



Broadcasting Decision CRTC 2007-388

Ottawa, 23 October 2007

Canadian Broadcasting Corporation
Across Canada

Complaint regarding the broadcast of the program “Fric show” by the French-language network of the Canadian Broadcasting Corporation prior to the watershed hour

In this decision, the Commission addresses a complaint regarding the broadcast at 7:30 p.m. by the French-language network of the Canadian Broadcasting Corporation (CBC) of a program containing sexually explicit material intended for an adult audience. The Commission finds that by airing the program “Fric show” on 26 April 2007 before 9 p.m., the CBC did not meet the Canadian broadcasting policy objective set out in the Broadcasting Act that programming should be of high standard.

The complaint

1. On 26 April 2007, the Commission received a complaint regarding the broadcast by the French-language network of the Canadian Broadcasting Corporation (CBC) of the program “Fric show.” Given that the complaint is very concise, the Commission has decided to reproduce it here in full:

[Translation] Pornographic content on this program at a time when most children, even very young children, were not in bed. We already have to turn the television off at 8 p.m. to avoid stumbling upon an American movie showing everyone killing each other... A little respect for children would be appreciated. Thank you!

The program

2. The program “Fric show” is produced by the CBC and hosted by Marc Labrèche. This is not a public affairs or news program but rather a program that mixes fiction, information, verified facts and sketches, all presented in a humorous, sarcastic, caustic and entertaining tone. It addresses overconsumption in various areas of everyday life (waste management, mass tourism, death, infants, weight-loss diets, etc.). Each week, during the program, the characters use humour and irony to debate a social phenomena.

3. The 26 April 2007 program focused on the pornography industry. The topic of the program is described on the CBC Web site¹ as follows:

[Translation] The porn industry: They say that money and sex make the world go round... One thing is certain: sex sells... a lot! It's everywhere – in the street, on film, in videos, on the Internet. And porn stars are even starting to show up in the media... We're seeing a move away from so-called "traditional" industries toward the porn industry. Is the world becoming oversexed?

4. In its first season (fall 2006-winter 2007), "Fric show" aired Thursday evenings from 7:30 to 8 p.m. and was rebroadcast on the same day at the same time from 12 July 2007 to 30 August 2007.

CBC's reply

5. The CBC replied to the complainant on 16 May 2007, describing the concept and goal of "Fric show" and focusing on the 26 April show:

[Translation] The program to which you refer dealt with pornography, an industry that has grown significantly since the 1980s, particularly on the Internet, and that now appears in advertising and the arts and is becoming omnipresent. The 26 April edition of "Fric show" tackled this phenomenon of overconsumption, with supporting images, videos and sketches caricaturing the issue and showing interviews with sexologists, sociologists, performers and producers who were asked to comment on it.

6. However, the CBC acknowledged that the content broadcast "[translation] may not have been suitable for young children" and submitted that:

[Translation] For that reason, a viewer advisory was simultaneously displayed and read by an off-camera announcer to alert viewers, at the start of the program and after the two commercial breaks: *Warning – this program deals with pornography and contains scenes of nudity. Viewer discretion is advised.*

7. The licensee further submitted that it has the greatest respect for viewers of all ages and is aware of the susceptibility of children.

Regulatory framework

8. Section 3(1)(g) of the *Broadcasting Act* (the Act) stipulates that "the programming originated by broadcasting undertakings should be of high standard."

¹ http://www.radio-canada.ca/television/fric_show

9. In determining what constitutes programming of high standard within the meaning of the Act, the Commission considers, among other things, the standards in effect in the broadcasting community.
10. The Commission is of the view that industry codes, such as the Canadian Association of Broadcasters' (CAB) *Code of Ethics* (the Code), are generally effective benchmarks for determining current ethical standards used in broadcasting, including the high quality standard.
11. In determining whether the licensee has complied with section 3(1)(g) of the Act, specifically the high standard objective for programming, the Commission examined the content of the program "Fric show" against clauses 10 and 11 of the Code.
12. Clause 10 of the Code stipulates that programming that 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. This provision mirrors the "watershed hour" provision.
13. Clause 11 of the Code stipulates that 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 that may offend viewers, broadcasters shall provide a viewer advisory. These advisories are required for programming containing this type of content that is broadcast in late viewing hours and programming broadcast outside of late viewing hours which contains material not suitable for children.
14. The Commission notes that the CBC is not subject to a condition of licence requiring it to comply with the Code. The Code is administered by the Canadian Broadcast Standards Council (CBSC) for private broadcasters who are members of the CBSC. As a public broadcaster, the CBC is not a member of the CBSC. Nevertheless, given its status as a public broadcaster and the objectives of the Act, the CBC is required to adhere to the same broadcast standards as the industry as a whole. Canadian viewers are entitled to expect that the public broadcaster, like private broadcasters, will adhere to current social accountability standards designed to protect the youngest viewers.

Commission's analysis and determination

15. The Commission has viewed the program and notes that scenes of nudity appear frequently throughout the half-hour broadcast: front and back views of nude women, explicit sexual relations, covers of pornographic magazines, scenes from the Internet of nudity and explicit sexuality (e.g., fellatio), and the actual filming of a pornographic movie (explicit sexual relations, scenes of female clitoral masturbation, cunnilingus, etc.). In these last scenes, although the vaginas and rectums of the actors are blacked out, the sexual activity is nonetheless explicit.

16. The 26 April 2007 broadcast of “Fric show” contains scenes of nudity and sexually explicit scenes. The Commission therefore finds that the content of the program is intended for adult viewers.
17. In its reply to the complainant, the CBC explained that it was precisely because the program content may not have been suitable for young children that viewer advisories were broadcast at the start of the program and after the two commercial breaks. The Commission confirms that an advisory was indeed broadcast three times.
18. However, broadcasting advisories does not relieve the broadcaster of the responsibility to air programming content intended for adults after 9 p.m. These requirements are cumulative: current industry standards require that viewer advisories be aired with telecasts after 9 p.m. The Commission recently ruled on this issue in *Complaints regarding the broadcast by the Canadian Broadcasting Corporation of Sex Traffic and Old School prior to the watershed hour*, Broadcasting Decision CRTC 2006-668, 11 December 2006:

While the CBC’s use of advisories was an important tool to inform prospective viewers of the potential risks associated with viewing the program in question, the Commission is of the view that the use of advisories does not excuse the potential harm of broadcasting material, which is clearly intended for adult audiences, prior to the watershed hour.

19. The Commission further notes in the same decision that:

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 9:00 p.m. to 6:00 a.m. This clause mirrors the watershed provision originally established in the Violence Code 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. While the CBC is not bound to adhere to the *Code of Ethics* by condition of licence, the Commission is of the view that, for the purposes of assessing high standard as set out in the Act, the watershed provision reflects a broad community standard for broadcast ethics that is equally applicable to Canada’s private and public broadcasters.

20. In the Commission’s view, this analysis also applies to the assessment of the complaint against the CBC concerning the 26 April 2007 broadcast of “Fric show.”
21. The Commission therefore finds that in broadcasting “Fric show” on 26 April 2007 prior to the watershed hour, the CBC did not meet the high standard policy objective set out in section 3(1)(g) of the Act.

Conclusion

22. The Commission expects the CBC to ensure that the scheduling of programs containing sexually explicit material or other mature subject matter intended for adult audiences is consistent with the broadcast industry standard requiring that such material be broadcast after 9 p.m. The Commission will review the CBC's compliance with this obligation at the next licence renewal.

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>