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

The Documentary Channel re the documentary *Sex: The Annabel Chong Story*

(CBSC Decision 04/05-1522)

Decided July 20, 2005

R. Cohen (Chair), H. Pawley (Vice-Chair, Public), R. Deverell,  
E. Duffy-MacLean, T. Rajan (*ad hoc*)

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**THE FACTS**

The documentary film *Sex: The Annabel Chong Story* was broadcast on The Documentary Channel on May 10, 2005 from 12:00 midnight to 1:40 am Eastern Time (10:00-11:40 pm Mountain Time). The film's subject was Grace Quek, (described by herself and others as) a pornographic movie actress, who acted under the screen name Annabel Chong. The documentary included interviews with Chong herself (sometimes as Grace Quek and sometimes as Annabel Chong), explaining her motivations for participating in the porn industry, as well as with her friends, family, teachers and employers.

During one interview in the documentary, a pornographic filmmaker commented that they "wanted to take this girl with an English accent and with an Asian look and make her the nastiest object, sexual object." In addition, in a scene from one of her movies, Chong referred to herself as "the porn industry's newest fortune cookie." The documentary also included: numerous instances of the word "fuck" and other coarse language (as well as extremely sexually explicit dialogue, such as a description of double and triple penetration); and sexually explicit scenes from some of Chong's pornographic movies (some of which were taped when Chong had sex with 251 men within 10 hours, the "World's Largest Gang Bang", which became her "claim to fame" in the porn world).

The broadcast did not contain any viewer advisories.

On May 11, a viewer sent the Canadian Radio-television and Telecommunications Commission (CRTC) a complaint, which was forwarded to the CBSC in due course. He stated his concerns in the following terms (the full text of all correspondence can be found in the Appendix):

I want to register my strong objection to the program *Sex: The Annabel Chong Story*, broadcast on The Documentary Channel [...] between the hours of 10:00 pm and 12:00 am Calgary time.

The show was on when I turned my TV on, because I had been watching a documentary the last time I watched TV. The show objected to profiled someone alleged to have had sex with 250 people in a 10 hour period, and concerned anal sex, with "double and triple penetration," and graphically showed what this meant.

This type of program does not belong on a documentary channel. It is not what I bargained for in selecting to receive The Documentary Channel. Movies about the porn industry are not acceptable documentaries for this kind of channel. They should not be acceptable at any time of the day or night, but especially not at 10:00 pm, which in my view is prime viewing time.

If people want to watch this type of programming, it should be on an x-rated specialty channel where people know what they can expect.

The complainant also wrote directly to the CBSC on May 11, saying in part:

It is totally inappropriate for The Documentary Channel to show a movie portraying a woman having sex with several men at the same time, each penetrating a different orifice. This is degrading to women, and it is certainly not an edifying spectacle for men. To even call this a "documentary" – a movie about a woman who has sex with 250 people in 10 hours – is to blur the distinction between pornography and documentaries.

Please ensure that such movies, if they are shown at all, are shown only on channels like the Sex Channel, which I can avoid and block out. As a consumer, I have the right to know the general nature of material that will be shown on a given type of channel. And I have the right when I turn on my TV in the evening to receive broadcasts of genuine documentaries from a channel that calls itself The Documentary Channel.

The complainant also wrote a second time to the CRTC on May 11, elaborating on his concerns:

Apart from the objectionable sexual content of this program, there was also a racial aspect in that comments were made in the show about how good it was to have an Asian looking woman for these sexual acts. I have an Asian daughter, and these comments were therefore personally offensive to me. The show was degrading to women, and to Asian women in particular.

In my view, this program went beyond any acceptable community standards of decency and respect.

The Documentary Channel responded to the complainant on June 3, explaining its decision to air the documentary in question in principal part as follows:

While the documentary in question may not be for everyone, we believe it does have a place on our network that is devoted to airing the world's finest documentaries. We believe that one of the objectives of documentary film is to shed light on aspects of real life, including issues that people may find contentious or disturbing. Thus, it follows that much of the material aired by our network could also be considered controversial. With programming ranging from Academy-winning features to cutting edge independent films and provocative series, we make every attempt to provide a varied schedule with something for everyone. Of course, even with the best of intentions we simply aren't going to be able to meet the viewing requirements of every audience member.

However, we do take our responsibility as a broadcaster very seriously and regularly make decisions regarding appropriate content. We continually strive to uphold the standards, regulations and codes expected of us as a CBSC member. While *Sex: The Annabel Chong Story* undeniably contains mature content, we are confident that it is not in violation of current standards, regulations or codes administered by the CBSC. This is an adult targeted documentary and was scheduled at 12:00 am EST, in accordance with the Canadian Association of Broadcasters' (CAB) *Code of Ethics* which states: "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 9pm to 6am."

In previous decisions the CBSC has noted that while "programming intended for adult audiences must be shown post-Watershed, there is an exception for signals originating in a time zone other than that in which it is received pre-Watershed. In such a case, the Code provides that the broadcaster is to be judged by the respect for the Watershed shown in the time zone in which the signal originates."<sup>1</sup> Taking our responsibility as a broadcaster further than required, instead of respecting the Eastern time zone only (our originating signal), we scheduled this documentary during post-Watershed (9:00 pm) hours across the country.

That said, we do appreciate your efforts to communicate with us. Recognizing the importance of audience feedback, we encourage viewers to share their opinions with us. Be assured that your comments will be taken into consideration during the on-going planning of our network.

<sup>1</sup> *WTN re Sunday Night Sex Show* (CBSC Decision 99/00-0672).

The complainant wrote back to the CBSC and the broadcaster on June 3:

This is not a satisfactory response. Anyone who views this movie could not possibly call it one of the "world's finest documentaries." It is not a documentary at all within the normal meaning of that word, and as I [*sic*] consumer, I have the right to be shown documentaries and not pornography on The Documentary Channel.

I have been advised by the CRTC that I may request the CBSC Secretariat to review and adjudicate my complaint by a CBSC panel. I hereby request such a written adjudication by the CBSC Secretariat.

The Documentary Channel sent the CBSC tapes of the documentary in question on July 6. The station included a letter which provided additional information about its broadcast of *Sex: The Annabel Chong Story*:

Please note that this documentary aired at 12:00 am EST in accordance with the CAB's *Code of Ethics* and was scheduled to include viewer advisories at the beginning of the program and after every commercial break. However, due to a scheduling systems conversion, there were several days when the computer code to insert advisories was bypassed, causing programming in some time slots to be inadvertently broadcast without the intended advisories, including the midnight documentary on May 10, 2005.

## THE DECISION

The National Specialty Services Panel examined the complaint under the following provisions of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* and *Sex-Role Portrayal Code for Television and Radio Programming*:

### *CAB Code of Ethics*, Clause 2 – Human Rights

Recognizing that every person has the right to full and equal recognition and to enjoy certain fundamental rights and freedoms, broadcasters shall ensure that their programming contains no abusive or unduly discriminatory material or comment which is based on matters of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status or physical or mental disability.

### *CAB Code of Ethics*, Clause 10 - Scheduling

#### 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. [...]

### *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.

## *CAB Sex-Role Portrayal Code, Article 4 – Exploitation*

Television and radio programming shall refrain from the exploitation of women, men and children. Negative or degrading comments on the role and nature of women, men or children in society shall be avoided. Modes of dress, camera focus on areas of the body and similar modes of portrayal should not be degrading to either sex. The sexualization of children through dress or behaviour is not acceptable.

**Guidance:** "Sex-ploitation" through dress is one area in which the sexes have traditionally differed, with more women portrayed in scant clothing and alluring postures.

The Panel Adjudicators viewed a tape of the documentary in question and reviewed all of the correspondence. The Panel concludes that The Documentary Channel is not in violation of the Human Rights or Scheduling clauses of the *CAB Code of Ethics* or the Exploitation clause of the *CAB Sex-Role Portrayal Code*, but that it is in violation of the Viewer Advisory clause of the *CAB Code of Ethics*.

### **The Nature of the Sexual Content**

The complainant's initial characterization of the documentary feature in his first letter to the CRTC was quite careful and correct. He referred to *Sex: The Annabel Chong Story* as a movie "about the porn industry" but, in his letter of the same date to the CBSC, he wrote that even to refer to the film as a documentary is "to blur the distinction between pornography and documentaries." The complainant then added, in his reaction of June 3 to the broadcaster's response, that *Sex: The Annabel Chong Story* "is not a documentary at all within the normal meaning of that word, and as I [*sic*] consumer, I have the right to be shown documentaries and not pornography on The Documentary Channel."

Simply stated, the *subject* of the film does not change the nature of the program *form*. In this Panel's decision in *Bravo! re the film Chippendales & the Ladies* (CBSC Decision 01/02-0379, September 13, 2002), a complainant claimed (in circumstances analogous to the present case) that a film about the well-known male stripper organization, Chippendales, could not, by reason of its subject matter, *be* a documentary, on the one hand, and he raised the challenge that the film actually constituted soft-core pornography, on the other. The Panel disagreed with both contentions. In so doing, it referred to the decision of the Quebec Regional Panel in *TQS re an episode of the program Faut le voir pour le croire* (CBSC Decision 99/00-0460, August 29, 2000), which, for the purpose of defining programming exempt from the obligation to display classification icons, described the distinction between documentaries and reality programming in the following terms:

The Council considers that a method of describing this distinction in simple terms would be to say that such non-dramatic programming ranges between enlightening and entertaining. This is not to suggest that enlightening

programming cannot be entertaining or that entertaining programming cannot be enlightening. It is only to say that that programming which is *primarily enlightening* is what the broadcasters and the CRTC expected would be exempt and that which is *primarily entertaining* which the broadcasters and the industry expected would be subject to classification.

This Panel then referred to the Canadian Television Fund (CTF), which defines a “documentary” as

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

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

Although not referred to in that decision, the Panel has also considered the CRTC’s own definition of long-form documentary found in Category 2 b) of Appendix I to Public Notice CRTC 1999-205:

Original works of non-fiction, primarily designed to inform but may also educate and entertain, providing an in-depth critical analysis of a specific subject or point of view over the course of at least 30 minutes (less a reasonable time for commercials, if any).

In other words, whether pursuant to either the CTF or the CRTC definitions, there is nothing in the subject matter of this film that renders it anything other than a documentary.

The foregoing conclusion does not, of course, mean that the film cannot *also* be, by way of example, a comedic, musical, or even particularly sexually explicit documentary. Those are not, to be sure, mutually exclusive notions (which seems to be the implication of the complainant). As this Panel noted in the *Chippendales & the Ladies* decision, it

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

The evaluation of the *content* (rather than the form) is, therefore, a separate matter of inquiry; however, even in that regard, the Panel finds no difficulty. *Sex:*

*The Annabel Chong Story* is a documentary exploration of a particular woman, her goals and motivations, and her association with a particular event (which characterized itself as a pornography industry event). In any case, even if the underlying event was pornographic (and the Panel makes no observations on this issue), the cinematographic *study* of the principal protagonist and the event is itself neither pornographic nor exploitative. In some senses, its point is the opposite of exploitation. Annabel Chong, or Grace Quek, stated that her goal was to be as uncommitted in her sexual adventures as men are often seen to be. She expressed the desire to be a sexual exploiter rather than one of the exploited and she saw the participation in a variety of sex acts with a record-setting number of men as an avenue of personal advancement. The choice seemed to be *hers*; however aberrant it would be considered to be by the vast majority of “ordinary” people, Quek/Chong hardly appeared to be exploited.

The film itself was primarily an exploration of her background as prologue to the “World’s Largest Gang Bang” and the subsequent dénouement (including the rapid superseding of her record by a sexual competitor in the pornography business). The film involved *far* more interview and discussion than it did sexual “action”, most of which was suggested rather than detailed. The Panel considers that the film, while unquestionably *about* pornography and mature-themed, was not at all either pornographic or exploitative. Consequently, the broadcaster was not in breach of either Clause 10 of the *CAB Code of Ethics* or Article 4 of the *CAB Sex-Role Portrayal Code* in respect of the broadcast under consideration here.

### **Coarse Language**

In its decision of even date in *Bravo! re the film RKO 281* (CBSC Decision 04/05-0584, July 20, 2005), the CBSC dealt with the question of coarse language. Anyone wishing to refer to the CBSC jurisprudence dealing with this point is referred to that decision. In any event, the issue there had to do with the *scheduling* of programming including such language. While *Sex: The Annabel Chong Story* includes such language, its scheduling at 12:00 midnight placed it well within acceptable broadcast parameters. There is no breach of Clause 10 of the Code in the matter at hand on that account.

### **The Nature of Programming on The Documentary Channel**

The complainant’s principal concern is that “This type of program does not belong on a documentary channel.” He further stated: “Movies about the porn industry are not acceptable documentaries for this kind of channel. [...] If people want to watch this type of programming, it should be on an x-rated specialty channel where people know what they can expect.” In the view of the Panel (which is *not* the arbiter of licence-related issues; that is the role of the CRTC),

though, it *appears* that there is no such limitation in The Documentary Channel's licence, which provides that

The Canadian Documentary Channel will provide a national English-language specialty television service that will offer the highly sought-after programming genre of documentaries. [...]

The focus of the new service's programming will be placed on how filmmakers present reality, and the challenges they face. The point of view taken, and the reasons for the selection of content will be the focus, not the subject itself. The licensee anticipates a large and serious audience for long-form, non-fiction narrative, independent of subject matter.

[...] The programming will reflect the widest possible spectrum of communities, interests and issues. [...]

In other words, there appears to be no restriction with respect to the genre of material dealt with in the long-form documentaries that are anticipated to be the staple of the channel. If anything, the programming is expected to be of broad appeal, "reflect[ing] the widest possible spectrum of [...] issues." The truth is that programming with some sexual component or orientation shows up in many broadcast venues, from conventional television to the anticipated television location that is SexTV, but also on such possibly unanticipated specialty services as the History Channel and the Discovery Channel. Moreover, it should be noted that the licence for SexTV describes its programming in the following terms:

The licensee shall provide a national English-language Category 2 specialty television service devoted *exclusively* to programming related to love, romance, marriage, relationship-themed game shows, sexuality and gender issues, family planning, relationship breakdown and magazine style programming featuring romantic vacation resorts. [Emphasis added.]

Correspondingly, in a sense, The Documentary Channel's documentary mandate apparently leaves it with complete liberty as to the subject matter of those documentaries.

Nor is such a piece (i.e. one on sexual matters) thereby disentitled to play on a documentary-oriented channel, or on a channel devoted to "documentaries, movies, mini-series and other programs that embrace both current and historical events" (the History Channel), or a channel devoted to "the exploration of science and technology, nature and the environment and adventure" (Discovery Channel). The bottom line is that there is no inherent reason that a program with sexual content, even one with adult sexual content, cannot play on The Documentary Channel or on other channels which do not, by reason of the nature of their services or their Conditions of Licence, exclude such content.

## Informed Viewing Choices

The foregoing being said, the complainant is justified in saying that people should “know what they can expect.” The Panel does not agree that this is achieved solely by broadcasting such subject matter on “an x-rated specialty channel”; the system anticipates the entitlement of people to be in a position to make informed viewing choices. They can achieve this by taking the fullest advantage of the private broadcasters’ tools for audiences. The first of these is the Watershed hour. It runs from 9:00 pm to 6:00 am and adult content, whether of a sexual, violent, coarse language or thematic nature, is relegated exclusively to that period. The documentary under consideration was broadcast squarely within that time frame. In fact, the broadcaster was particularly conservative and respectful of viewer interests, postponing the broadcast of the film to the post-*midnight* period in the time zone of origination of the broadcast.

The next of the audience tools is the viewer advisory. It tells viewers *in words* what they can expect on the program that they might find offensive: sexual content, nudity, coarse language, violence, mature themes, and so on. When applied in accordance with the requirements of Clause 11 of the *CAB Code of Ethics*, such advisories will run at the start of the program and following each commercial break during the first hour of the broadcast (on a post-Watershed show). In the present case, though, no advisories were provided to viewers. This was explained by the broadcaster’s Viewer Relations Manager in her letter of July 6 (cited above) as a technical problem; “due to a scheduling systems conversion, there were several days when the computer code to insert advisories was bypassed, causing programming in some time slots to be inadvertently broadcast without the intended advisories.”

This inadvertent error is, however, no defence to the failure to include viewer advisories. All programs that contain sexually explicit material, coarse language and other mature subject matter intended for adult audiences *must* carry viewer advisories alerting audiences to those programming elements. The CBSC has consistently ruled that the failure to provide such viewer advisories constitutes a breach of Article 11 of the *CAB Code of Ethics* even in cases where broadcasters have explained that the failure to include viewer advisories was unintentional and the result of a technical problem. This results from the fact that the obligation to provide advisories is an obligation of result, not of means; the commitment of best efforts to avoid the breach is insufficient. See, for example, the decision of this Panel in *Discovery Channel re an episode of The Sex Files* (CBSC Decision 00/01-0791, January 16, 2002), a case where the broadcaster cited the relocation of its master control facilities as the reason for this omission. Consequently, the failure of The Documentary Channel to display the required viewer advisories is a breach of Clause 11 of the *CAB Code of Ethics*.

## The Human Rights Issue

While the question of discriminatory comments was not the most prominent of the complainant's concerns, or even one expressed in his initial letters, it was raised in the third of the May 11 e-mails to the CBSC and CRTC. The CBSC has consistently explained that it is not the mere mention of one of the categories listed in the Human Rights clause that will constitute a breach of that Code provision; rather, the comments must be *abusive* or *unduly* discriminatory. In the matter at hand, there is simply no comment of that nature. There is nothing more than the two references cited above and, far from being abusive, they are, if anything, somewhat admiring. In *CKTB-AM re the John Gilbert Show* (CBSC Decision 92/93-0179, October 26, 1993), the Panel decided that the characterization of Korean women abused by the Japanese during the Second World War as "whores", even if incorrect, did not necessarily constitute a breach:

The issue may not, however, be free of contention to all people and it is not every misconception or error of fact which will give rise to a sanction under the *Code*. It is only such error or errors as exude or reflect abusive or discriminatory attitudes based on matters of race, national or ethnic origin which are prohibited. The characterization in this CKTB-AM case, even if in error, did not constitute abuse or discrimination at all, much less abuse or discrimination based on race, national or ethnic origin.

It appears that the complainant would rather not have the admiration of a young Oriental woman based on the grounds of the Annabel Chong attraction since, as he explains, he has an Asian daughter. Although the Panel readily appreciates his sensitivity, it does not find that there is *any* negative statement being made about Ms. Chong on the basis of her race. Without such a comment, there cannot be said to be any *unduly* negative or discriminatory content. There is no breach of Clause 2 of the Code on this account.

## Broadcaster Responsiveness

In all CBSC decisions, the Council's Panels assess the broadcaster's responsiveness to the complainant. Although the broadcaster need not agree with the complainant, it is expected that its representatives charged with replying to complaints will address the complainant's concerns in a thorough and respectful manner. In this case, the Panel finds that, while the broadcaster's response was, on one level, quite generalized, it also focused quite specifically on the issue of the nature of The Documentary Channel and the hour of broadcast of *Sex: The Annabel Chong Story*. The Panel understands that the broadcaster's view of documentary films and that of the complainant differ but that does not render the response of the broadcaster in any way inappropriate; the Panel considers that The Documentary Channel has fully met its CBSC membership responsibility of responsiveness on this occasion.

## **ANNOUNCEMENT OF THE DECISION**

The Documentary Channel is required to: 1) announce the decision, in the following terms, once during prime time within three days following the release of this decision and once more within seven days following the release of this decision during the time period in which *Sex: The Annabel Chong Story* was broadcast; 2) within the fourteen days following the broadcast of the announcements, to provide written confirmation of the airing of the statement to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by The Documentary Channel.

The Canadian Broadcast Standards Council has found that The Documentary Channel's broadcast of the documentary film *Sex: The Annabel Chong Story* on May 10, 2005 breached the provision of the Canadian Association of Broadcasters' *Code of Ethics* relating to viewer advisories. By failing to provide viewer advisories on the broadcast of that documentary film alerting viewers to the sexual content, coarse language, nudity and mature thematic content, The Documentary Channel breached Clause 11 of the Code, which requires such information to be provided to assist audience members in making the necessary viewing choices for themselves and their families.

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

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## APPENDIX

### CBSC Decision 04/05-1522

#### The Documentary Channel re the documentary *Sex: The Annabel Chong Story*

##### The Complaint

The following complaint of May 11, 2005 was sent to the CRTC and forwarded to the CBSC:

Dear Sir/Madam:

I want to register my strong objection to the program *Sex: The Annabel Chong Story*, broadcast on The Documentary Channel (Expressvu Satellite Channel 336) on May 10, 2005 between the hours of 10:00 pm and 12:00 am Calgary time.

The show was on when I turned my TV on, because I had been watching a documentary the last time I watched TV. The show objected to profiled someone alleged to have had sex with 250 people in a 10 hour period, and concerned anal sex, with "double and triple penetration," and graphically showed what this meant.

This type of program does not belong on a documentary channel. It is not what I bargained for in selecting to receive The Documentary Channel. Movies about the porn industry are not acceptable documentaries for this kind of channel. They should not be acceptable at any time of the day or night, but especially not at 10:00 pm, which in my view is prime viewing time.

If people want to watch this type of programming, it should be on an x-rated specialty channel where people know what they can expect.

Please do not renew the licence for The Documentary Channel when it comes up for review. Perhaps someone else can supply the market for documentaries with proper programming. There are so many good documentaries available, from the National Film Board, the BBC and PBS, to name only a few sources.

The complainant also wrote directly to the CBSC on May 11:

Dear Sir/Madam,

The CRTC has advised me to forward to you my complaint about The Documentary Channel.

It is totally inappropriate for The Documentary Channel to show a movie portraying a woman having sex with several men at the same time, each penetrating a different orifice. This is degrading to women, and it is certainly not an edifying spectacle for men. To even call this a "documentary" – a movie about a woman who has sex with 250 people in 10 hours – is to blur the distinction between pornography and documentaries.

Please ensure that such movies, if they are shown at all, are shown only on channels like the Sex Channel, which I can avoid and block out. As a consumer, I have the right to know the general nature of material that will be shown on a given type of channel. And I have the right

when I turn on my TV in the evening to receive broadcasts of genuine documentaries from a channel that calls itself The Documentary Channel.

See my original message below, giving details of the show complained of.

The complainant also wrote a second time to the CRTC on May 11:

As you suggested, I have forwarded my complaint to the CBSC. I have included a copy below.

However, I would like the CRTC to continue to investigate my complaint. You say in your e-mail that the CRTC's "job is to make sure broadcasters have acted responsibly and to hold them answerable for their programming when it is called for."

I believe that action is called for in this case, just as the CRTC acted when it denied the application by Genex Communications Inc. for the renewal of the licence of CHOI-FM in Montreal.

Apart from the objectionable sexual content of this program, there was also a racial aspect in that comments were made in the show about how good it was to have an Asian looking woman for these sexual acts. I have an Asian daughter, and these comments were therefore personally offensive to me. The show was degrading to women, and to Asian women in particular.

In my view, this program went beyond any acceptable community standards of decency and respect.

The CRTC responded to that e-mail, indicating that they would not continue investigating the complaint since it was in the hands of the CBSC.

## **Broadcaster's Response**

The Documentary Channel responded to the complainant on June 3:

The Canadian Broadcast Standards Council (CBSC) has asked us to respond to your concerns regarding our broadcast of *Sex: The Annabel Chong Story* at 10:00 pm MT on May 10, 2005.

While the documentary in question may not be for everyone, we believe it does have a place on our network that is devoted to airing the world's finest documentaries. We believe that one of the objectives of documentary film is to shed light on aspects of real life, including issues that people may find contentious or disturbing. Thus, it follows that much of the material aired by our network could also be considered controversial. With programming ranging from Academy-winning features to cutting edge independent films and provocative series, we make every attempt to provide a varied schedule with something for everyone. Of course, even with the best of intentions we simply aren't going to be able to meet the viewing requirements of every audience member.

However, we do take our responsibility as a broadcaster very seriously and regularly make decisions regarding appropriate content. We continually strive to uphold the standards, regulations and codes expected of us as a CBSC member. While *Sex: The Annabel Chong Story* undeniably contains mature content, we are confident that it is not in violation of current

standards, regulations or codes administered by the CBSC. This is an adult targeted documentary and was scheduled at 12:00 am EST, in accordance with the Canadian Association of Broadcasters' (CAB) *Code of Ethics* which states: "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 9pm to 6am".

In previous decisions the CBSC has noted that while "programming intended for adult audiences must be shown post-Watershed, there is an exception for signals originating in a time zone other than that in which it is received pre-Watershed. In such a case, the Code provides that the broadcaster is to be judged by the respect for the Watershed shown in the time zone in which the signal originates."<sup>1</sup> Taking our responsibility as a broadcaster further than required, instead of respecting the Eastern time zone only (our originating signal), we scheduled this documentary during post-Watershed (9:00 pm) hours across the country.

That said, we do appreciate your efforts to communicate with us. Recognizing the importance of audience feedback, we encourage viewers to share their opinions with us. Be assured that your comments will be taken into consideration during the on-going planning of our network.

<sup>1</sup> *WTN re Sunday Night Sex Show* (CBSC Decision 99/00-0672).

## Additional Correspondence

The complainant wrote to the CBSC on June 3:

This is not a satisfactory response. Anyone who views this movie could not possibly call it one of the "world's finest documentaries." It is not a documentary at all within the normal meaning of that word, and as I [*sic*] consumer, I have the right to be shown documentaries and not pornography on The Documentary Channel.

I have been advised by the CRTC that I may request the CBSC Secretariat to review and adjudicate my complaint by a CBSC panel. I hereby request such a written adjudication by the CBSC Secretariat. I understand that it is not necessary for me to attend such a hearing. My complaint deserves independent adjudication.

I am copying this letter to the CRTC.

The Documentary Channel included the following letter with the tapes it sent on July 6:

As requested, you will find enclosed 2 copies of the May 10, 2005 broadcast of *Sex: The Annabel Chong Story* on The Documentary Channel. Each tape is cued to this documentary that is the basis for the complaint (file C04/05-1522) your office received from [the complainant].

We are also enclosing correspondence from a previous complaint filed by this viewer in 2004 regarding *Private Parties* on The Documentary Channel. In addition, we've included some articles that discuss the controversial documentary *Sex: The Annabel Chong Story* after it was screened at the 1999 Sundance Festival.

Please note that this documentary aired at 12:00 am EST in accordance with the CAB's *Code of Ethics* and was scheduled to include viewer advisories at the beginning of the program and after every commercial break. However, due to a scheduling systems conversion, there were

several days when the computer code to insert advisories was bypassed, causing programming in some time slots to be inadvertently broadcast without the intended advisories, including the midnight documentary on May 10, 2005.

Please let me know if you require anything further from our office.