for both episodes. While it is clear from the Panel's conclusions above that the episode of the program dealing with bestiality was intended for adult audiences, rendering advisories mandatory, the Panel also concludes that the episode dealing with strip-tease, while not intended exclusively for adult audiences, was clearly not suitable for children, the criterion which triggers the requirement for advisories in programs aired before the Watershed. Consequently, TQS has breached the advisory requirement with respect to the broadcast of both episodes of *Sexe et confidences*.

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 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 broadcaster's letter mistakenly identifies 18+ as the rating it gave to both episodes, which was not the case; however, it does deal with substantive issues in the rest and the Panel

finds that it is a satisfactory response. Nothing more is required of TQS in this respect on this occasion.

ANNOUNCEMENT OF THE DECISION

TQS 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 in the time period in which *Sexe et confidences* is 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 TQS

The Canadian Broadcast Standards Council has found that Télévision Quatre-Saisons= broadcast of the November 20 and 22, 2001 episodes of *Sexe et confidences* breached provisions of the *CAB Violence Code* relating to scheduling and viewer advisories. By running an episode of the program dealing with bestiality, a subject intended exclusively for adults, at 1:00 pm, it breached the requirement of the Code that such program only be broadcast after the Watershed hour of 9:00 pm. By failing to provide viewer advisories on that episode or on the other episode, which was unsuitable for children, TQS breached the article of the Code which requires such information to be provided so that parents can make the necessary viewing choices for their families.

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

ANNEXE

Dossier du CCNR 01/02-0329 TQS concernant deux épisodes de « *Sexe et confidences* »

I. La plainte

Le 19 décembre 2001, un téléspectateur a envoyé le courriel suivant au CRTC, lequel a été acheminé au CCNR :

Cette lettre est pour vous informer de mon mécontentement face à la station de télévision TQS et de son émission « *Sexe et confidences* ».

Le 20 novembre dernier à 13:00, l'émission avait pour titre "Autrefois, on disait bestialité". L'animatrice avait mentionnée [sic] qu'au début de l'émission un auditeur l'aurait avisé [sic] que par rapport à la grève des enseignants (es) plusieurs jeunes enfants pouvaient voir le contenu de cette émission pour le moins hardcore et inadéquate pour leurs petits yeux. Elle ignore cette directive, en disant avoir le droit d'informer les gens plutôt que de les laisser à eux comme sur l'Internet.

Toutefois, lors de cette émission on a vue [sic] plusieurs photos dont celle d'une femme nue, les jambes ourvertes dévoillant ainsi son sexe, en train de faire une fellation à un cheval en érection. Elle expliquait que des enfants on [sic] déjà masturbés [sic] leurs animaux d'une façon si banale, on dirait même qu'elle présentait cela comme si c'était une pratique naturelle??? Elle avait même pris le temps de mentionner que la présentation d'un tel matériel sur Internet était passible d'emprisonnement. Quelle [sic] culot, tout de même, de nous présenter ce genre de matériel par la suite. Elle n'est pas mieux régis que l'Internet et elle le démontre en prenant le droit de le faire sur les ondes d'une station comme TQS.

Le 22 novembre dernier à 13:00, le thème de l'émission était "Qu'est-ce qu'un bon Strip-Tease". Dites-moi si c'est approprié de présenter ce genre de contenu sur les ondes à des heures pareilles? L'animatrice nous montre des strip-tease des femmes (des fesses et des seins) qui se trémoussent devant les hommes... Un très bel exemple à montrer à de jeunes enfants, qui peuvent visionner ce genre de matériel par mégarde, qui pourront trouver cela normal de se dévêtir pour se divertir devant les gens, car c'est encore une pratique normale... Un très bon exemple pour notre société.

J'ai déjà fait une plainte sur la boîte vocale de la station TQS, et ce, pour faire part de mon mécontentement face au contenu de l'émission « *Sexe et confidences* » au numéro de téléphone suivant (###) ###-####. J'ai mentionné que cette émission passe sur deux grilles horaires la même journée dont l'une le soir pour adultes vaccinés et avertis et l'autre le jour pouvant être vu [sic] par d'innombrables jeunes enfants qui ne savent pas toujours discerner le bien du mal.

Selon moi, il n'y a pas seulement que des adultes dans ce monde, il y aussi [sic] des enfants qui ne sont pas du tout à l'âges [sic] de voir, de comprendre et de prendre conscience que de telles calomnies vulgaires sont négatives pour eux.

Dans les kiosques à journaux, on ne vendre jamais une revue à un mineur. Donc expliquez-moi pourquoi une station de télévision aurait-elle plus le droit de promouvoir la sexualité et la bestialité le jour devant les yeux de nos jeunes ? Protégeons l'innocence de nos enfants, plutôt que de les laisser entre les mains d'une station qui ne prend pas ses responsabilités

civiques, et ce, en promouvant des émissions pour adultes l'après-midi.

En espérant que cette lettre permettra des changements majeurs et que cette émission soit retirée des ondes de TQS l'après-midi.

II. La réponse du radiodiffuseur

Le radiodiffuseur a répondu au plaignant le 24 janvier 2002 avec la lettre qui suit :

Nous accusons réception de la lettre que vous nous avez fait parvenir via le CCNR et dans laquelle vous nous faites part de votre insatisfaction face à l'émission *Sexe et confidences* diffusées [sic] les 20 et 27 [sic] novembre dernier.

Tout d'abord, au début de l'émission, une signalétique 18+ indique clairement que l'émission s'adresse aux plus de 18 ans.

Comme vous le mentionnez, un téléspectateur avait indiqué à madame Louise-Andrée Saulnier que l'émission prévue (« *autrefois on disait bestialité* ») ne devrait pas être diffusée à cause de la grève des enseignants. Elle a répondu que la vocation de l'émission *Sexe et confidences* est d'informer, de donner une information juste et pertinente mais absolument pas d'encourager ou de faire la promotion de certaines pratiques discutées dans l'émission.

Lorsque l'image dont vous parlez a été présentée, elle parlait justement du genre de photos que l'on peut trouver sur Internet. Mais nous convenons avec vous qu'elle n'était pas appropriée et nous l'avons fait savoir à l'équipe. Nous sommes désolés que ces images aient pu vous choquer ou vous indisposer.

Par ailleurs, dans l'émission du 22 novembre sur « *qu'est-ce qu'un bon stip tease ?* », on voit des extraits de films comportant des images peut-être un peu osées, mais qui sont tirées de différents films sortis à différentes époques et qui illustraient le propos.

Encore une fois, il est évident que l'émission ne s'adresse pas en aucun cas à un jeune public et que dans tous les cas, la supervision des parents est conseillée.

Enfin, Louise-Andrée Saulnier a bien pris soin de préciser que le téléspectateur a toujours le privilège de changer de chaîne ou d'éteindre sa télé afin de ne pas être exposé à des images qui pourraient être dérangeantes [sic].

Nous vous remercions de l'attention que vous portez au réseau TQS et nous vous prions d'agréer nos sincères salutations.

III. Correspondance additionnelle

Le 27 février 2002, le plaignant a envoyé sa demande de décision au CCNR accompagnée de la correspondance suivante :

Ceci est pour vous informer de mon mécontentement face à la réponse de TQS concernant ma plainte contre l'émission « *Sexe et confidences* ».

Il est inconcevable de prétendre que de présenter un signalétique 18+ nous enlève de toute responsabilité envers les jeunes enfants qui peuvent être témoins des propos dégradant

ainsi que des images exploitant la sexualité, telle que la bestialité, sur les ondes de TQS l'après-midi. Cette station a une responsabilité envers les jeunes gens de la collectivité, tous comme les kiosques à journaux ont des normes à respecter avec leurs présentatoires de revues pornographiques.

Enfin, Louise-Andrée Saulnier a une responsabilité envers les jeunes auditeurs, une responsabilité qui ne consiste pas seulement de [sic] préciser que le téléspectateur a toujours le privilège de changer de chaîne ou d'éteindre la télé afin de ne pas être exposé à des images qui pourraient être dérangeantes [sic], mais d'offrir un contenu d'adulte à des heures de diffusion où seulement des adultes pourront prendre conscience du contenu, à connotation sexuelle, de son émission et non de jeunes enfants.

Comme [la vice-présidente] le précise si bien dans sa lettre, l'émission s'adresse aux plus de 18 ans. Donc, pourquoi est-t-elle [sic] diffusé [sic] l'après-midi? Pour ne plus être témoin de ce type d'erreur : Est-t-il [sic] possible de retirer l'émission présentée sur les ondes l'après-midi? Une émission diffusée le soir semble être suffisante : Période acceptable pour une émission qui s'adressent [sic] justement à un public d'adultes avertis.

Merci de votre compréhension.