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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.