
**CANADIAN BROADCAST STANDARDS COUNCIL
QUEBEC REGIONAL PANEL**

TVA re a segment of an episode of *Star Système*

(CBSC Decision 04/05-1319)

Decided September 9, 2005

B. Guérin (Acting Chair), L. Baillargeon, R. Cohen (*ad hoc*), M.-A. Murat

THE FACTS

TVA broadcast an episode of *Star Système*, a magazine-style entertainment program that examines the world of pop culture and show business, on April 7, 2005 at 7:30 pm. The first segment was about rock singer Billy Idol. The hosts of the program, Herby Moreau and Julie Bélanger, introduced the segment in the following terms:

[translation]

Herby Moreau: We have a rock 'n' roll show for you this week.

Julie Bélanger: And it starts right away with Billy Idol, who is coming to Montreal soon and who you met in front of everyone, Herby.

Herby Moreau: Yes, at a record store in Los Angeles. And the '80s rocker is in great shape.

Julie Bélanger: And it's not just he who is in great shape, his female admirers as well.

Herby Moreau: Sensitive souls beware.

That introduction was followed by a segment featuring Moreau at a record store at which Billy Idol was holding an autograph session. During the segment, one of Idol's female fans asked him to sign her chest. The singer complied by signing her chest just above the neck of her low-cut top. Idol next posed for a photograph with another female fan and pretended to lick her breasts. Moreau then spoke with another female fan who was wearing a black mesh top that

readily revealed her large breasts, which, she confirmed to the reporter, were recent implants. When she approached the singer, Billy Idol lifted her top and kissed one of her bare breasts. There was a close-up of this scene, though it was primarily the other bare breast that was visible. After the encounter, Idol joked to Moreau that “You know, one of them got me right in the eye” and that they were “Very tasty”.

The CBSC received the following complaint, dated April 11, about this scene from a viewer:

[translation]

TVA Network, program *Star Système*, Thursday, April 7, 2005, 7:30 pm, during the interview with the singer Billy Idol. He signed his autograph on women’s breasts and massaged their breasts and kissed their nipples. For prime time, this was unbelievable. After 9:00 pm, yes, not before.

TVA responded to the complainant on May 9 in part as follows (all of the correspondence can be found in the Appendix, available in French only):

[translation]

In order to better respond to your complaint, the report in question was reviewed.

Star Système

The program *Star Système* is a weekly cultural magazine program where we take a different look at the local and international art world and in which we deal with the hidden side of the “star system”. The goal of this program is to inform, entertain and present the real world of movies, music and television.

The report in question showed Billy Idol’s arrival at an autograph session and the phenomenon that surrounds him. In the introduction, the host said with humour “sensitive souls beware”.

We then saw, among others, one female fan asking the singer to sign her breast. He kissed her breast in front of the crowd, visibly aware of the camera and the photographers who captured the scene. The camera angle was such that we did not see the nipple or the singer’s mouth.

The clip was about how far the excesses of the American star system are from our own and if Billy Idol’s reputation as the “bad boy of rock” were justified, all presented with humour.

We adhere to and believe that we respected all of the codes administered by the CBSC, as well as the CBSC decisions which have already been rendered on numerous occasions dealing with the presentation of bare breasts on television in the context of fashion show reports, news reports, dramas, etc.

From our point of view, this was not material intended exclusively for adult audiences that must be broadcast after 9:00 pm. The report in question did not contain pornography or sexual scenes. We sincerely believed that it could be broadcast in the aforementioned context. Nevertheless, we are sorry that this

broadcast offended you. We thank you for taking the time to write to us about your concerns.

The complainant returned his Ruling Request on May 13.

THE DECISION

The Quebec Regional Panel examined the complaint under the following provisions 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. Broadcasters shall refer to the *Voluntary Code Regarding Violence in Television Programming* for provisions relating to the scheduling of programming containing depictions of violence.
- (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.

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
- (b) at the beginning of, and after every commercial break during programming telecast outside of late viewing hours which contains such material which is not suitable for children.

The Quebec Panel Adjudicators reviewed all of the correspondence and screened a tape of the episode of *Star Système*. It concludes that the broadcast of the episode in question was not in breach of either of the foregoing provisions.

Sexual Explicitness

The Quebec Panel does not consider the challenged scene at all sexually explicit. It considers a previous example to be pertinent. Although it was one in

which, admittedly, the broadcast took place after 9:00 pm (which is, of course, the complainant's wish in the present instance), namely, *CHRO-TV re Dead Man's Gun ("The Mesmerizer")* (CBSC Decision 97/98-1208, February 3, 1999), the Ontario Panel had to rule on the visibility of a naked breast on-screen. In any event, although that scene *may* have been leading to sexual activity, the Panel noted both "the brevity and the relative innocuousness of the scene" in deciding that the content was not sexually explicit and intended for adults. Even the undeniably more unsubtle film *Strip Tease* was found by this Panel in *TQS re the movie Strip Tease* (CBSC Decision 98/99-0441, February 21, 2000) to be susceptible of broadcast prior to 9:00 pm:

While acknowledging that the showing of bare breasts on strip tease dancers was intended by the filmmaker to be sexual, the Council considers that the absence of sexual contact or lovemaking in the film rendered it, to all intents and purposes, sufficiently innocent that there would not even be a requirement that its broadcast occur only in a post-watershed time frame.

As the Panel added in that decision,

It is the consistent view of the CBSC's Regional Councils that there is nothing which is *per se* offensive about the broadcasting of programming which includes the showing of bare breasts.

It also referred there to an earlier news decision on a London, Ontario woman who had gone out on the streets of her city topless. In *CTV re News Item (Topless in Public)* (CBSC Decision 96/97-0235 and -0242, February 20, 1998), the Ontario Regional Panel did acknowledge the *sexual* aspect to bare breasts in the following terms:

As to the acknowledgment of a woman's breasts as sexual, it would be hard to argue the contrary position. It is perhaps for this reason that, in ordinary social situations, breasts, like male and female genitalia, are generally clothed. There is nothing in CTV's coverage which creates any of the circumstances described by the complainants.

While the segment involved in the present decision is hardly a news item in the sense of the Ontario coverage, it has a reportage flavour to it. It also has an element of good-natured humour. The bottom line is that the Quebec Panel finds that it is not any more erotic than the CHRO-TV example, significantly less erotic than the *Strip Tease* example, and not sexually explicit by any standard a CBSC Panel would bring to bear in such a matter. There is no reason for such a segment to be restricted to a post-Watershed broadcast. Consequently, there is no breach of Clause 10 of the *CAB Code of Ethics*.

Viewer Advisories

The Panel's position on the program content provides an indication of its opinion on the matter of viewer advisories. It considers the subject matter quite unerotic

and innocuous, distinctly not intended exclusively for adult audiences. When program content is played after 9:00 pm, the adult quotient is what determines the need for advisories. When before 9:00 pm, the unsuitability for children is the factor resulting in the need for audience warnings. For the purpose of resolution of the advisory issue here, the Panel considers that the subject matter was not unsuitable for children. Consequently, no viewer advisory was *required* pursuant to the terms of Clause 11(b) of the *CAB Code of Ethics*. That being said, the Panel acknowledges that viewers such as the complainant would have found it useful to have such information, in order to be able to make a more informed viewing choice. The Panel stresses that there was no such obligation but broadcasters *frequently* take steps that are helpful to their audiences. This might have been such an opportunity.

Broadcaster Responsiveness

The Panel always takes the time to consider the broadcaster=s responsiveness to the complainant=s concerns, which is a part of each broadcaster=s CBSC membership requirements. In the present matter, the broadcaster=s representative sent a long, detailed, very careful reply. While it is substantively diametrically opposed to the position of the complainant, that is frequently the reason for which matters are referred to CBSC Panels for adjudication. In this case, with the exception of the rather curious ignoring of the visibility of the nipples, the TVA letter was focussed on the principles raised by the complainant and the broadcaster=s rationale for its position. The broadcaster=s response complies with its obligations of membership in the CBSC. There is nothing else required of TVA on this occasion.

This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.

ANNEXE

Décision du CCNR 04/05-1319 TVA concernant une séquence diffusée dans le cadre d'un épisode de *Star Système*

La plainte

La plainte suivante en date du 11 avril 2005 a été envoyée au CRTC et transmise au CCNR :

Réseau TVA, émission *Star Système*, jeudi le 7 avril 2005 19h30, pendant l'interview avec le chanteur Bill Idol. Il signait son autographe sur les seins des femmes et massait les seins et embrassait les mamelons. Pour une heure de grande écoute c'est incroyable de voir ça. Après 21 heures, oui, pas avant.

Réponse du télédiffuseur

TVA a répondu au plaignant le 9 mai :

Monsieur,

Nous avons bien reçu votre plainte, qui nous a été transmise par le Conseil canadien des normes de la radiotélévision (CCNR) le 25 avril dernier, concernant la diffusion à notre antenne d'un reportage dans le cadre de l'émission *Star Système*.

Vous êtes d'avis qu'il était inacceptable de diffuser un reportage montrant un chanteur connu (Billy Idol) qui signe un autographe sur un sein nu d'une fan et embrasse ce sein et ce, à une heure de grande écoute c'est-à-dire vers environ 19 heures 30.

Afin de mieux répondre à votre plainte, le reportage en cause a été visionné à nouveau.

Star Système

L'émission *Star Système* est un magazine culturel hebdomadaire où on pose un regard différent sur le monde artistique local et international et dans lequel on traite des dessous du « star système ». Le mandat de cette émission est d'informer, divertir et montrer la vraie vie du monde du cinéma, de la chanson et de la télévision.

Le reportage en cause montrait l'arrivée de Billy Idol à une séance de signature d'autographes et tout le phénomène qui l'entoure. Dans sa présentation l'animateur dit avec humour « cœurs sensibles s'abstenir ».

On y voyait entre autres une fan, demander au chanteur de signer son sein et ce dernier embrasse le sein devant la foule, visiblement conscient de la caméra et des photographes qui croquent la scène. L'angle de la caméra fait en sorte que l'on ne voit pas de mamelon. On ne voit pas non plus la bouche du chanteur.

Il s'agissait de montrer en quoi les excès du star système américain sont loin des nôtres et si la réputation de « méchant garçon du rock » de Billy Idol est fondée, le tout avec humour.

Nous croyons avoir respecté tous les codes régis par le CCNR et auxquels nous adhérons, de même que les décisions rendues par le CCNR qui a déjà été appelé à se prononcer à plusieurs reprises sur la représentation de seins nus à la télévision dans le contexte du reportage de défilés de mode, des bulletins de nouvelles des dramatiques, etc.

À notre point de vue, il ne s'agissait pas de matériel qui devait être diffusé après 21 heures parce qu'il est destiné uniquement aux adultes. Le reportage en cause ne contenait pas de la pornographie ou de scène à caractère sexuel. Nous avons sincèrement cru qu'il pouvait être diffusé dans le contexte ci-haut décrit. Toutefois, nous sommes désolés que cette diffusion vous ait choquée. Nous vous remercions d'avoir pris le temps de nous faire part de vos préoccupations.

Veillez agréer, cher monsieur [L.], l'expression de mes sentiments les meilleurs.

Le plaignant a remis sa Demande de décision en date du 13 mai.