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

Bravo! re the film *Chippendales & the Ladies*

(CBSC Decision 01/02-0379)

Decided September 13, 2002

R. Cohen (Chair), R. Cugini, E. Duffy-MacLean, M. Hogarth and H. Pawley

Since S. Crawford, who normally sits on this Panel, is employed by the corporate group that owns Bravo!, she did not participate in this decision.

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**THE FACTS**

The Specialty Service Bravo! broadcast the film *Chippendales & the Ladies* on December 31, 2001 at 8:00 pm EST (which was 6:00 MST - the complainant's time zone). The subject of the documentary was the well-known American male strip-tease group called the Chippendales. The documentary was filmed in Denmark and included interviews with Chippendales dancers and a number of the women who attended a show there. It also featured scenes of Chippendales performances, which included provocative dancing, bare buttocks and men in G-strings. While no frontal nudity was involved nor were male genitalia shown, there were, as noted, a couple of provocative dance numbers. The broadcaster included a 14+ icon and the following viewer advisory in audio and visual formats at the start of the program:

The following program contains scenes of nudity. Parental discretion is advised.

No other advisories were broadcast coming out of any commercial breaks.

A Calgary viewer sent a complaint to the CBSC on January 3, 2002 (the relevant text of the e-mail and all other correspondence can be found in the Appendix). He expressed his concern about both the content and the time at which the program aired, advising that the documentary

contained brash, in your face sexual content (Ex. Provocative movements, nudity, audience members touching the strippers private parts, etc.). It is degrading to both the strippers and

to the audience to see people acting in such a way.

He added that the filmmaker had included

some interviews with the strippers in an attempt to fool the standards bodies (like you) and the audience that these programs are documentaries and are something other than soft-core porn.

With respect to the time issue, the complainant, who was familiar with the Watershed hour of 9:00 pm, asked rhetorically whether the broadcaster was ignoring that requirement. He also raised the question of ratings icons, making the general observation (without offering any specific examples) that he had

also seen programs that have a warning (Ex. The following program contains scenes of nudity, violence, etc.) and the '18+' label, but are shown at any time of the day. How can they get away with this?

In the case of the challenged documentary, he noted that the broadcaster had only applied a

'14+' rating, which is quite unacceptable. Do broadcasters deliberately underrate a program in order to avoid the '18+' designation and the 9:00 pm standard in order to put their program on at a more favourable time?

Bravo!'s Director of Programming and Acquisitions responded via e-mail on February 8. She explained that “[t]he program was scheduled as a lead-in to the critically acclaimed film *The Full Monty*, to provide a lighthearted and fun-filled evening of themed programming for New Year’s Eve.” She then explained the Chippendales’ act in the following terms:

The Chippendales, in case you are not familiar with them, are famous and recognized world-wide as “ladies entertainment” but have become a girls night joke, more than anything else. The program attempts to examine that phenomenon. Their material is in its way quite innocent and ridiculous, and the program does not aim to be titillating or prurient. It does contain some brash performance, but no explicit or graphic sex, full-frontal nudity, extreme violence or bad language, content which would require an 18+ rating.

The Director of Programming pointed out that documentaries are customarily exempt from the requirement of inclusion of an on-screen rating but that 14+ would be the applicable rating for a program such as this. She added that the Chippendales documentary was not a post-Watershed program. On the substantive side, she concluded:

The positive side of your letter, is that our ratings and disclaimers are working and are being noted by audience members such as yourself, so that they can turn to alternative channels if the program is not to their taste.

The complainant was not satisfied by Bravo!'s response and returned his Ruling Request on February 10. It was accompanied by an e-mail in which he refined his complaint by observing that it was not the nudity that was his major complaint, but rather “how people

[were] portrayed.” He added the following observation:

There is a huge difference between National Geographic depiction of nudity at one end of the spectrum, and that of a porno film at the other end of the spectrum. National Geographic treats everybody with respect and doesn't even attempt to exploit its subjects. Porn, like this movie, is at the opposite end of the spectrum. It treats people with disrespect as if people are little more than a collection of sex organs designed to titillate.

In fact, continuing that analogy, he argued that *Chippendales & the Ladies* was far removed from a National Geographic documentary; in his terms, it was a “so called ‘documentary’ (which is really soft-core porn).”

The complainant then made a strong argument concerning the Watershed hour point that had been raised by the broadcaster:

Also, the person at Bravo TV said that “the watershed hour of 9:00 pm applies to the province of origination.” If this is true, it is quite unbelievable! Didn't anybody notice that Canada has 6 time zones? If a program is deemed to be inappropriate for younger viewers and so it is to be shown no earlier than 9:00 pm in the province of origination (usually Ontario) then why is it allowed to be shown at 6:00 pm in BC? Reverse it, so it can be shown no earlier than 9:00 pm no matter where it airs! This is very important!

## 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 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.

(Note: To accommodate the reality of time zone differences, and Canadian distant signal importation, these guidelines shall be applied to the time zone in which the signal originates.)

*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: could possibly include strong or frequent use of profanity  
 Sex/Nudity: 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.

***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.

The National Panel Adjudicators viewed a tape of the program in question and reviewed all of the correspondence. For the reasons provided at greater length below, the Panel considers that the broadcast of the challenged film was not in breach of the exploitation, classification or scheduling issues; however, by failing to provide all the advisories required, the Panel does consider that Bravo! has breached Article 5.2 of the *Violence Code*.

**What Is a Documentary?**

Because the classification system which is a part of the *CAB Violence Code* exempts documentaries (and certain other categories of programming not relevant to the present decision) from the on-screen rating requirement, it is important to distinguish between that program form and others. That definition is better understood by referring to the background for the implementation of the rating system, laid down by the Canadian Radio-television and Telecommunications Commission (CRTC) in *Classification System for*

*Violence in Television Programming*, 18 June 1997, P.N. CRTC 1997-80, which provided that:

- the scope of the classification system should be responsive to the public's concerns while being practical to implement;
- classifications should be applied, at a minimum, to children's programming (programs intended for children under 12 years of age), drama, "reality-shows" (reality-based dramatic programs), feature films, promotions for any of these programs and advertisements for theatrical releases; and
- in order to ensure the protection of children from the harmful effects of television violence, regardless of the time at which the programming is scheduled, the programming described above should be encoded with ratings at all times.

The Commission then described the proposed Action Group on Violence on Television (AGVOT) system, indicating specifically that "Except for the exempt category, which includes news and public affairs, programs will be rated as falling into one of the following categories [the list follows]." The Commission declared its acceptance of the fact that "the proposed rating system meets the criteria set out in its Violence Policy." The Classification System, found in the Appendix to the Public Notice, defines the "Exempt" category as follows:

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

What, then, is meant by "documentaries and other information programming"? In *TQS re an episode of the program Faut le voir pour le croire* (CBSC Decision 99/00-0460, August 29, 2000), the Quebec Regional Panel shaped the answer in the following terms:

The Council has no doubt that it does not include *all* non-dramatic programming. Apart from anything else, the Commission's policy criteria on violence establish that "reality-shows" *are* included in their anticipated list of types of programming *requiring* classification. There is, in other words, a spectrum of reality-based programming running from that which is intended to be exempt, namely, documentaries and information programming, to that which is intended to be rated, namely, reality shows programming. The Council considers that a method of describing this distinction in simple terms would be to say that such non-dramatic programming ranges between enlightening and entertaining. This is not to suggest that enlightening programming cannot be entertaining or that entertaining programming cannot be enlightening. It is only to say that that programming which is *primarily enlightening* is what the broadcasters and the CRTC expected would be exempt and that which is *primarily entertaining* which the broadcasters and the industry expected would be subject to classification.

The Panel then referred to the Canadian Television Fund, which defines a "documentary" as

a non-fiction representation of reality that contains the following elements:

- informs or engages in critical analysis of a specific topic or point of view;
- provides an in-depth treatment of the subject;
- is meditative and reflective;

- is primarily designed to inform but may also entertain;
- treats a specific topic over the course of at least 30 minutes (including commercial time);
- requires substantial time in preparation, production and post-production;
- has an original narrative and visual construction (which may include scenes of dramatic re-enactments);
- has enduring appeal and therefore a long shelf life

The Panel believes it important that persons not confuse the subject matter with the form. A documentary does not cease to be a documentary because its subject matter is racy rather than dry. It also goes without saying that different subjects will interest different people and that some will draw larger audiences than others. A filmmaker's appeal to popular taste and sentiment, even if based on quasi-sexual content, does not either condemn the piece or disentitle it to classification as a documentary.

Despite the contrary, possibly genuinely intended enlightening attempt on the part of the complainant to explain that the interviews with the strippers were merely a ruse to fool the CBSC, the Panel considers that the program *is* a documentary. It partakes in most of the foregoing criteria and does include (although the complainant has not raised this point) at least as many interviews with members of the audience as with the strippers themselves. Why the women are interested in the strip show is clearly as important to the filmmaker in this case as the provision of the reasons for which the men choose to engage in that activity. The Panel concludes that *Chippendales & the Ladies* is, for the purpose of this decision, a documentary. Furthermore, although this makes no difference whatsoever in its determination in this respect, the Panel does not find the film remotely "pornographic", as argued by the complainant.

### **Classification Requirements**

Once the characterization of the film as a documentary is determined, the issue of classification is clear. No on-screen ratings icon is required. Nonetheless, the Panel considers that the broadcaster's decision to include such information is thoughtful, helpful and praiseworthy. It inevitably assists viewers in making their television-watching choices. The Panel also considers that, had an icon been required, the 14+ choice would have been correct: "scenes of nudity and/or sexual activity within the context of narrative or theme" are permitted at this ratings level. Those boundaries were not exceeded.

The Panel wishes to suggest to all broadcasters that they adopt the practice of Bravo! applied in the case of *Chippendales & the Ladies*. Even where the content is such that the program would, according to the rules, fall into the exempt category, the use of the classification icon is to be encouraged where the program content warrants it. Its use is a courtesy benefiting both the viewer and the broadcaster, whose interest is best served by ensuring that people who do not wish to see a genre of programming have the information to avoid it.

## **The Watershed Hour**

Although the *CAB Violence Code* makes specific mention of violence only, it has long been CBSC practice to extend the provisions regarding the Watershed hour and viewer advisories to other sorts of programming, such as that with sexual content and coarse language.

Given that the Panel considers that 14+ would be the correct rating for the film, there would be no requirement that it be broadcast after 9:00 pm in the province of origin (since it would not be a program intended exclusively for adult audiences). In the circumstances, there is not either any issue regarding the applicability of the Watershed in a province receiving the signal at an earlier hour, although the Panel must underscore, for the benefit of the complainant, the exception provided in Article 3.1.1 for single-feed broadcasts.

This Panel has also dealt with Western time zone issues in *WTN re Sunday Night Sex Show* (CBSC Decision 99/00-0672, January 31, 2001). The Panel considered a complaint relating to the 8:00 pm availability in Vancouver of a call-in show in which the host answered questions and gave advice on matters relating to human sexuality. The Panel agreed that the program contained “sexually explicit dialogue and adult-oriented explanatory discussion” and expressed its sensitivity to

the conundrum presented by the vast size of Canada. Given the declared goal of the *Broadcasting Act* to provide programming which will be “varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes,” it must be recognized that this task is to be achieved across six time zones with a relatively thinly spread population base. Since most of the specialty services have a single feed for the entire country (some, but not many, have two feeds), it necessarily results that only some parts of the country can be happy all of the time in terms of the issue of the hour of broadcast of adult programming. Compromise, balance and fairness are essential components of the solution. An adult program which *just* respects the Watershed in St. John’s will be on at dinnertime in Toronto and during pre-dinner after school hours in Calgary and Vancouver. One which *just* respects the Watershed in Vancouver will be on after people have gone to bed in Toronto, Halifax and St. John’s. One which just respects the Watershed in Toronto finds people awake in the Atlantic Provinces but at dinner in Edmonton and Victoria.

## **Viewer Advisories**

Although neither a classification icon nor post-Watershed broadcast was required, the broadcaster is still required to respect the obligation under the *CAB Violence Code* to include viewer advisories. When a program is entitled to play pre-Watershed but its content includes scenes not suitable for children (who are defined by the Code as being under 12), viewer advisories are required throughout the program. The Panel considers that that is

the case here, where both the near-nudity and mature nature of the provocative dancing merit viewer warnings. The broadcast of *Chippendales & the Ladies* needed advisories at the beginning of the program and coming out of each commercial break. Although provided at the start of the film, no other advisories were broadcast, resulting in a breach of Article 5.2 of the *Violence Code*.

## **Exploitation**

The complainant's concern in his original e-mail was that the stripping was "degrading" to the male strippers, as well as to the audience. The Panel understands that the purpose of the *CAB Sex-Role Portrayal Code* is generally to ensure the equality of the sexes on the airwaves and that, more specifically, the purpose of Article 4 of the Code is to ensure that there will be no *inequality* in the form of exploitation or degradation of either gender on the airwaves. This does not mean that the simple depiction of one sex in the absence of the other is the equivalent of the inequality that would be of concern. In such a circumstance, the portrayal of the one sex must still be degrading or exploitative for such a conclusion to be drawn. Nor does the fact that there may be a sexual connotation to the portrayal of either of the sexes imply such degradation. Where, as in *CTV re W-FIVE (Swingers)* (CBSC Decision 99/00-0347, February 14, 2001), both sexes were shown in the context of a public affairs program on swinging (that is, the practice of exchanging sexual partners), the sexual content of the activity was not seen to be exploitative or degrading. According to the Atlantic Regional Panel,

in terms of the *Sex-Role Portrayal Code*, it is not exploitative with respect to the presentation of either of the sexes vis-à-vis the other. Nor was there anything in the segment which would lead anyone to conclude that there is anything negative or degrading stated or suggested with regards to either men or women as a group.

In another matter, *Bravo! re the documentary film Give Me Your Soul* (CBSC Decision 00/01-1021, January 16, 2002), this Panel addressed a complaint about a documentary on the pornography industry. The Panel commented that

the challenged program is not exploitative of either gender. In dealing with the commercial pornography industry *per se*, the documentary interviews, and deals with, men and women, neither to the exclusion nor detriment of the other.

Even where, as in *TQS re Strip Tease* (CBSC Decision 98/99-0441, February 21, 2000), the stripping was done exclusively by women, the Panel did not find exploitation. The Panel noted that "the showing of the bare breasts of Demi Moore or the other dancers was in no way comparable to the erotic matter" in other movies reviewed by the CBSC where no exploitation was found.

In the matter at hand, there is no demeaning, degrading, mocking perspective regarding the male strippers. If anything, the entire subtext of the documentary film is realistic, lightly humorous and gently self-deprecating. It explores a phenomenon and "what's in it" for both

the dancers and the watchers. It exploits neither side of the stage lights to the expense or detriment of the other. The Panel finds no exploitation in the film.

### **Broadcaster Responsiveness**

In addition to the substantive aspects of each CBSC Panel decision, the Adjudicators consider the adequacy of the broadcaster response to the initial statement of concerns of the complainant. It is always the view of the CBSC that the effort undertaken by the complainant to write merits a thoughtful response by the broadcaster. In the case at hand, the Director of Programming has been as focussed, thoughtful, reasoned and explanatory in her reply as the Panel could wish. Nothing more is required in this respect on this occasion.

### **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 *Chippendales & the Ladies* 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 Bravo!.

The Canadian Broadcast Standards Council has found that Bravo! has breached the viewer advisory provision in the Canadian Association of Broadcasters' *Violence Code* in its broadcast of *Chippendales & the Ladies* on December 31, 2001. By failing to provide viewer advisories following each of the commercial breaks advising audiences of the film's scenes involving nudity and mature subject matter, Bravo! has breached Article 5.2 of the *Violence Code*.

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

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## APPENDIX

### CBSC File 01/02-0379 Bravo! Re the film *Chippendales & the Ladies*

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#### I. The Complaint

The CBSC received the following complaint on January 3, 2002 from a viewer in Calgary:

I wish to complain about 2 programs that were aired in Calgary over the Christmas holidays. [...]. The second program was 'Chippendales and the Ladies' which aired on Bravo Network on December 31, 2001 at 6:00 pm.

I want to complain about the content and the time that both of these programs aired. Both of the programs were about strippers (males and female), and contained brush, in your face sexual content (Ex. Provocative movements, nudity, audience members touching the strippers private parts, etc.) It is degrading to both the strippers and to the audience to see people acting in such a way. I noted that both programs had some interviews with the strippers in an attempt to fool the standards bodies (like you) and the audience that these programs are documentaries and are something other than soft-core porn.

I also know that you have established a watershed hour of 9:00 pm so that programs deemed adult should only be show after 9:00 pm. However both of these programs were shown before 9:00 pm (at 6:00 pm and 8:00 pm). Are the broadcasters deliberately ignoring the 9:00 pm standard?

I have also seen programs that have a warning (Ex. The following program contains scenes of nudity, violence, etc.) and the '18+' label, but are shown at anytime of the day. How can they get away with this?

The 'Chippendales and the Ladies' program was only given an '14+' rating, which is quite unacceptable. Do broadcasters deliberately underrate a program in order to avoid the '18+' designation and the 9:00 pm standard in order to put their program on at a more favourable time?

[...]

Can you please tell me what you think?

#### II. Broadcaster Response

Bravo!'s Director of Programming and Acquisitions responded via e-mail on February 8:

I am in receipt of your complaint to the CBSC about the telecast of the program Chippendales and the Ladies on Bravo! on December 31, 2001.

The program was scheduled as a lead-in to the critically acclaimed film *The Full Monty*, to provide a lighthearted and fun-filled evening of themed programming for New Year's Eve.

The Chippendales, in case you are not familiar with them, are famous and recognized world-

wide as “ladies entertainment” but have become a girls night joke, more than anything else. The program attempts to examine that phenomenon. Their material is in its way quite innocent and ridiculous, and the program does not aim to be titillating or prurient. It does contain some brash performance, but no explicit or graphic sex, full-frontal nudity, extreme violence or bad language, content which would require an 18+ rating.

Documentaries are normally exempt from rating, but in order to provide additional parental guidance for family viewing, I added an appropriate disclaimer and rated *The Chippendales* 14+. Normally we would expect that such material could be easily handled by those over 14.

We have never purposefully underrated a program in order to avoid the watershed hour. In our estimation however this is just not an 18+ program. For your information, the watershed hour of 9:00 pm applies to the province of origination, in this case Ontario, but to repeat, the watershed hour was not an issue in this case.

The positive side of your letter, is that our ratings and disclaimers are working and are being noted by audience members such as yourself, so that they can turn to alternative channels if the program is not to their taste.

Yours has been the only complaint we have received about *Chippendales and the Ladies*.

To give you some additional background on how we decide what is suitable for air, and when, we adhere to Canada’s broadcast content guidelines. We follow the Canadian Association of Broadcasters’ (CAB) *Code of Ethics, Guidelines on Sex-Role Portrayal and Guidelines on Violence in Television Programming*. We are extremely sensitive to programs that contain mature content and schedule accordingly. In addition we have adopted the V-Chip technology, which enables viewers to block out programming they deem unsuitable.

We try to present a balanced schedule of programming covering a wide range of subjects. But by its very nature an arts channel will broadcast programming that may not be to every viewer’s taste. Our viewers seem comfortable with the system of ratings and disclaimers we provide to help them make viewing choices.

I hope I have provided you with the background of how and why *Chippendales and the Ladies* was broadcast, and that you can appreciate the context. Please understand that we take viewer’s concerns very seriously as we try to improve our service.

### III. Additional Correspondence

The complainant returned his Ruling Request form on February 10 along with the following e-mail:

Bravo ignored many facets of my complaint, so I wish to peruse [sic] this matter further. I have addressed SOME of my concerns to their response below. In their response they didn’t take any of my concerns seriously. For example, they only briefly touched upon why the program was rated as it was and when it was allowed to be shown when it was.

The fact that there is nudity in the program is not my real complaint. It is how people are portrayed, etc. that was a major concern. There is a huge difference between National Geographic depiction of nudity at one end of the spectrum, and that of a porno film at the other end of the spectrum. National Geographic treats everybody with respect and doesn’t even attempt to exploit its subjects. Porn, like this movie, is at the opposite end of the spectrum. It treats people with disrespect as if people are little more than a collection of sex

organs designed to titillate. Please explain the difference to Bravo, because they don't seem to understand.

Bravo also mentioned that documentaries are normally exempt from rating. Again, there is a huge difference between a National Geographic documentary and this Chippendales so called 'documentary' (which is really soft-core porn).

Also, the person at Bravo TV said that "the watershed hour of 9:00 pm applies to the province of origination." If this is true, it is quite unbelievable! Didn't anybody notice that Canada has 6 time zones? If a program is deemed to be inappropriate for younger viewers and so it is to be shown no earlier than 9:00 pm in the province of origination (usually Ontario) then why is it allowed to be shown at 6:00 pm in BC? Reverse it, so it can be shown no earlier than 9:00 pm no matter where it airs! This is very important!

Slapping on a 5 second warning before a program is shown, at whatever hour the broadcaster likes because they rate the program, is a poor substitute for showing a potentially offensive program at all or at an appropriate hour. It is also very easy and very common for people to flip from one channel to the next during commercials so it is very likely that people will see programs they would normally avoid, due to violence, sex, etc.

Finally, please keep in mind the reality, and not the ideal of the vast number of Canadian households. The TV is an easily accessible device in 99% of Canadian households. People do not hide the remote from children or have V-Chips in their TV (If they have V-Chips in their TVs very few people know how to use it). Even very young children know how to turn on a TV. Therefore, broadcasters have to be responsible to the reality of Canadian life and broadcast only appropriate programs at appropriate hours.