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

Bravo! re the movie *Beneath the Valley of the Ultra-Vixens*

(CBSC Decision 03/04-0817)

Decided December 15, 2004

R. Cohen (Chair), H. Pawley (Vice-Chair), R. Cugini, M. Harris and M. Hogarth

THE FACTS

The movie *Beneath the Valley of the Ultra-Vixens* was broadcast on the specialty service Bravo!, principally after midnight on February 7, 2004. The movie was about a housewife who, being aroused, sought attention from her constantly busy husband. She found fulfillment by befriending a door-to-door salesman of women's erotic toys who offered her a change of personality. She became stripper Lola Langusta and found her sexual fulfillment through liaisons with different characters (and the attachment to her toys), while her husband was sexually harassed by his boss. The movie was full of male and female frontal nudity and sexual acts (ranging from focusing on robust busts to inserting dildos) all painted with a cartoonish brush.

On February 9, the complainant sent an e-mail to the CRTC, which forwarded it to the CBSC in due course. She said (the full text of her correspondence, as well as all other correspondence in this file, can be found in the Appendix):

Content "suitable" for adult viewing only, if even that. Complete nudity, heterosexual, gay, lesbian sex, use of chloroform to knock out "recipient" of sexual intercourse. This type of programming should be offered to consumers only at their request, and as an extra channel to be separately paid for, not part of tiered channel package which includes MSNBC and FOX network TV. Consumer has to give up a series of channels to remove carrier with offensive content. Removal of channels results in higher billing from Shaw Cable because now [the] user is not buying a "bundle". There is something very wrong with this type of programming being offered within the mainstream of TV programming options. It may not have been prime time but I bet there are a lot of parents who would be devastated to know that this type of programming is freely available to one and all at midnight. I feel as though Bravo! via Shaw has abused any trust I

may have had in cable programming. Their executives should start rethinking their programming and cable packaging. I urge someone in a position of authority to view the programming in question and respond with a reason why this was considered worthy of airing in that tier of Shaw Cable bundling.

The Vice-President of Bravo! responded on February 13. He wrote at length about Russ Meyer as film creator and provided positive comments of film critics regarding the Russ Meyer oeuvre; he then said:

Obviously, Russ Meyer movies are not for all tastes. When broadcast on Bravo! *Beneath the Valley of the Ultra-Vixens* was rated 18+, carried on-screen disclaimers warning viewers of nudity and violence and mature subject matter and was scheduled at a very late hour when children were unlikely to be watching television.

While I can certainly appreciate that catching a few scenes "out of context" might seem somewhat shocking, or at least inappropriate for an arts channel like Bravo!, we believe that the films of Russ Meyer have received sufficient critical accolades and attention over the years to warrant a (late night) programming spot on our channel.

Further Correspondence

The complainant sent a reply on March 1, in which she said:

I am in receipt of your outline of the rationale behind airing the Russ Meyer series on Bravo!. This does not air at 1:00 am. It runs at 11:45 pm in Winnipeg on Friday night. Your email was patronizing in its attempt to justify airing a "sneak preview" for your sister digital channel "Drive-In Classics" on Bravo!. Your description of its "merit" in its genre was ridiculous and did not address the issue I raised. My point was that it was inappropriate for that content to run at that hour within the mainstream cable channel grouping. [...] I never asked for a "quality assessment" of the film in question within its genre. I asked for the rationale of airing this genre of programming on the Bravo! network. Calling it a "sneak preview" does not address that issue. If airing the Russ Meyer series on Bravo! channel is one of your programming decisions that has been "carefully considered and evaluated in light of critical acclaim and/or historical importance", you need some fresh air in your ivory tower.

On March 16, the Vice-President of Bravo! replied to the complainant's second letter. He said in part:

[...] Your response states "Your description of its 'merit' in its genre was ridiculous and did not address the issue I raised." But the film's "merit" is exactly the issue and why I judged the film to be appropriate fare if scheduled in a late night slot, with an adult only rating (18+) and with specific on-air content disclaimers coming out of every commercial break.

Clearly, and I agree with you, this is not material aimed at a nine-year-old viewer. However, I don't believe that many Bravo! viewers would appreciate having their post-11:00 pm weekend schedule aimed at a nine-year old's interests and sensitivities. And while we use every scheduling and advisory technique

available to us to ensure that children are least likely to be exposed to certain adult programs, we continue to believe that some segments of Bravo!'s programming should be appropriately and specifically targeted to adults, not just nine-year olds.

While I can certainly respect and appreciate that Russ Meyer movies are not to your liking, over half a million Bravo! viewers watched *Beneath the Valley of the Ultra-Vixens* and *Up!* without any apparent discomfort. According to Nielsen people meters for those dates, not one of these viewers was under the age of twelve.

I do have to agree with you that the fact that the Russ Meyer movies were shown as part of a Drive-In Classics preview does not constitute an appropriate legitimization of the programming in and of itself. I mentioned it in passing, but it did not form a major part of my answer to you.

Clearly, either the Russ Meyer catalogue is appropriate programming for late night Bravo! viewing when the satirical tone and artistic merit of the films are taken into consideration (which is my belief) or they are not, due to their dealing with sexuality, nudity, violence, and the battle between the sexes (writ large) - which is the gist of your reaction to these films.

One point I do profoundly disagree with is your reference to our programming as "pornographic". The *Oxford Dictionary* defines pornography as the "explicit representation of sexual activity in literature, films, etc. intended to stimulate erotic rather than aesthetic or emotional feelings." Russ Meyer films are graphic perhaps, but never explicit. All sexual acts depicted are simulated and use prosthetic devices for comic effect. [...]

His films, while certainly dealing with sexuality, are designed to make an audience guffaw with laughter at the sheer outrageousness of his larger than life depictions of life in America. They are intended to provoke amusement more than erotic feelings, and the very fast editing and comic Mae West-style dialogue are designed to undermine any appeal to prurient interest that his films might otherwise provoke.

In summary, Bravo! ran the Russ Meyer films because they are artistically valid (the two films you reference were both written by film critic Roger Ebert), stylistically innovative, and scheduled at a time and in a way that is appropriate for adult viewing. Although it did run as a sneak preview for our sister Drive-In Classics digital channel, it does not represent a new programming direction that Bravo! intends to exploit to an increasing degree in the future. All of Meyer's films have been previously shown on Bravo! and Drive-In Classics with not one complaint until this February. We appreciate and respect the fact that they were not to your taste, but we stand by our decision to showcase the North American television premieres of Russ Meyer's rarely screened work to many hundreds of thousands of Bravo! viewers who did appreciate them.

Dissatisfied with the Bravo! response, the complainant wrote to the CBSC on that very date. She said in part:

[The Bravo! Vice-President] twists my argument about young children watching his programming at 11:45 to make his point that his night time programming should not be geared to 9-year olds. I never suggested that. There is plenty of adult programming that falls within an entertaining range that is not like the

program I am referencing. [The Bravo! Vice-President] also says he appreciates that this movie was not to my taste. I am an adult, I can turn off my television when I don't want to view something. I can censor my own programming. This program was not to my taste more because it was aired at 11:45 and is totally inappropriate for persons younger than 18. I take issue with the fact that this type of programming is considered for mainstream cable with a diverse audience. I am very unclear about just what our broadcast standards are nowadays. One week we have a major controversy when Justin Timberlake exposes Janet Jackson's bejewelled breast for a millisecond. The next week I turn on my TV and see *Beneath the Valley of the Ultra-Vixens*. If I am to be considered overly protective of young people, I want it to be the Canadian Broadcast Standards Organization that tells me that [...]

A Problem with the Program Tapes

When the CBSC's Broadcast Analyst analyzed the dub of the logger tape provided by Bravo! (necessarily well beyond the 28-day delay for retaining logger tapes), she noted that it did not contain the complete version of the movie that was of concern to the complainant. When this was discovered, since the date for retaining the logger tape had long since passed, it was only possible for the broadcaster to provide the Council with a screener tape, which provides the full program content but none of the on-screen ratings icons or viewer advisories.

THE DECISION

The National Specialty Services Panel considered the complaint under the following provision of the Canadian Association of Broadcasters (CAB) *Code of Ethics*.

CAB Code of Ethics, Clause 10 - Television Broadcasting (Scheduling)

(a) Programming which contains sexually explicit material or coarse or offensive language intended for adult audiences shall not be telecast before the late viewing period, defined as 9 pm to 6 am. [...]

(b) Recognizing that there are older children watching television after 9 pm, broadcasters shall adhere to the provisions of Clause 11 below (viewer advisories), enabling viewers to make an informed decision as to the suitability of the programming for themselves and their family members.

It also considered the provisions of the *CBSC Manual* relating to the retention of logger tapes. They read as follows:

Broadcaster members which join the CBSC do so voluntarily and, by so doing, agree to:

8. co-operate fully with the CBSC by retaining the logger tape of a challenged program from the time of any request by the Secretariat until such time as the CBSC

notifies the broadcaster that it is no longer necessary to hold the tape for purposes of resolution of the complaint;

[...]

In order for such a two-step process to be effective, enabling the complainant to have a valid and useful “appeal” to the CBSC, the broadcaster must take all necessary steps to ensure that the timeliness of its reply is such that the complainant is able to access the CBSC’s process within the 28 day period for retention of logger tapes or that it has set aside the logger tape for the challenged program so that it will be preserved and available to ensure the security of the process.

[...]

The Secretariat will, at the time of receipt of the complaint, and generally before even despatching the letter to the broadcaster, contact the broadcaster to ensure that the logger tape of the challenged broadcast be set aside by the broadcaster until such time as the CBSC notifies the broadcaster that it is no longer necessary to hold the tape for purposes of resolution of the complaint. It is a fundamental membership responsibility of the broadcaster to retain the logger tape securely so that it will be available if and when the Secretariat advises that the required number of dubbed copies be made available for purposes of evaluating, adjudicating or otherwise dealing with the file.

The National Specialty Services Panel Adjudicators viewed a tape of the film in question and reviewed all of the correspondence. For the reasons provided at greater length below, the Panel considers that, while the broadcast of the challenged film was in conformity with all codified standards, the failure of the broadcaster to retain logger tapes constituted a breach of its CBSC membership requirements.

The Nature of the Program Content

The complainant states that the content of *Beneath the Valley of the Ultra-Vixens* was, in her carefully chosen terms, “‘suitable’ for adult viewing only, *if even that* [emphasis added].” Her issue is simply that this type of programming “should be offered to consumers only at their request, [...] not part of a tiered channel package which includes [mainstream channels].” She again acknowledges in logical and balanced fashion that “[i]t may not have been prime time but I bet there are a lot of parents who would be devastated to know that this type of programming is freely available to one and all at midnight.” In his attempt to respond to the concerns of the complainant, the Vice-President of Bravo! presented a full description of the cinematographic and creative relevance of the Russ Meyer genre, believing that such artistic background fairly justified the broadcast of that style of material on Bravo!. The cogent and thoughtful arguments of both parties passed by each other like ships in the night.

At the most basic level (and the Panel recognizes that this point does not constitute a direct reply to the complainant but it is a foundation-stone), the *Broadcasting Act* provides, in Section 3(1)(i)(j) that “the programming provided by the Canadian broadcasting system should be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes.” This Panel has consistently acknowledged over the years that this means that the system does not anticipate that there will be “one size fits all” programming. Nor is there any requirement that the programming be anodyne. Styles of programming that include elements of violence, nudity, sexuality, coarse language, scariness and other mature themes are acceptable fare on all stations and services, including conventional and specialty programming undertakings, provided that certain conditions are met. At the end of the day, it is the view of this Panel that the Russ Meyer style of erotic filmmaking is, in the foregoing sense, legitimately available to Canadians. The limiting conditions pertinent to this decision relate to the provision of sufficient information that will enable audiences to determine whether the programming will be suitable for them and their families to watch. To assist viewers, private broadcasters provide on-screen ratings icons and the more fulsome content descriptions that are a part of viewer advisories. They also encode their programming to assist in the operation of the V-chip (there are also similar blocking devices provided by digital cable and satellite distributors). The point is that broadcasters provide people with the ability to avoid seeing what they do not wish to see.

The foregoing being said, the Panel recognizes that none of the previous paragraph responds to the complainant’s concern about the offering of a specialty service with such erotic films bundled with other specialty services with more mainstream programming. That is because there is no prohibition of such bundling in the relevant legislation, regulations or policies of the CRTC. The issue is strictly a marketing matter for the broadcast distribution undertaking and, if the broadcaster-provided tools are insufficient to assist individuals in the patrolling of their television environments, a consumer’s concerns can only be raised directly with the broadcast distribution undertaking. There is not, on that account, any breach of any codified standard or practice in the bundling of Bravo! with other more mainstream services.

The Obligation to Retain Logger Tapes

As the provisions of the *CBSC Manual* cited above make clear, it is a fundamental obligation of broadcasters to retain logger tapes of what they have broadcast on a 24-7 basis for a 28-day period. Moreover, the obligation is not one of means, it is an obligation of result. They do not merely have to “try hard” to retain the tapes, absent a reason beyond their control (or that of persons for whom they are responsible) they must *succeed* in so doing. In *Crossroads Television (CITS-TV) re Nite Lite* (CBSC Decision 98/99-1129, March 22, 2000),

although logger tapes had been put aside by the broadcaster, they were, as appears to have been the case in the matter at hand, for a different date than that requested by the CBSC. While the Panel stated that it “has no reason to believe that this was a purposeful act,” it underscored the point “that inadvertence, innocent mistake or the acts of third parties which interfere with the preservation of requested logger tapes are not and cannot be accepted as excuses for the non-availability of [...] tapes.” The Panel stated:

Under all of the CRTC’s Regulations pertaining to radio and television, every licensee is *obliged* to “retain a clear and intelligible audio-visual recording of all of its programming” for a period of four weeks from the broadcast and, then, for longer periods when complaints are received and programs are under investigation. The Commission’s insistence on the importance of this requirement has been made amply clear in its decisions. For example, in *Licence renewal for CKDX-FM* (Decision CRTC 2000-44, February 17, 2000), the Commission pointed out that, as a part of its preparations for the Hearing, it had asked for the tapes for the period from May 4-10, 1997, and that “tapes for the entire week were unintelligible.” It pointed out that it had received the assurance that “The licensee has installed an additional VHS logger unit that runs simultaneously with the original reel-to-reel logger system.” In the circumstances, it provided a short licence renewal (just over three years), to ensure that it could verify compliance with this and the other two matters of concern in that renewal. See also, as recent examples of CRTC decisions in which the retention and delivery of logger tapes was a material issue in a licence renewal: *Licence renewal for VOAR* (Decision CRTC 99-540, December 13, 1999), *Licence renewal for VOWR* (Decision CRTC 99-539, December 13, 1999) and *Licence renewal for CFNI* (Decision CRTC 99-497, November 17, 1999). In the case of *Short-term Licence renewal for KFCU-FM; Issuance of a Mandatory Order* (Decision CRTC 98-124, April 17, 1998), the Commission went considerably further (ordering a two-year licence renewal), despite the fact that

In a letter dated 8 January 1997, the licensee advised that *human error* had “resulted in one of the two logger tapes being *inadvertently* recorded over”. Accordingly, the licensee was unable to provide complete logger tapes as requested by the Commission. [Emphasis added.]

The Commission elaborated:

At the hearing, the Commission reminded the licensee that the availability of a complete, clear and intelligible logger tape is particularly important as it allows the Commission, not only to initiate its own monitoring of programming, but also to act on complaints from the general public concerning programming matters.

The requirements of membership in the CBSC merely parallel the regulator’s exigencies. There should be no doubt that the retention of logger tapes by broadcasters is a *cornerstone* of the self-regulatory process. Because the CBSC is not an evidence-gathering body, it relies *solely* on the program tapes as the “evidence” of what was said or shown on the airwaves. It is these tapes alone which are the measure of the broadcaster’s compliance with the Codes to which all CBSC members adhere. The self-regulatory process relies on the availability of these tapes and the *serious* respect by broadcasters of any request by the

CBSC Secretariat to retain these *for as long as necessary* while a file remains open. The members of the public who file complaints with the CBSC or which are referred to the CBSC by the Commission *must* have the sense of security that the broadcaster will comply with this requirement in order for them to retain faith in the process.

In *CKNW-AM re the Peter Warren Show (Logger Tapes)* (CBSC Decision 98/99-0643, May 9, 2000), the broadcaster's Program Director explained that the employee responsible for the preservation of logger tapes was no longer employed by the station and that, after much effort, the secured tapes could not be located. While the broadcaster's explanation for the missing tapes was not in doubt, the Panel stated that "its expectation is one of *result*, not of best efforts." The Panel explained that,

Barring a natural catastrophe of the nature of a fire, broadcasters *must* retain and provide the tapes which are the essence of the self-regulatory, and regulatory, investigations. The failure to comply constitutes a breach of one of the broadcaster's fundamental obligations as a member of the CBSC.

Then, in two files, both involving the broadcaster in the current matter, namely, *Bravo! re the documentary film Give Me Your Soul* (CBSC Decision 00/01-1021, January 16, 2002) and *Bravo! re the film The House of the Spirits* (CBSC Decision 00/01-0738, January 16, 2002), the broadcaster provided the CBSC with screener tapes of the challenged programs, rather than the required logger tapes. In those cases, this Panel recognized Bravo!'s misunderstanding of the logger tape requirement and found no breach, but stressed the importance of supplying a *logger* tape for all future CBSC adjudications. In *Bravo! re the documentary film Give Me Your Soul* (CBSC Decision 00/01-1021, January 16, 2002), the Panel underscored the difference between the two; the logger tape

shows *everything* that has *actually* been broadcast, together with a time code indicating at precisely what hour, minute and second every element of the broadcast occurred [although most logger tapes include time coding, this is not a legally *essential* characteristic of such tapes]. It includes the programs themselves, as well as all interstitial elements, including advertisements, promos, viewer advisories, and such other elements as classification ratings. The screener tape is merely the record of the actual program which is then used for broadcast purposes. It does not show the entire program as actually aired. It is, so to speak, the *pre*-broadcast rather than the *post*-broadcast record. It is the logger tape which contains all the broadcast elements that the CBSC needs in order to adjudicate properly and it is, moreover, the logger tape that broadcast licensees are required by law and by condition of membership in the CBSC to retain.

The Panel then took formal note of the broadcaster's undertaking with respect to its obligation to supply logger tapes in all future CBSC adjudications.

The supply of a screener tape, technically speaking, constitutes a breach of CBSC requirements. In this case, however, upon inquiry, the Panel was informed that the broadcaster inadvertently supplied the incorrect version of the program and, as it happened, the supplementary information contained on the

logger tape was not at issue on this occasion. The CBSC has also been advised that, in all matters arising hereinafter, Bravo! will be supplying logger tapes as required.

In its other decision of the same date, namely, *Bravo! re the film The House of the Spirits* (CBSC Decision 00/01-0738, January 16, 2002), this Panel cited the foregoing Bravo! undertaking and added:

The error was clearly not intended to subvert the CBSC process. Moreover, it was not material to the complainant. In the circumstances, and on the assumption that the problem will not recur, the Panel finds no breach in this respect.

It is clear that the failure of the broadcaster to retain the correct tapes and to furnish these to the CBSC when required constitutes a breach of Bravo!'s membership obligations. The Panel views the matter as a particularly serious one, given Bravo!'s undertaking to get the matter right in future and given the CRTC's own emphasis on the importance of retention of logger tapes. The Panel expects that this problem will not recur.

Broadcaster Responsiveness

There is a CBSC membership requirement that underscores the importance of the broadcaster's role in dialoguing with the complainant. When an individual takes the time to put pen to paper or fingers to keyboard, the CBSC recognizes the effort and considers that it merits the time and thoughtfulness of a broadcaster in replying. In this case, the Vice-President of Bravo! provided as thorough and thoughtful a reply as could have been expected of any broadcaster, even taking the unusual step of sending a second lengthy explanation of his reasons for acquiring and broadcasting the Russ Meyer films, which he anticipated would be of assistance to the complainant. As it happens, the complainant's concerns could not have been answered by Bravo! but the Panel notes the special effort on the service's part to explain its policy with respect to this series of films.

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 within seven days following the release of this decision during the time period in which *Beneath the Valley of the Ultra-Vixens* was broadcast; 2) within 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; 3) at that time, to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements.

The Canadian Broadcast Standards Council has found that Bravo! failed to retain a logger tape of the broadcast of the motion picture *Beneath the Valley of the Ultra-Vixens* on February 7, 2004. The failure to supply a copy of the logger tape to the CBSC for purposes of its adjudication of a complaint constitutes a breach of Bravo!'s membership requirements in the Council.

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

APPENDIX

CBSC File 03/04-0817

Bravo! re the movie *Beneath the Valley of the Ultra-Vixens*

The Complaint

The following complaint dated February 9, 2004 was sent to the CRTC and forwarded to the CBSC in due course:

Bravo! Network programming – received in home via Shaw Cable.

Friday night/Saturday early morning, February 6/7, 2004, 12:00 am-1:00 am.

Content “suitable” for adult viewing only, if even that. Complete nudity, heterosexual, gay, lesbian sex, use of chloroform to knock out “recipient” of sexual intercourse. This type of programming should be offered to consumer only at their request, and as an extra channel to be separately paid for, not part of tiered channel package which includes MSNBC and FOX network TV. Consumer has to give up a series of channels to remove carrier with offensive content. Removal of channels results in higher billing from Shaw Cable because now user is not buying a “bundle”. There is something very wrong with this type of programming being offered within the mainstream of TV programming options. It may not have been prime time but I bet there are a lot of parents who would be devastated to know that this type of programming is freely available to one and all at midnight. I feel as though Bravo! via Shaw has abused any trust I may have had in cable programming. Their executives should start rethinking their programming and cable packaging. I urge someone in a position of authority to view the programming in question and respond with a reason why this was considered worthy of airing in that tier of Shaw Cable bundling.

The complainant also sent an e-mail directly to Bravo! on February 9:

I have today formally complained to both Shaw Cable (Winnipeg, Manitoba office) and the CRTC about Bravo! programming via Shaw Cable on Friday night/Saturday morning February 6/7/04, midnight to 1:00 am Winnipeg time. I would be appreciative if one (but ideally all) of your programming decision-makers could view this program and let me, the poor unsuspecting Shaw mainstream cable consumer, know what you could possibly have been thinking when you considered this program suitable for mainstream cable consumption.

This type of programming should only be available to consumers outside of the parameters of basic cable tiered programming. That is, if someone wants to watch complete nudity, heterosexual, gay, and lesbian sex, and sex using chloroform on your “partner”, I personally think they should have to pay for it separately. Perhaps your executives should also ponder the question of where the expression “you are the architect of your own demise” comes from.

We today cancelled the tier of Shaw Cable packaging which includes your station. We are considering purchasing a satellite dish. If your station cannot explain its programming decisions, Bravo! will be the station we “block” when we get our dish.

Broadcaster Response

Bravo!'s Vice-President responded to the complainant's letter on February 13 with the following:

This letter is in response to an e-mail sent to Shaw Cable and the CRTC regarding a movie which aired on Bravo! Friday February 6, 2004 at 12:00 am in Winnipeg.

The movie in question was Russ Meyer's *Beneath the Valley of the Ultra-Vixens*. You ask what the programmers "could possibly have been thinking when you considered this program suitable for mainstream cable consumption?".

Let me attempt to answer this question. First of all, let me explain that this particular movie is a part of an ongoing series of seventeen of director Russ Meyer's movies, which had their world premiere on our sister digital station, Drive-In Classics. The late night screenings of Meyer's films on Bravo! are part of an eight week "sneak preview" of the digital Drive-In Classics channel.

You may or may not have heard of Russ Meyer, but within the genre of drive-in movies, he's considered a master. His 1959 film *The Immoral Mr. Teas* was the first "nudie-cutie" film ever released and started a whole new genre, and films such as *Beyond the Valley of the Dolls* and *Faster Pussycat Kill! Kill!* developed huge cult followings.

As he explained in an interview with Elwie [*sic*] Yost (which we've run on both Bravo! and Drive-In Classics to help contextualize these historically influential films), Mr. Meyer's style was largely influenced by Al Capp cartoons such as Li'l Abner, which featured larger than life caricatures of American stereotypes. As a result, sexuality and action scenes are so over-the-top that they are meant to be humorous and "cartoon - like in nature".

But don't take our word for it, when we first introduced the Russ Meyer collection to Canadian television in 2002 (yes, we have shown all seventeen films on numerous occasions, and yours is the first complaint that we've received), here's what the TVcritics had to say:

Greg Klymkriw, a Winnipeg-born producer, now a professor at the Canadian Film Centre, recalls seeing his first Meyer film at the Metropolitan and says, "But for me, it was a revelation (...). Russ was unique in that his women were figures of great power and the men were weaker and not as bright" (as quoted in the *Winnipeg Free Press*, Jan 27, 2002).

"Meyer buffs don't need to be told ... that Meyer is a true auteur ... He knew when it comes to sex what sells -- the imagination. If only you could say the same about Ally McBeal". Peter Goddard, *Starweek Magazine*.

"Meyer is as close to a full-fledged 'auteur' as any filmmaker in this country today"(Arthur Knight, *Hollywood Reporter*, April 17, 1979). Credited with raising the status of underground indie films from something you don't mention in public to (...) art. He is now celebrated (...) as a film innovator and a pioneer". (Tony Atherton, *Ottawa Citizen*, February 2, 2002).

"Russ Meyer is an auteur to be considered with Chaplin and Keaton and rather higher than either Woody Allen or Mel Brooks" (Michael Walsh, *The Province*, June 12, 1980).

"You have to give him that. No one else makes a movie like Meyer, which could be attributed to his unique vision (...) somewhere along the way an academic stamp of approval

has attached itself to Meyer's oeuvre. The Museum of Modern Art and the Canadian Film Institute have held retrospectives and several of his better known films continue to make the art-house rounds" (Scott Colbourne, *Globe Television*, February 2, 2002).

"Meyer knew how to make a truly sensational movie. As his career progressed his films became more and more laden with lightning-fast editing, multiple storylines, razor-witted dialogue and iron-handed symbolism" (Tom Bagley, *FFWD, Calgary Magazine*, February 21, 2002).

"No career achievement Oscar is likely for Russ Meyer, though he arguably changed the face of modern cinema more than most trendspotters and respectable yeomen who ever wrote an acceptance speech." Randall King, *Winnipeg Free Press*, Jan 27, 2002.

"They were certainly memorable movies (...). It's no wonder that after all these years I have such a soft spot for Russ Meyer movies. The man was a genius! What fond memories were created by those unforgettable movies" (Robert Pegg, *Scene*, London, Ontario May 15, 2003).

"Meyer's portrayal of women was actually quite revolutionary and respectful". (Kim Vermette, *TV Guide*, May 10, 2003).

"A cinematic legend gets his due", (*National Post*, May 1, 2003).

Now, a few comments about the specific Russ Meyer movie *Beneath the Valley of the Ultra-Vixens*, which was co-written, you might be surprised to learn, by critic Roger Ebert (of the *Chicago Sun-Times*, and TV's *Roeper and Ebert*).

"It's a whole lot of fun to watch ... a slice of American cinema that, like it or not , is important! (Chris Parry EFC)

"Funny and clever" (H. Frost, EFC website).

"THE Meyer film to end all Meyer films ... I happen to think that it is also his best" (Tre Six, IMDB).

"One of the livelier entertainments of 1979 (...) and possibly this Middle-American Rabelais'...masterpiece" (Peter Hogue, *Movietone News*, March, 1980)".

"Merits a choice place among the premieres at (this year's) Cannes Film Festival" (Jean Roy, *Cinema*, July/August 1979)

If there's one thing that can't be said of Meyer's movies, is that they're demeaning to women ... This movie is one of his best efforts", (Eric Walker, Recommended Arts Movies Reviews newsgroup).

"If this ... had been the only thing ever made by Russ Meyer, it would no doubt have become an instant classic (...) Is *Ultra-Vixens* worth seeing? Yes it is deliciously well-made cinema", (ShaneBurridge@hotmail.com <mailto:SaneBurridge@hotmail.com>).

Obviously, Russ Meyer movies are not for all tastes. When broadcast on Bravo! *Beneath the Valley of the Ultra Vixens* was rated 18+, carried on-screen disclaimers warning viewers of nudity and violence and mature subject matter and was scheduled at a very late hour when children were unlikely to be watching television.

While I can certainly appreciate that catching a few scenes "out of context" might seem somewhat shocking, or at least inappropriate for an arts channel like Bravo!, we believe that the films of Russ Meyer have received sufficient critical accolades and attention over the years to warrant a (late night) programming spot on our channel.

While we certainly respect your decision to cancel Bravo! in your digital package if you so choose, we feel it would be unfortunate to boycott a channel that provides operas, dance and many wonderful mainstream movies in earlier timeslots, due to a late night "sneak preview" of a sister digital station that was not to your tastes.

Whatever your final evaluation, please be assured that all Bravo! programming decisions are carefully considered and evaluated in light of critical acclaim and /or historical importance.

We regret that our broadcast of *Beneath the Valley of the Ultra-Vixens* did not live up to your expectations for our channel.

Additional Correspondence

The complainant responded to Bravo!'s letter on February 21 with the following:

I am in receipt of your outline of the rationale behind airing the Russ Meyer series on Bravo!. This does not air at 1:00 am. It runs at 11:45 pm in Winnipeg on Friday night. Your email was patronizing in its attempt to justify airing a "sneak preview" for your sister digital channel Drive-In Classics on Bravo!. Your description of its "merit" in its genre was ridiculous and did not address the issue I raised. My point was that it was inappropriate for that content to run at that hour within the mainstream cable channel grouping. Your pseudo-intellectual approach to the film itself was a complete red herring and does not serve to legitimize your decision-making about its airing in the 11:45 time slot. Hiding behind the "sneak preview" label is also completely transparent. As far as the satirical elements of this "auteur's" work are concerned, I can only hope that the 9-year olds who are able to watch TV until midnight on Friday night are sophisticated enough to understand that aspect of say, sex using chloroform. In addition to being completely patronizing, your letter's content is a classic example of the type of rationale spin doctors use when they have blurred the lines of what is acceptable and unacceptable. I never asked for a "quality" assessment of the film in question within its genre. I asked for the rationale of airing this genre of programming on the Bravo! network. Calling it a "sneak preview" does not address that issue. If airing the Russ Meyer series on the Bravo! channel is one of your programming decisions that has been "carefully considered and evaluated in light of critical acclaim and/or historical importance", you need some fresh air in your ivory tower.

P.S. Don't underestimate your viewers. Your view that it would be unfortunate for me to boycott Bravo! when it provides excellent quality programming in other timeslots is bizarre. If you want a reputation for quality programming, show quality programming in every timeslot. You have control over that issue, not me. I only have control over the cable/digital package I purchase and/or block.

Bravo!'s Vice President responded again on March 16:

My apologies for not immediately responding to your e-mail of February 21. I have been traveling outside of the country (attending the American Film Market and this year's Oscar ceremonies), and only came across your response yesterday as I was plowing through the 800 or so e-mails that accumulated during my absence. Again, my apologies for the delay.

In your original e-mail of February 9, you asked, "I would be appreciative if one of your programming decision-makers could view this program and let me know what you could possibly have been thinking when you considered this program suitable for mainstream cable consumption?"

As the person who is personally responsible for the purchase of the entire (and complete) Russ Meyer catalogue, that is exactly what I attempted to do in my original e-mail response to you. The answer to your very precise question is that we bought the Russ Meyer catalogue because we believe the filmmaker is a genuine "auteur" (he produced, directed, wrote, photographed, edited and self-distributed all of his movies) who developed a unique and totally original style of moviemaking that was years ahead of its time, and has been oft emulated in the ensuing years. To prove that this was not just a personal opinion, I spent a considerable amount of research time trying to demonstrate to you that it is an opinion held by many film critics and scholars. In other words, while many (but not all) of the titles in the Russ Meyer collection deal with sexuality and violence, it is the quality of the filmmaking and the satirical tone of the films (they're not meant to be taken seriously, as they are specifically "cartoony" and over-the-top) that give the films at least some degree of artistic validity.

And that is why I chose to run them on Bravo! And this is why I tried to answer your question in the way that I did.

Your response states "Your description of its 'merit' in its genre was ridiculous and did not address the issue I raised." But the films "merit" is exactly the issue and why I judged the film to be appropriate fare if scheduled in a late night slot, with an adult only rating (18+) and with specific on-air content disclaimers coming out of every commercial break.

Clearly, and I agree with you, this is not material aimed at a nine-year-old viewer. However, I don't believe that many Bravo! viewers would appreciate having their post-11:00 pm weekend schedule aimed at a nine-year old's interests and sensitivities. And while we use every scheduling and advisory technique available to us to ensure that children are least likely to be exposed to certain adult programs, we continue to believe that some segments of Bravo!'s programming should be appropriately and specifically targeted to adults, not just nine-year olds.

While I can certainly respect and appreciate that Russ Meyer movies are not to your liking, over half a million Bravo! viewers watched *Beneath the Valley of the Ultra-Vixens* and *Up!* without any apparent discomfort. According to Nielsen people meters for those dates, not one of these viewers was under the age of twelve.

I do have to agree with you that the fact that the Russ Meyer movies were shown as part of a Drive-In Classics preview does not constitute an appropriate legitimization of the programming in and of itself. I mentioned it in passing, but it did not form a major part of my answer to you.

Clearly, either the Russ Meyer catalogue is appropriate programming for late night Bravo! viewing when the satirical tone and artistic merit of the films are taken into consideration (which is my belief) or they are not, due to their dealing with sexuality, nudity, violence, and the battle between the sexes (writ large) -- which is the gist of your reaction to these films.

One point I do profoundly disagree with is your reference to our programming as "pornographic". The *Oxford Dictionary* defines pornography as the "explicit representation of sexual activity in literature, films, etc. intended to stimulate erotic rather than aesthetic or emotional feelings." Russ Meyer films are graphic perhaps, but never explicit. All sexual acts depicted are simulated and use prosthetic devices for comic effect. As he explains in

his interview with Elwy Yost, Meyer's films were about laughing at American attitudes towards certain subjects. They sold "the sizzle, not the steak." In fact, when hardcore pornography became all-pervasive in the late 1970s, Russ Meyer retired from the genre, as he felt no creative urge to merely depict the mechanics of human sexuality on the screen. His films, while certainly dealing with sexuality, are designed to make an audience guffaw with laughter at the sheer outrageousness of his larger than life depictions of life in America. They are intended to provoke amusement more than erotic feelings, and the very fast editing and comic Mae West-style dialogue are designed to undermine any appeal to prurient interest that his films might otherwise provoke.

In summary, Bravo! ran the Russ Meyer films because they are artistically valid (the two films you reference were both written by film critic Roger Ebert), stylistically innovative, and scheduled at a time and in a way that is appropriate for adult viewing. Although it did run as a sneak preview for our sister Drive-In Classics digital channel, it does not represent a new programming direction that Bravo! intends to exploit to an increasing degree in the future. All of Meyer's films have been previously shown on Bravo! and Drive-In Classics with not one complaint until this February. We appreciate and respect the fact that they were not to your taste, but we stand by our decision to showcase the North American television premieres of Russ Meyer's rarely screened work to many hundreds of thousands of Bravo! viewers who did appreciate them.

The complainant then sent the following e-mail accompanying her Ruling Request form to the CBSC on March 24:

I would be most appreciative if your organization could rule on the movie noted above and also on one that ran a couple of weeks later in the same time slot, also directed by Russ Meyer.

[Bravo!'s Vice President]'s response to my second email was based on parts of my letter which he took out of context to support his position. My comment about 9-year olds not understanding the satirical aspects of the piece was used inappropriately in his response. I was referring to clearly adult content being aired on a Friday night at 11:45 pm., a time when a large part of the audience is not over 18. [Bravo!'s Vice President] fixated on my use of the 9-year old as the example and chose to miss my point altogether. [Bravo!'s Vice President] also used a dictionary definition of the term "pornography" to educate me about its meaning as a way of refuting my comments. My choice of the term initially was based on the fact that the star of the movie is described on the internet as a "porn star" and based on the fact that the movie is described as falling within the genre of "Sex & Sexuality"/"Sexploitation". [Bravo!'s Vice President] twists my argument about young children watching his programming at 11:45 to make his point that his night time programming should not be geared to 9-year olds. I never suggested that. There is plenty of adult programming that falls within an entertaining range that is not like the program I am referencing.

[Bravo!'s Vice President] also says he appreciates that this movie was not to my taste. I am an adult, I can turn off my television when I don't want to view something. I can censor my own programming. This program was not to my taste more because it was aired at 11:45 and is totally inappropriate for persons younger than 18. I take issue with the fact that this type of programming is considered for mainstream cable with a diverse audience.

I am very unclear about just what our broadcast standards are nowadays. One week we have a major controversy when Justin Timberlake exposes Janet Jackson's bejewelled breast for a millisecond. The next week I turn on my TV and see *Beneath the Valley of the Ultra-Vixens*. If I am to be considered overly protective of young people, I want it to be the Canadian Broadcast Standards Organization that tells me that, not an arrogant, patronizing

network executive who has a vested interest in his Russ Meyer series passing muster.
Thank you for your consideration.