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

Bravo! re the movie *Up!*

(CBSC Decision 03/04-0930)

Decided December 15, 2004

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

THE FACTS

The movie *Up!* was broadcast on the specialty service Bravo! on February 20, 2004, beginning at 11:45 pm. The film recounts the story of an unusual (bathtub) murder (of one Adolf Schwartz, who bears an advertent resemblance to the erstwhile German dictator) in a small town in which a group of voluptuous girls face ongoing sexual harassment and rape at the hands of male residents of the community. In order to reveal the identity of the murderer, the movie follows each of the characters, focussing on the newly-arrived hitchhiker, and central figure to the plot, Margo Winchester, and examines, with some satirical flavour, their sexual and social relationships with each other. *Up!* contains explicit nudity and sexual scenes taken from various angles, showing pubic hair and male and female genitalia. It also shows different positions of sexual acts.

The movie had two rape scenes. In the first, a naked woman was raped while she was unconscious. The second involved a woman dancing suggestively in a bar environment; she was attacked by a giant of a local character, well known to the denizens of the establishment. Some of the more raucous bystanders cheered while others sympathetically attempted to get him off her.

An audio and visual advisory was aired at the beginning of the movie that stated the following:

This program contains scenes of nudity, coarse language and mature subject matter. Viewer discretion is advised.

This advisory was repeated in both formats after each commercial break.

An 18+ icon was shown at the beginning of the movie for 13 seconds, at the hour (midnight) for 12 seconds, and then at 1:00 am for 13 seconds.

The complainant sent a letter to the CBSC on February 24. She said in part (the full text of her letter and all other correspondence can be found in the Appendix):

[...] The movie was listed in the T.V. guide as an adult movie called "UP". Bi-line [*sic*] – Buxom women fend off violent men in a small town.

Well, I am an adult but I could only manage to watch 25 minutes of this pornography before I totally lost it. Let me itemize what was shown in that time.

- 1) Man whipping another naked man.
- 2) Man spanking same guy who was laying on his back with a naked woman sitting on his face holding his legs up to facilitate the spanking.
- 3) Man having anal sex with same guy.
- 4) Two naked women – one draped over a tree while the other uses her tongue on her female genitalia.
- 5) Woman using dildo on other woman.
- 6) Man forcing woman to have sex, actually trying to rape her. Physical force and eventual murder of man.
- 7) Law enforcement officer forcing sex with same woman. ETC! ETC! ETC!

[...]

This type of programming is not appropriate for the average viewing audience. What really scares me is that programming like this can be accessed by kids and teenagers who might be up on a Friday night. The violence and nudity undermine the values parents are trying to teach their children. If the sick and perverts want this type of programming there are other outlets that are available, but the average household should not have to endure this pornography in the safety of their own homes.

We are already deluged enough with regular programming with nudity and violence we do not need to be assaulted with blatant pornography.

[...]

The Director of Programming and Acquisitions responded to the complainant on March 1. She said in principal part:

We appreciate your concern about this particular movie. We understand it is not to all viewers' taste, but 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 television premiere on our digital station, Drive-In Classics. The late night screenings of Meyer's films on Bravo! were part of an eight week promotional "sneak preview" of the digital Drive-In Classics channel. This is the second time we have run the Meyer series.

In presenting these cult movies on Bravo! we were particularly sensitive to the broadcast regulations that specify that mature content cannot be broadcast prior to 9:00 p.m. in the province of origination, in this case Ontario. (The Canadian Radio-Television and Telecommunications Commission – the CRTC – in

consultation with members of the public, determined that 9:00 p.m. in the province of origination constitutes the “watershed hour” in respect to content for adult viewers). We therefore scheduled the Russ Meyer movies at the late hour of 1:00 a.m. [although, the Panel wishes to make clear, the Russ Meyer film *Up!* was broadcast at 11:45 pm, as noted above].

In addition, we observe the system of on-screen ratings and viewer disclaimers that is in place to help viewers make choices about the programming that reaches them.

Up! was rated 18+, carried on-screen disclaimers warning viewers of nudity and violence and mature subject matter and was scheduled at an hour when children were unlikely to be watching television.

While I can certainly appreciate that a movie like *Up!* may 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.

By way of background, within the genre of drive-in movies, Russ Meyer is 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* developed huge cult followings.

As he explained in an interview with film historian/presenter Elwie 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”. This is particularly true of *Up!* which is loaded with silly dark humour. The film critic Roger Ebert co-wrote the film!

There is a wealth of critical commentary that I could quote, but I wanted to re-assure you that we respected broadcast codes on choosing the late hour; that, as Russ Meyer movies are considered an important contribution to the film lexicography, we felt the Drive-In overview of his work was appropriate to Bravo!

Bravo! is a specialty channel, available on a discretionary basis. It is not an over-the-air free tv channel. Our audience tends to be comfortable with the ratings we provide for programming of a mature nature. However, this represents a very small part of our line-up.

We do our best, as responsible broadcasters, to provide you with appropriate rating and disclaimer information. With V-chip ratings and the new digital technology, concerned viewers such as yourself have the increased ability to make educated decisions about which programming to allow into your homes, and to block that which you believe unsuitable.

[...]

The complainant was not satisfied with the broadcaster’s response and returned her Ruling Request on March 19.

THE DECISION

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

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

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. Broadcasters shall refer to the *Voluntary Code Regarding Violence in Television Programming* for provisions relating to the scheduling of programming containing depictions of violence.

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.

[...]

CAB Code of Ethics, Clause 11 – Viewer Advisories

To assist consumers in making their viewing choices, when programming includes mature subject matter or scenes with nudity, sexually explicit material, coarse or offensive language, or other material susceptible of offending viewers, broadcasters shall provide a viewer advisory

- (a) at the beginning of, and after every commercial break during the first hour of programming telecast in late viewing hours which contains such material which is intended for adult audiences, or

[...]

Suggested language for suitable viewer advisories is outlined in Appendix A. The suggestions are meant as possible illustrations; broadcasters are encouraged to adopt wording which is likeliest to provide viewers with the most relevant and useful information regarding the programming to which it applies.

CAB Violence Code, Article 1.0 (Content)

1.1 Canadian broadcasters shall not air programming which:

- contains gratuitous violence in any form*
- sanctions, promotes or glamorizes violence

(*“Gratuitous” means material which does not play an integral role in developing the plot, character or theme of the material as a whole).

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.

3.1.2 Accepting that there are older children watching television after 9 pm, broadcasters shall adhere to the provisions of article 5.1 below (viewer advisories), enabling parents to make an informed decision as to the suitability of the programming for their family members.

[...]

CAB Violence Code, Article 4.0 – Classification System

Icon Use Protocols - 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.

CAB Violence Code, Article 5.0 – Viewer Advisories

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

[...]

5.3 Suggested language for suitable viewer advisories is outlined in Appendix A

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 the broadcast of the challenged film breached Clause 11 of the *CAB Code of Ethics* and Articles 4 and 5 of the *CAB Violence Code*.

Adult Content

The Panel agrees entirely with the complainant that “[t]his type of programming is not appropriate for the average viewing audience.” It is abundantly clear that, on the basis of the graphic nature of both the sexual and the violent components of the motion picture, its broadcast was intended exclusively for adult audiences. The consequence of that conclusion is that the broadcaster was obliged to air the film during the Watershed period of 9:00 pm to 6:00 am. Not only did the broadcaster do so, it made the decision to schedule the film as late as 11:45 pm,

well after the start of the Watershed. The Panel finds the choice commendable and considerate, in terms of the potential viewership of the film.

The foregoing being said, the Panel does not agree with the complainant's suggestion that this type of programming can be easily (it is implied) "accessed by kids and teenagers who might be up on a Friday night." Broadcasters have made a major effort to provide viewer tools to families so that they can avoid programming considered inappropriate for their households. These include the aforementioned Watershed hour, classification icons and viewer advisories (of which more below), and encoded information that permits audiences to avoid inappropriate programs by the use of the V-chip or comparable devices on their digital boxes.

It is entirely fair to observe that the Canadian broadcasting system, which anticipates breadth of programming to appeal to the varied tastes of the public, can be expected to accommodate content of all kinds, some or much of which will not appeal to all members of the audience. The challenged program in the present instance is, by its nature, just such content. Whether it breaches any Code provisions is a matter to be examined below and such an eventuality might render it inappropriate for broadcast but there is nothing in the *nature* of the content that makes it unbroadcastable (to coin a word).

Pornography?

The complainant has gone further. She has characterized the film as "pornography". With this position, the Panel strongly disagrees. To explain the basis for its disagreement, it can do no better than to refer to the decision of the Ontario Regional Panel in *CITY-TV re the feature film Jade* (CBSC Decision 03/04-0382, October 22, 2004), in which that Panel explained:

Acknowledging that some of the material in the film is explicit does not render it pornographic. CBSC Panels have in the past referred to the 1992 decision of the Supreme Court of Canada in *R. v. Butler* with respect to the issue of pornography. The Panel considers it useful on this occasion to cite more significant excerpts from that Supreme Court decision than it has done in the past. The late Mr. Justice Sopinka said:

Community standards must be contemporary. Times change, and ideas change with them. Compared to the Victorian era this is a liberal age in which we live. One manifestation of it is the relative freedom with which the whole question of sex is discussed. In books, magazines, movies, television, and sometimes even in parlour conversation, various aspects of sex are made the subject of comment, with a candour that in an earlier day would have been regarded as indecent and intolerable. We cannot and should not ignore these present-day attitudes when we face the question whether [the subject materials] are obscene according to our criminal law.

[...]

The cases all emphasize that it is a standard of *tolerance*, not taste, that is relevant. What matters is not what Canadians think is right for themselves to see. What matters is what Canadians would not abide other Canadians seeing because it would be beyond the contemporary Canadian standard of tolerance to allow them to see it.

Since the standard is tolerance, I think the audience to which the allegedly obscene material is targeted must be relevant. The operative standards are those of the Canadian community as a whole, but since what matters is what other people may see, it is quite conceivable that the Canadian community would tolerate varying degrees of explicitness depending upon the audience and the circumstances.

[...]

Among other things, degrading or dehumanizing materials place women (and sometimes men) in positions of subordination, servile submission or humiliation. They run against the principles of equality and dignity of all human beings. In the appreciation of whether material is degrading or dehumanizing, the appearance of consent is not necessarily determinative. Consent cannot save materials that otherwise contain degrading or dehumanizing scenes. Sometimes the very appearance of consent makes the depicted acts even more degrading or dehumanizing.

This type of material would, apparently, fail the community standards test not because it offends against morals but because it is perceived by public opinion to be harmful to society, particularly to women. While the accuracy of this perception is not susceptible of exact proof, there is a substantial body of opinion that holds that the portrayal of persons being subjected to degrading or dehumanizing sexual treatment results in harm, particularly to women and therefore to society as a whole. [...]

Because this is not a matter that is susceptible of proof in the traditional way and because we do not wish to leave it to the individual tastes of judges, we must have a norm that will serve as an arbiter in determining what amounts to an undue exploitation of sex. That arbiter is the community as a whole.

The courts must determine as best they can what the community would tolerate others being exposed to on the basis of the degree of harm that may flow from such exposure. Harm in this context means that it predisposes persons to act in an anti-social manner as, for example, the physical or mental mistreatment of women by men, or, what is perhaps debatable, the reverse. Anti-social conduct for this purpose is conduct which society formally recognizes as incompatible with its proper functioning. The stronger the inference of a risk of harm the lesser the likelihood of tolerance. [...]

[... E]xplicit sex that is not violent and neither degrading nor dehumanizing is generally tolerated in our society and will not qualify as the undue exploitation of sex unless it employs children in its production.

The Panel considers that the sexual activity in this film does not fall within, or even near, the boundaries of pornographic material. There is sexual explicitness, to be sure, but there is no degrading or dehumanizing context associated with it. There is violence but it is not associated with the sexuality itself. In conclusion, in the present matter, the Panel finds no element of pornography present.

As in the foregoing CITY-TV decision, the National Specialty Services Panel considers that the sexual activity in the present film does not fall within the boundaries of pornographic material. Although there is also sexual explicitness in *Up!*, there is neither a degrading nor a dehumanizing aspect associated with it. There is also violence in *Up!* but it is not either associated with the sexuality itself. Although there are scenes of rape in the present film and it is, of course, acknowledged that rape is by its nature a violent act, there is no rule that rape, like any other crime of violence, cannot be shown on television screens. As the Ontario Regional Panel concluded in *CTV re Complex of Fear* (CBSC Decision 94/95-0022, August 18, 1995), “a film about rape does not necessarily condone rape.” In *Showcase Television re the movie Kids* (CBSC Decision 97/98-1151, February 3, 1999), this Panel made the following observations on the rape scene in that film:

In this case, the rape scene is quite lengthy, lasting close to five minutes. It is the final “active” scene of the movie. While, as stated in the decision excerpt quoted above, rape scenes are always disturbing, the Council notes that this particular scene is neither graphic in the sense that sex organs were not shown, nor agitated by violent action or sounds, but rather is depressingly slow moving and silent and, on another level, haunting. The young girl who is raped is the one who, throughout the movie, has been coping with the knowledge that she is carrying the AIDS virus. However unpleasant the rape scene, by virtue of what it represents, the Council does not consider it violates the Codes. In the Council’s view, despite its length, this scene was integral to the plot’s development, including the irony of its setting and the twist of the plot, in the sense of the viral nemesis which will ultimately be suffered by the rapist. For these reasons, coupled with the absence of a graphic or explicit presentation of this scene, the Council considers that it not gratuitous, and that it did not otherwise sanction, promote or glamorize violence.

In a decision that dealt with a style of film that bears some similarity to the present film in its unrealistic, cartoonish, dark humorous nature, namely, *Showcase Television re Bubbles Galore* (CBSC Decisions 98/99-1087 and 1133, November 19, 1999), this Panel said:

The Council concludes that there is nothing in the scene in question which sanctions, promotes or glamorizes any aspect of the violence asserted by the rape scene involving Vivian. Indeed, there is much in the scene which could be described, as noted earlier, as cartoonish and, in some senses, the scene is as

removed from a realistic depiction of a rape as one could imagine. During the scene, as an apparent dramatic contrivance of the film's creator, Vivian remains, as also noted above, detached, unmoved, apparently unconcerned by the rape which is taking place. It is almost as though she has occupied a superior psychological position, asserting to the perpetrator that, "to the extent that you wish, by this act, to assert your control over me, you have failed. I am unaffected by what you are doing." When he says that he will put his penis in her mouth, she simply replies that, if he does so, she will bite it off. When he takes out a gun and asks her whether she would like some "lead come", she is equally unruffled. While there is no denying the despicable and criminal nature of the act, in the context of the "duelling" individuals, psychologically speaking, the Council considers that Vivian has had the upper hand.

The rapes in both the Showcase decision and the matter at hand stand in stark contrast to that treated by the Ontario Regional Panel in *CHCH-TV re the movie Strange Days* (CBSC Decision 98/99-0043 and 0075, February 3, 1999), in which the woman was sexually attacked in graphic fashion, with fear and pain writ large over her every feature; she was ultimately (but in the very scene) strangled to death. The Panel said:

The one scene, though, which has most troubled the Council is the gruesome strangulation and rape of a woman which, in its length and graphic presentation, exceeded *in the television context* what may have been necessary to advance the plot. Whether the scene should have been as long (or longer) in the theatrical version is not at issue. For the television version, measured against industry Codes, it is the view of the Council that it could have been edited without sacrificing any artistic integrity, and ought to have been edited in order to be long enough to make its point but not so long as to amount to violence for violence's sake.

In conclusion, in the present matter, the Panel finds neither pornography nor gratuitous violence. Nor, it is evident, does it find a breach of any of the foregoing Code provisions relating to the content.

The Classification Icon

One of the tools noted above that broadcasters are required to provide their audiences is an on-screen classification system. It is a source of information for viewers, which enables them to make informed viewing decisions. As this Panel observed in its decision of even date in *Bravo! re the movie Perfect Timing* (CBSC Decision 03/04-1719, December 15, 2004),

When Canada's private broadcasters established the classification system with on-screen icons, they determined that the minimum duration of the visibility of the icon would be *15 seconds*. It can, of course, be longer, but it *must* be no less than 15 seconds. In *TQS re the movie Film de peur* (CBSC decision 02/03-0940, April 22, 2004), the broadcaster had provided a 13+ classification icon at the start of the broadcast and following each commercial break, for 8, 9 or 10 seconds, on each occasion. Although the Quebec Regional Panel noted that the icon was only required at the start of the film and at the beginning of the second hour (the

broadcaster had overzealously supplied too many icons to viewers), it concluded that the duration of the display of the required icon at the required times was clearly insufficient.

The broadcasters' rules provide that the icon must be displayed for 15-16 seconds at the start of the program and at the top of each subsequent hour. In the case of *Film de peur*, the display of the pre-program icon was for 9 seconds, the 7:00-pm display was for 8, and the 8:06-pm display was for 10. Each of these displays was insufficient and constituted a breach of the technical requirements of the classification system, as established pursuant to Article 4 of the *Violence Code*.

The conclusion is no different in the present instance. Bravo!'s 12-13 second displays of the ratings icon were insufficiently long and are in violation of the provisions of Article 4 of the *Violence Code*.

Viewer Advisories

Another of the broadcaster-supplied audience tools noted above is the viewer advisory. By its nature, it is not abbreviated (like the ratings icons); it is, relative to those upper-corner-of-the-screen bits of information, expansive in nature. It is intended to provide in phrase form details of the nature of the programming to follow so that viewers can make informed decisions about the suitability of the broadcast for viewing by themselves or their families. Referring again to this Panel's decision in *Bravo! re the movie Perfect Timing* (CBSC Decision 03/04-1719, December 15, 2004), we said:

The advisory, which is in words and in principle without limitation, can be more expansive and detailed. That being said, it must at least warn audiences of content that may be offensive. It can be conservative in its approach and can exceed what is there but it must not miss potentially offensive matter. It has missed in this case. It refers to coarse language. Fair enough. It refers to nudity. Plenty of that. It refers to mature subject matter. That is there, too. There is, however, not a single reference to what will be the most offensive material for some viewers; namely, explicit sexual content. The failure to identify that aspect of the content constitutes a breach of Clause 11 of the *CAB Code of Ethics*.

The precise principle applies here. The references to nudity, coarse language and mature subject matter are apt; however, the absence of any reference to either violence or explicit sexual content is striking. It leaves the sense that the person choosing the advisory did not see the film, which is most unfortunate for the viewers who are entitled to rely on the accuracy of the warning. Without that dependability, viewers can hardly be assured that their viewing choices will be informed.

Broadcaster Responsiveness

The requirement that a broadcaster be responsive to the letter of complaint sent by a member of the public is considered by the Adjudicating Panels to be a significant part of the membership requirements of the CBSC. Such responsiveness is an essential part of the dialogue by which the CBSC considers that matters that trouble members of the public sufficiently to compel them to write are often successfully resolved. When accomplished in thorough and sensitive ways, such correspondence is also a way of letting the public know that broadcasters care about their audience's concerns. The letter from the Director of Programming and Acquisitions has fairly and thoughtfully fulfilled the broadcaster's obligations in this regard in this instance.

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 *Up!* 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! breached the viewer advisory provisions of the Canadian Association of Broadcasters' *Code of Ethics* and *Violence Code* in its broadcast of the feature film *Up!* on February 20, 2004. By failing to mention the presence of violence and explicit sexual content in the film in its advisories to viewers, Bravo! has violated the provisions of Clause 11 of the *Code of Ethics* and Article 5 of the *Violence Code*. In addition, by broadcasting the ratings icon for only a part of the required time, Bravo! has breached Article 4 of the *Violence Code* that requires the provision of ratings information which is of assistance to viewers in deciding the suitability of the program for themselves and their families.

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

APPENDIX
To
Bravo! re the movie UP! (CBSC Decision 03/04-930, December 15 , 2004)

I. The Complaint

The following complaint dated February 24, 2004, was sent to CBSC:

Dear Sir or Madam,

I am writing this letter to complain about programming on the Bravo! channel on Feb. 20 at 11:45 PM. The movie was listed in the T.V. guide as an adult movie called "UP". Bi-line – Buxom women fend off violent men in a small town.

Well, I am an adult but I could only manage to watch 25 minutes of this pornography before I totally lost it. Let me itemize what was shown in that time.

- 1) Man whipping another naked man.
- 2) Man spanking same guy who was laying on his back with a naked woman sitting on his face holding his legs up to facilitate the spanking.
- 3) Man having anal sex with same guy.
- 4) Two naked women – one draped over a tree while the other uses her tongue on her female genitalia.
- 5) Woman using dildo on other woman.
- 6) Man forcing woman to have sex, actually trying to rape her. Physical force and eventual murder of man.
- 7) Law enforcement officer forcing sex with same woman. ETC! ETC! ETC!

Now this is all in approximately 25 minutes including commercial breaks.

I am so mad I could spit. NEVER in my life would I expect to see this crap in my living room.

I've complained to Shaw Cable service to no avail. Apparently, they have no say as to what Bravo! channel puts on. WHY NOT!! We pay them monthly for their service. Phoning Bravo Channel would probably be a waste of time I'm sure.

This type of programming is not appropriate for the average viewing audience. What really scares me is that programming like this can be accessed by kids and teenagers who might be up on a Friday night. The violence and nudity undermine the values parents are trying to teach their children. If the sick and perverts want this type of programming there are other outlets that are available, but the average household should not have to endure this pornography in the safety of their own homes.

We are already deluged enough with regular programming with nudity and violence we do not need to be assaulted with blatant pornography.

Shaw cable should be held responsible for their programming choice and Bravo! should be severely censured for deeming it necessary to think that the general public wants to be exposed to this type of show.

I should add the next program listed on Bravo started at 1:30 AM was called "Lorna". Bi-line [sic] – A buxom woman bored housewife seeks satisfaction elsewhere. I can only imagine what that was about!!

Who can fix this?

Thanks for listening

II. Broadcaster Response

The broadcaster sent the following response dated March 1 to the complainant

Dear Ms. B,

This letter is in response to your complaint regarding the movie "UP!" which aired on Bravo! Friday February 20, 2004 at 11:45 p.m. in Manitoba.

We appreciate your concern about this particular movie. We understand it is not to all viewers' taste, but 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 television premiere on our digital station, drive-In Classics. The late night screenings of Meyer's films on Bravo! were part of an eight week promotional "sneak preview" of the digital Drive-In Classics channel. This is the second time we have run the Meyer series.

In presenting these cult movies on Bravo! we were particularly sensitive to the broadcast regulations that specify that mature content cannot be broadcast prior to 9:00 p.m. in the province of origination, in this case Ontario. (The Canadian Radio-Television and Telecommunications Commission – the CRTC – in consultation with members of the public, determined that 9:00 p.m. in the province of origination constitutes the "watershed hour" in respect to content for adult viewers). We therefore scheduled the Russ Meyer movies at the late hour of 1:00 a.m.

In addition, we observe the system of on-screen ratings and viewer disclaimers that is in place to help viewers make choices about the programming that reaches them.

"UP!" was rated 18+, carried on-screen disclaimers warning viewers of nudity and violence and mature subject matter and was scheduled at an hour when children were unlikely to be watching television.

While I can certainly appreciate that a movie like "UP!" may 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.

By way of background, within the genre of drive-in movies, Russ Meyer is 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" developed huge cult followings.

As he explained in an interview with film historian/presenter Elwie 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”. This is particularly true of “UP!” which is loaded with silly dark humour. The film critic Roger Ebert co-wrote the film!

There is a wealth of critical commentary that I could quote, but I wanted to re-assure you that we respected broadcast codes on choosing the late hour; that, as Russ Meyer movies are considered an important contribution to the film lexicography, we felt the Drive-In overview of his work was appropriate to Bravo!

Bravo! is a specialty channel, available on a discretionary basis. It is not an over-the-air free tv channel. Our audience tends to be comfortable with the ratings we provide for programming of a mature nature. However, this represents a very small part of our line-up.

We do our best, as responsible broadcasters, to provide you with appropriate rating and disclaimer information. With V-chip ratings and the new digital technology, concerned viewers such as yourself have the increased ability to make educated decisions about which programming to allow into your homes, and to block that which you believe unsuitable.

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 “UP!” did not live up to your expectations for our channel. We take viewers comments very seriously, and will keep yours in mind as we strive to improve our service.