



## Broadcasting Decision CRTC 2006-603

Ottawa, 24 October 2006

**YTV Canada, Inc. and the Canadian Broadcasting Corporation  
(the general partners), and 3366341 Canada Inc.,  
Barna-Alper Productions Inc., CineNova Productions Inc.,  
the National Film Board of Canada and Omni Film Productions Ltd.  
(the limited partners), carrying on business as  
The Canadian Documentary Channel Limited Partnership  
Across Canada**

### **Complaint regarding the broadcast of *Sex: The Annabel Chong Story* by The Documentary Channel**

*In this decision, the Commission addresses a complaint regarding The Documentary Channel's broadcast, between 10 p.m. and 12 p.m., Mountain Time, of *Sex: The Annabel Chong Story*, a program that contains sexually explicit material intended for adult audiences. The Commission finds that, in failing to provide viewer advisories at the beginning of, and after every commercial break during the first hour of broadcast, the licensee did not meet the Canadian broadcasting policy objective set out in the Broadcasting Act, that programming should be of high standard. The Commission concludes that the broadcast did not contravene the terms and conditions of The Documentary Channel's broadcasting licence, or the provision contained in the Television Regulations, 1987 that prohibits the broadcast of abusive comment or abusive pictorial representation.*

### **Background**

1. On 11 May 2005, the CRTC received a complaint from a Calgary resident concerning the broadcast of *Sex: The Annabel Chong Story* by The Documentary Channel on 10 May 2005 between 10 p.m. and 12 p.m., Mountain Time. The licensee of The Canadian Documentary Channel is YTV Canada, Inc. and the Canadian Broadcasting Corporation (the general partners), and 3366341 Canada Inc., Barna-Alper Productions Inc., CineNova Productions Inc., the National Film Board of Canada and Omni Film Productions Ltd. (the limited partners), carrying on business as The Canadian Documentary Channel Limited Partnership.
2. Since the licensee is a member of the Canadian Broadcast Standards Council (CBSC), the Commission, in accordance with its usual practice, referred the complaint to the CBSC for resolution. The CBSC issued its determination on the complaint in Decision 04/05-1522, 20 July 2005 (the CBSC Decision).
3. On 20 September 2005, the complainant requested that the Commission review the CBSC Decision.

## **The program**

4. *Sex: The Annabel Chong Story* (1999, by Gough Lewis) is a film about Grace Quek, a university student in Southern California and adult film actress who performs under the screen name of Annabel Chong. She is known for participating in the adult film, *The World's Biggest Gang Bang*, which is about Chong having sex with 251 men within 10 hours. Gough Lewis' documentary covers various aspects of Annabel Chong's life, following her through her days as a student, as a pornography actress and a native Singaporean. The documentary includes several one-on-one interviews with Annabel Chong, exploring the reasons for her participation in the adult film industry and her perspective on feminism and pornography.

## **The complaint**

5. In his original complaint and again in his request for the Commission to review the CBSC Decision, the complainant alleged that the broadcast of *Sex: The Annabel Chong Story* by The Documentary Channel was inconsistent with its mandate as set out in the definition of its nature of service, which is imposed as a condition of its broadcasting licence. The complainant maintained that the program is not a documentary. In his view, qualifying a program such as *Sex: The Annabel Chong Story* as a documentary obscures the distinction between pornography and documentaries. The complainant argued that programs about the pornography industry are not suitable for broadcast on channels such as The Documentary Channel at any time and expressed particular concern that the program in question was broadcast at 10 p.m., Mountain Time, which, in his view, is prime viewing time. He added that such programs should be broadcast on adult programming channels that are distributed only at the specific request of a subscriber.
6. The complainant claimed that, in portraying a woman having sex with several men at the same time, the broadcast degraded women. He further contended that, since the subject of the program is a woman of Asian descent, the broadcast degraded Asian women, in particular. Accordingly, in the complainant's view, the broadcast contravened the Canadian Association of Broadcasters' (CAB) *Sex-role portrayal code for radio and television programming* and clause 2 (Human Rights) of the CAB's *Code of Ethics*.
7. Finally, the complainant claimed that the broadcast transgressed acceptable community standards of decency and respect.

## **Licensee's reply**

8. The licensee responded to the complaint on 3 June 2005. It submitted that:

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. ...

... While *Sex: The Annabel Chong Story* undeniably contains mature content, we are confident that it is not in violation of current standards, regulations and codes administered by the CBSC.

9. The licensee stated that the program was a documentary targeted to adults. For this reason, the licensee scheduled the program at 12 a.m. Eastern Standard Time, in accordance with Clause 10 (Scheduling) of the CAB's *Code of Ethics*, which specifies that programming containing sexually explicit material or coarse or offensive language intended for adult audiences must be broadcast after 9 p.m. and before 6 a.m. The licensee explained that broadcasting the program at 12 a.m. Eastern Standard Time ensured that it complied with provisions of the Code across Canada.
10. On 6 July 2005, the licensee sent the tapes of the documentary to the CBSC and provided additional information concerning viewer advisories in an accompanying letter. In that letter, the licensee stated:

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.

11. *Sex: The Annabel Chong Story* was therefore broadcast without viewer advisories.

### **The CBSC Decision**

12. The CBSC's National Specialty Services Panel (the Panel) examined the complaint in light of clauses 2, 10 and 11 of the CAB's *Code of Ethics* and clause 4 of the CAB's *Sex-role portrayal code for radio and television programming*.
13. Clauses 2, 10 and 11 of the *Code of Ethics* specify the following:

#### 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.

#### Clause 10 – 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 p.m. to 6 a.m.

#### 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.

14. Clause 4 of the *Sex-role portrayal code for radio and television programming* specifies the following:

#### Clause 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.

#### **CBSC's findings**

15. The Panel found that the broadcast did not contravene clauses 2 or 10 of the *Code of Ethics* or clause 4 of the *Sex-role portrayal code for radio and television programming*. However, the Panel concluded that the broadcast did contravene clause 11 (Viewer Advisories) of the *Code of Ethics*.
16. The Panel disagreed with the complainant's allegations that the program was not a documentary within the normal meaning of the word and that such programming did not belong on The Documentary Channel. While pointing out that issues related to a broadcaster's licence fall within the CRTC's jurisdiction, the Panel indicated that it

had examined The Documentary Channel's nature of service condition of licence and concluded that there appears to be no restriction on the licensee, by reason of that condition of licence or any other condition of its licence, that would prohibit it from broadcasting a program with sexual content, even one with explicit sexual content. The Panel submitted that the subject matter of a program does not change the nature of the program form, which, in this case, is a documentary. The Panel also maintained that *Sex: The Annabel Chong Story* qualifies as a documentary under the CRTC's definition of a documentary as well the Canadian Television Fund's definition of a documentary.

17. The Panel found that, while the cinematographic study of Annabel Chong was unquestionably about pornography and presented a mature theme, its content was neither pornographic nor exploitative. The Panel emphasized that the documentary was primarily an exploration of Annabel Chong's life, consisting of considerably more interviews and discussion than sexual "action." In the Panel's view, Annabel Chong hardly appeared exploited because the choice to participate in the adult video, *The World's Biggest Gang Bang*, one of the key topics explored in the broadcast, was hers. The Panel stated:

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 seems 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.

18. On the question of discriminatory comments made on the basis of Annabel Chong's ethnic origins, the Panel found that no abusive, unduly discriminatory comments or negative statement had been made about Ms. Chong on the basis of her race.
19. With respect to scheduling and informed viewer choices, the Panel submitted that, while *Sex: The Annabel Chong Story* contained coarse language and material intended for adult audiences, The Documentary Channel placed it well within acceptable broadcast parameters by scheduling the program at 12:00 midnight, Eastern Standard Time. At the same time, the Panel noted that no viewer advisories were provided due to a technical problem. The Panel stated that however inadvertent the error was, it was no defence for the failure to include viewer advisories for programming containing sexually explicit material, coarse language and other mature subject matter intended for adult audiences. For this reason, the Panel found that the licensee had contravened clause 11 (Viewer Advisories) of the *Code of Ethics*.

## Commission's analysis and determinations

20. The Commission is required, pursuant to section 5(1) of the *Broadcasting Act* (the Act), to regulate and supervise the Canadian broadcasting system with a view to implementing the broadcasting policy set out in section 3(1) of the Act. Section 3(1) sets out an extensive declaration of the broadcasting policy for Canada, listing a number of policy objectives. Section 3(1)(d)(i) declares that the Canadian broadcasting system should “serve to safeguard, enrich and strengthen the cultural [and] social... fabric of Canada.” Section 3(1)(d)(ii) states that the Canadian broadcasting system should “encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas [and] values...” Section 3(1)(d)(iii) states that the Canadian broadcasting system, through its programming, should “...serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights...” Section 3(1)(g) states that “the programming originated by broadcasting undertakings should be of high standard.”
21. Section 5(1)(b) of the *Television Broadcasting Regulations, 1987* (the Regulations) was enacted with a view to implementing the Canadian policy objectives of the Act set out above. It specifies that a licensee shall not broadcast:
- ... any abusive comment or abusive pictorial representation that, when taken in context, tends or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability.
22. The Commission's analysis of the complaint took into account the concerns raised by the complainant, the licensee's reply, and the program's content. The Commission conducted its analysis against the background of The Documentary Channel's nature of service condition of licence; the Canadian broadcasting policy objectives of the Act, including the high standard provision set out in section 3(1)(g) of the Act; and the prohibition against the broadcast of any abusive comment or abusive pictorial representation contained in section 5(1)(b) of the Regulations.

### The Documentary Channel's nature of service

23. The complainant alleged that the broadcast of *Sex: The Annabel Chong Story* was not consistent with The Documentary Channel's licence and mandate because, in his view, the program is not a documentary and programs about the pornography industry are not acceptable documentaries. Accordingly, the Commission analyzed whether *Sex: The Annabel Chong Story* is a documentary in accordance with the CRTC program category definitions, and whether the broadcast of the program was consistent with the licensee's nature of service condition of licence.

*Is the program a documentary?*

24. The Commission's definition of a long-form documentary is set out in Appendix I to Public Notice CRTC 1999-205<sup>1</sup> (Public Notice 1999-205), and reads as follows:
- 2 b) 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). These programs shall not be used as commercial vehicles.
25. The Commission notes that *Sex: The Annabel Chong Story* is neither a work of fiction, nor is it a dramatization of Annabel Chong's life. The Commission considers that the program informs about Annabel Chong and the pornography industry, and is educational to the extent that it covers a particular subject matter in considerable depth. The Commission is of the opinion that the film also provides a critical analysis of the subject: the film presents an array of pros and cons, as well as various interpretations of Annabel Chong's behaviour and personal choices. In several instances, for example, Annabel Chong's attraction to pornography is discussed at length by herself and others. Finally, consistent with the above definition, the program lasts more than 30 minutes.
26. With respect to the complainant's allegation that the distinction between documentary and pornography is obscured in this program, the Commission is of the view that the documentary's objective should not be confused with Annabel Chong's actions and life, which are the subject of the documentary. The Commission notes that most of the program's images do not constitute shots of pornographic material. The director takes the viewer through Annabel Chong's quest and daily life. A majority of the scenes presented in the program portray Annabel Chong's whereabouts, one-on-one interviews with her, and places that are important to her: the pornography industry, academia, painting classes where she started to pose naked, her native Singapore, her family home, a medical clinic that she visits, etc. The Commission considers that it is not unrealistic to see images pertaining to the pornography industry when a documentary relates the life of a pornography actress. While the program does contain some sexually explicit material, the Commission finds that the images in question are not gratuitous, but are rather instrumental to the context of the program. The Commission examines this issue further in paragraphs 43 to 56, which address the complainant's allegations that the program is degrading to women.
27. In light of the above, the Commission finds that *Sex: The Annabel Chong Story* is a documentary in accordance with the definition of a long-form documentary set out in Public Notice 1999-205.

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<sup>1</sup> *Definitions for new types of priority programs: revisions to the definitions of television content categories; definitions of Canadian dramatic programs that will qualify for time credits towards priority programming requirements*, Public Notice CRTC 1999-205, 23 December 1999

*Does the program comply with The Documentary Channel's nature of service?*

28. The Documentary Channel's nature of service condition of licence, as set out in *The Canadian Documentary Channel – a new specialty channel*, Decision CRTC 2000-455, 14 December 2000 (Decision 2000-455), states:

The licensee shall provide a national English-language Category 1 specialty television service to broadcast documentary programs on a 24-hour per day basis. Programming will cover the full range of documentary experience but will not include live coverage of news or sports events.

29. Decision 2000-455 further describes The Documentary Channel's nature of service as follows:

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. ...

30. The Documentary Channel's conditions of licence also permit it to broadcast programming from a number of program categories, including program categories 2(a) Analysis and interpretation; and 2(b) Long-form documentary.
31. In the Commission's view, the program in question complies with the licensee's commitment to offer programming that "reflects the widest possible spectrum of communities, interests and issues." The Commission notes that The Documentary Channel's conditions of licence do not exclude the industry of pornography and or stories such as this one that portrays Annabel Chong's life from that wide spectrum of interests and issues highlighted in Decision 2000-455.
32. The Commission considers that *Sex: The Annabel Chong Story* is also consistent with the licensee's commitment to seek documentaries focusing not solely on the subject itself, but on "the point of view taken, and the reasons for the selection of content." As an illustration, the film's director appears in his film to explain his reasons for choosing to tell Annabel Chong's story and the rationale behind the film's treatment.
33. The Commission considers that nothing in the subject content of *Sex: The Annabel Chong Story* is contrary to The Documentary Channel's nature of service condition of licence. Accordingly, the Commission finds that the broadcast of *Sex: The Annabel Chong Story* was consistent with The Documentary Channel's nature of service.



### High standard

34. The complainant alleged that the broadcast of *Sex: The Annabel Chong Story* transgressed acceptable community standards of decency and respect. Accordingly, the Commission also assessed whether the broadcast complied with the objective set out in section 3(1)(g) of the Act that programming should be of high standard.
35. The Commission considers industry codes such as the CAB's *Code of Ethics* and the CAB's *Sex-role portrayal code for radio and television programming* to be useful benchmarks for establishing community standards for overall broadcast ethics. In the present case, as a key measure of high standard, the Commission assessed the broadcast in light of industry scheduling and viewer advisory standards set out in the *Code of Ethics*, and in light of the *Sex-role portrayal code for radio and television programming*, which is imposed on The Documentary Channel as a condition of its licence.

#### *Industry standards concerning scheduling and viewer advisories*

36. The Commission examined whether the broadcast of *Sex: The Annabel Chong Story* was consistent with industry standards concerning the scheduling of content intended for adult audiences.
37. Clause 10 (Scheduling) of the CAB's *Code of Ethics* specifies that programming containing sexually explicit material or coarse or offensive language intended for adult audiences must not be broadcast before the late viewing period, defined as 9 p.m. to 6 a.m. This clause, which is often referred to as the "watershed" provision, was originally established in the CAB's *Voluntary code regarding violence in television* to ensure that programs containing scenes of violence intended for adult audiences are not broadcast at times when young children are most likely to be watching television. Broadcasters extended the watershed provision to include sexually explicit material and coarse or offensive language. The CAB codified this practice when it revised its *Code of Ethics* in 2002.
38. The Commission notes that the watershed provision does not prohibit all broadcasting of sexually explicit material. Instead, the watershed provision requires that sexually explicit content be broadcast only between 9 p.m. and 6 a.m.
39. Further, Clause 11 (Viewer Advisories) of the CAB's *Code of Ethics* specifies that broadcasters must provide a viewer advisory at the beginning of, and after every commercial break during the first hour of programming telecast in late viewing hours if the programming includes mature subject matter or scenes with nudity, sexually explicit material, coarse or offensive language, or other material susceptible of offending viewers.

40. In the present case, the licensee broadcast *Sex: The Annabel Chong Story* at 12 a.m. Eastern Standard Time, in accordance with the industry standard regarding the scheduling of programming not suitable for children. Moreover, the Commission is satisfied that the licensee exercised sensitivity by ensuring that the program was broadcast post-watershed in all time zones.
41. With respect to viewer advisories, the licensee explained in a letter to the CBSC, dated 6 July 2005, that a technical problem caused programming in some time slots to be inadvertently broadcast without the intended viewer advisories. The broadcast of viewer advisories is an important means of providing viewers with information to make informed viewing choices for themselves and their families. The Commission agrees with the CBSC that, although inadvertent, this technical error does not excuse the licensee's failure to broadcast viewer advisories.
42. Since the broadcast did not contain any viewer advisories, the Commission finds that the licensee failed to meet a key community standard established by the broadcasting industry, namely that a broadcaster provide tools to enable informed viewing choices by the audience. Accordingly, the Commission concludes that the broadcast in question was inconsistent with the Act's objective that programming be of high standard.

*Sex-role portrayal (Exploitation)*

43. The complainant alleged that the broadcast of *Sex: The Annabel Chong Story* was degrading toward women, in general, and Asian women, in particular. As stated earlier, the Commission considers the CAB's *Sex-role portrayal code for radio and television programming*, which is imposed on The Documentary Channel as a condition of its licence, to be a useful benchmark of industry standards in this regard.
44. The Code's general principle states that:

Nothing in this Code should be interpreted as censoring the depiction of healthy sexuality. However, broadcasters shall avoid and eliminate the depiction of gratuitous harm toward individuals in a sexual context, as well as the promotion of sexual hatred and degradation.

... Neither sex should be subject to degradation from gratuitous acts of violence.
45. Clause 4 of the Code (Exploitation) specifies that broadcasters must refrain from the exploitation of women, men and children; avoid negative or degrading comments on the role and nature of women, men or children in society; and that modes of dress, camera focus on areas of the body and similar modes of portrayal must not be degrading to either sex.

46. The Commission considers that the context of a broadcast is fundamental in examining programming complaints about broadcasting content. Most often, the way in which programming content is depicted or comments are expressed has a key influence on how a reasonable viewer will perceive this content, particularly when the material and/or comments might be considered controversial, inappropriate or offensive in and of themselves.
47. In examining whether the documentary in question is degrading to women in the context of the broadcast, the Commission considered the following elements:
- the form versus the content of the documentary;
  - the treatment of information by the director, including the portrayal of Annabel Chong;
  - whether the documentary degrades Asian women;
  - the role of sexually explicit material in the documentary; and
  - the role of Annabel Chong's consent in performing in sexually explicit adult films, particularly the "gang bang" video, which she participated in and which is discussed in the documentary.

*Form versus the content of the documentary*

48. The Commission notes that the program in question is a documentary that includes highly sexually explicit adult material. The subject of the program is Annabel Chong, a young woman of Chinese-Singaporean origins whose real name is Grace Quek. Chong is an academic pursuing gender studies at the University of Southern California who participates in pornographic movies as means of earning her living. Annabel Chong openly explores and exploits her sexuality, almost in a militant way.
49. The Commission considers that Annabel Chong, the subject of the documentary, in herself offers the potential for generating controversy, along with potential to be considered as someone who presents an image that is degrading to women in general, especially considering the social meaning of "gang bang", very often associated with the rape of women. In the Commission's view, *Sex: The Annabel Chong Story* is a controversial documentary, and potentially disturbing. Annabel Chong's views and actions are controversial, and some individuals can see in the broadcast several behaviours and images that, in and of themselves, could contribute to stereotyping and objectifying women's sexuality.
50. However, in keeping with the distinction between the form (the documentary as a genre of programming) and the content (the life of a pornography actress), the Commission emphasizes that the subject of analysis is not whether "pornography" or "gang bangs" in and of themselves are degrading or harmful to women and society in general, but whether the documentary about Annabel Chong's life is degrading. This distinction is fundamental and the Commission is of the view that a reasonable

viewer is capable of making such a distinction, namely that the specific genre is that of documentary film, as opposed to pornography. The Commission considers that a reasonable viewer can understand that the documentary's objective in displaying sexually explicit material is not to produce sexual arousal in viewers.

51. The Commission is of the view that, in the program's form as a documentary, particularly with respect to its treatment of the subject matter, *Sex: The Annabel Chong Story* does not condone pornography and/or the "gang banging" of women.

*Treatment of information by the director*

52. Based on its analysis of the treatment of information by the director of *Sex: The Annabel Chong Story*, the Commission finds that the director of the documentary, Gough Lewis, makes a fair and professional exploration and treatment of the factual information available to him in "narrating" Annabel Chong's personal journey. Lewis does so by providing challenging material and by balancing various views arising from Chong's project. At times, Lewis shows Chong's own contradictions or self-deceptions, attempting to be objective amidst the controversy, and letting the viewers be their own judges of Chong's choices. The director also avoids the gratuitous use of sexually explicit material. Consistent with The Documentary Channel's licence, the documentary in question focuses "not solely on the subject itself," but on the "point of view taken, and the reasons for the selection of content," as Lewis participates in his own film, explaining why and how he chose to make a film about Annabel Chong. The Commission's examination of the program's content found nothing in the director's comments or treatment of the information to be negative or degrading to women.
53. While the complainant alleged that the director's work is negative or degrading to women, the Commission considers that the documentary's portrayal and treatment of Annabel Chong is respectful. For example, the documentary includes key interviews with Annabel Chong speaking eloquently about issues of sexuality, in general, and about her own sexuality, in particular. In those interviews, in spite of identifying herself as a feminist, Annabel Chong questions the feminist arguments against pornography. She explains how she wants to project the power of female sexuality and "shake stereotypes about women being passive sex objects," though conscious of performing acts that many people see as morally degenerate. During these key interviews, a viewer sees Chong expressing her frustration with feminist theories, which she perceives as a form of reverse patriarchy and, according to her, fed her desire to engage in pornography. Chong interprets her actions as a re-appropriation of her body or sexual ownership, and approaches her "gang bang" as a form of self-experimentation.
54. The Commission is of the opinion that the interviews presented in the documentary contribute to portraying Annabel Chong's self-awareness and capacity for judgement, providing her with a forum to articulate her own perspective. Accordingly, the Commission finds that the documentary does not provide an exploitative, degrading or stereotypical image of her as a woman.

*Is the documentary degrading to Asian women?*

55. The Commission considers that at no time during the documentary does the storyline or the director exploit the fact that Annabel Chong is a woman of Asian descent. References to her ethnic origins are made during her trip to Singapore when, for example, Chong speaks of how pornography and being Singaporean are not compatible. Chong indicates that pornography is considered degrading in Chinese culture, and that her parents would feel dishonoured if they knew about her work in the pornography industry. At times, Chong appears to be frustrated by the conservatism and expectations associated with her Singaporean identity. However, at no time does the director objectify or stereotype Chong's Asian identity.
56. The Commission does not find that the documentary's director exploits Annabel Chong's ethnic origins or her Asian identity, nor does the Commission find that the director portrays negative stereotypes or generalizations about Asian women.

*Are the scenes of sexually explicit material gratuitous?*

57. As set out in paragraphs 23 to 33 regarding The Documentary Channel's nature of service, the Commission finds that, although the documentary does contain sexually explicit material, the images of sexual activity are not gratuitous, but rather instrumental to the context of the program. In the Commission's view, the presentation of sexually explicit material can be expected in a documentary exploring the life of a pornography actress. Furthermore, the Commission finds that the sexually explicit material constitutes a small portion of the documentary. In total, the documentary contains more dialogues, interviews and scenes of Annabel Chong's life than sexually explicit content.

*Role of Annabel Chong's consent*

58. In the Commission's view, the fact that Annabel Chong is the instigator of her "gang bang" is an important element of the documentary's context. Annabel Chong actively participates in the production and promotion of *The World's Biggest Gang Bang*. She also fully participates in exploring the various issues of women's sexuality and gender portrayal associated with her actions. Thus, the documentary's subject involves consensual sexual activity as opposed to non-consensual/violent pornography.
59. The Commission considers that Annabel Chong's consent remains an essential part of the documentary's context because it is that very consent that initiated the documentary in the first place, namely exploring why a woman would choose to be "gang banged" by 251 men and take pleasure in it.
60. The Commission finds that the documentary is not exploitative or degrading to women due to the overall treatment of the subject matter, including the clear distinction between the form and the subject of the documentary, the appropriate

treatment of information by the director in the context of a documentary, the positive portrayal of Annabel Chong, the absence of gratuitous sexually explicit material, and the key role played by Chong's self-expressed consent in taking part in the pornography industry.

#### **Abusive comment or abusive pictorial representation**

61. The complainant alleged that the broadcast contravened Clause 2 (Human Rights) of the CAB's *Code of Ethics*, which specifies that broadcasters must ensure that their programming contains no abusive or unduly discriminatory material or comment that is based on matters of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status or physical or mental disability.
62. Section 5(1)(b) of the Regulations, which is set out above in paragraph 21, contains a similar provision prohibiting the broadcast of any abusive comment or abusive pictorial representation.
63. Based on its review of the program's content as outlined above, the Commission finds that it contains no negative comments based on sex or race that would likely expose Annabel Chong, women in general, or Asian women in particular, to hatred or contempt. The Commission is satisfied that the broadcast did not contravene section 5(1)(b) of the Regulations.

#### **Conclusion**

64. In light of all of the above, the Commission finds that, in failing to provide viewer advisories at the beginning of, and after every commercial break during the first hour of the broadcast of *Sex: The Annabel Chong Story* on 10 May 2005 between 10 p.m. and 12 p.m., Mountain Time, The Documentary Channel failed to meet the Canadian broadcasting policy objective set out in section 3(1)(g) the *Broadcasting Act*, that programming should be of high standard. However, the Commission also concludes that the broadcast did not contravene the terms and conditions of The Documentary Channel's broadcasting licence, or the provision contained in section 5(1)(b) of the *Television Regulations, 1987*, which prohibits the broadcast of abusive comment or abusive pictorial representation.

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*