

# Systemized Summary of Canadian Regulations Concerning Children and the Audiovisual Industry

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## Table of Contents

Foreword  
Acknowledgements  
Introduction

## Television

Chapter 1.

### Regulations Established by the Canadian Radio-television and Telecommunications Commission (CRTC)

## Chapter 2. Regulation of Children's Programming

2.1 The Role of the Canadian Radio-television and Telecommunications Commission  
2.2 The *Code of Ethics* of the Canadian Association of Broadcasters (CAB)

## Chapter 3. The Regulation of Stereotypes

3.1 Measures Taken by the Canadian Radio-television and Telecommunications Commission (CRTC)  
3.2 The Canadian Broadcasting Corporation (CBC) Program Policies Regarding Stereotypes  
3.3 The *Code of Ethics* and the *Sex-Role Portrayal Code for Television and Radio Programming* of the Canadian Association of Broadcasters (CAB)  
3.4 Canadian Advertising Foundation (CAF) Guidelines

## Chapter 4. The Regulation of Violence

4.1 The Canadian Radio-television and Telecommunications Commission (CRTC) Policy  
4.2 The Canadian Broadcasting Corporation (CBC) Program Policies Regarding Violence  
4.3 The *Voluntary Code Regarding Violence in Television Programming* of the Canadian Association of Broadcasters (CAB)  
4.4 The Action Plan of the Canadian Cable Television Association (CCTA) and the Role of the Cable Television Standards Council (CTSC)  
4.5 Other Action Taken in the Cable Television Domain  
4.6 The *Pay Television and Pay-Per-View Industry Code of Programming Standards and Practices*  
4.7 Action Group on Violence on Television (AGVOT) Initiatives

## Chapter 5. The Regulation of Advertising

5.1 The Regulation of Advertising Directed to Children  
5.1.1 The Canadian Broadcasting Corporation (CBC) Program Policies Regarding Advertising  
5.1.2 The Canadian Association of Broadcasters (CAB) *Broadcast Code for Advertising to Children*  
5.1.3 The Canadian Advertising Foundation (CAF) *Canadian Code of Advertising Standards*  
5.1.4 Quebec Office de la protection du consommateur (OPC) Regulations  
5.2 Canadian Radio-television and Telecommunications Commission (CRTC) Regulations Concerning the Advertising of Alcoholic Beverages  
5.3 Advertising Regulations Concerning Tobacco Products  
5.3.1 The *Tobacco Products Control Act*  
5.3.2 The *Tobacco Industry Voluntary Packaging and Advertising Code*  
Film and Video

## Chapter 6. Provincial Film Boards

6.1 Film Classification Systems  
6.2 Video Classification Systems

## Chapter 7 The Quebec Regie du cinema

Conclusion

## Appendices

- A. The *Broadcasting Act*, R.S.C. c.11, Part I. [Excerpt]
- B. The *Consumer Protection Act*, R.S.Q. c.P-40.1, s.248, 249 and 252
- C. The *Regulation respecting the application of the Consumer Protection Act*, R.R.Q. 1981, c.P-40.1, r.1, s.87, 88, 89, 90 and 91
- D. "Stereotypes in CBC Programming," Program Policy No. 2, (1994) - Canadian Broadcasting Corporation
- E. "Sex-Role Portrayal Guidelines for Television and Radio Programming," excerpt from *Sex-Role Portrayal Code for Television and Radio Programming* (1990) - Canadian Association of Broadcasters
- F. "Violence in Children's Programming," Program Policy No. 7 (1994) - Canadian Broadcasting Corporation
- G. *Voluntary Code Regarding Violence in Television Programming* (1993) - Canadian Association of Broadcasters
- H. "Pay Television and Pay-Per-View Programming Code Regarding Violence," Public Notice 1994-155 (1994) - Canadian Radio-television and Telecommunications Commission
- I. "Programming Not Eligible for Commercial Content," Program Policy No. 11 (1995) - Canadian Broadcasting Corporation
- J. *The Broadcast Code for Advertising to Children* (1993) - Canadian Association of Broadcasters [Excerpt]
- K. *Application Guide for Sections 248 and 249 of the Quebec Consumer Protection Act (Advertising Intended for Children Under 13 Years of Age)* (1980) - Office de la protection du consommateur [Excerpt]
- L. "Code for Broadcast Advertising of Alcoholic Beverages," Public Notice 1986-247 (1986) - Canadian Radio-television and Telecommunications Commission
- M. *The Tobacco Industry Voluntary Packaging and Advertising Code* (1995) - Canadian Tobacco Manufacturer's Council [Excerpt]
- N. Examples of Film Classification Systems
- O. List of Intervenors Appearing At Regional Consultations and of Those Appearing At the Public Hearing (1995) - Canadian Radio-television and Telecommunications Commission
- P. *V-Chip Trial Violence Rating Scheme* (1996) - Canadian Radio-television and Telecommunications Commission
- Q. List of Principal Organisations Cited (English Names, French Names and Acronyms)

## Notes

## Bibliography

*"Even skeptics who believe the public interest is beyond definition know it lies in the hearts and minds of children. . . Our children are the public interest."*  
(Minow and LaMay 1995, at 175)

## FOREWORD

The Centre for Youth and Media Studies (CYMS) and the Centre de recherche en droit public (CRDP), both affiliated with the Université de Montréal, have both spent many years collaborating with researchers from other disciplines in order to gain broader perspectives on their studies. Having had a number of occasions to note the convergence in their research interests, they have decided to produce this joint publication.

The Centre for Youth and Media Studies (CYMS) has been active in the mass communications domain for almost ten years. In particular, it performs research on the role of media in society and more specifically on the impact of television on children. It also studies the regulations affecting the broadcast and content of children's programs.

Among the subjects in which the Centre de recherche en droit public (CRDP) has demonstrated strong interest is that of regulations in the audiovisual sector. It has published a volume on this subject, *Le droit de la radio et de la télévision*, which has become an important reference work in law.

The present collaboration has proven fruitful and strengthened the ties between these two centres, thus promising further work together.

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tion (CCTA), the Cable Television Standards Council (CTSC), the Action Group on Violence on Television (AGVOT), the Conseil des normes de la publicité (CNP), the Office de la protection du consommateur (OPC), the Department of Health, the Canadian Tobacco Manufacturer's Council (CTMC), the Régie du cinéma, and the various provincial film boards.

We are also grateful for the meticulous work of Nicole Raymond, corrector-revisor, and Mary Baker, translator. We wish to call attention to the collaboration of the members of the Centre de recherche en droit public (CRDP) team, notably that of Pierre Trudel, Full Professor, and the participation of the members of the Centre for Youth and Media Studies (CYMS), in particular that of Cline Berre and Simon Parent.

## **INTRODUCTION**

The well-being of children can be considered to be one of the most universal concerns, and this is reflected in the institution of various measures endowing children with certain rights. In Canada, this collective desire to protect children has been demonstrated by, among other things, the establishment of a set of regulatory measures applying to mass media. For television and film, regulatory and self-regulatory mechanisms have been developed in order to limit the chances that children will be exposed to certain kinds of content which are considered inappropriate, such as scenes of violence and nudity.

Few works have brought together the principal data on Canadian regulation and self-regulation specifically related to children and the various kinds of audiovisual content to which they are exposed. Compiling the appropriate documents regarding regulation and self-regulation in this domain is difficult since many of the measures are recorded outside of the body of state legislation and regulations, and because of the importance of the role played by self-regulation in many sectors.

In Canada, freedom of expression enjoys a supralegal status. The *Canadian Charter of Rights and Freedoms*, which is part of the Constitution, provides that all laws must be compatible with guaranteed freedoms, and may not be restricted except in so far as it is judged reasonable and justifiable in a free and democratic society.

The sources of regulation relating to the audiovisual sector are of various types. Legislation is passed by the federal Parliament, which has exclusive jurisdiction over competition and over the broadcasting domain, and by the provincial legislatures, which have jurisdiction over advertising. In virtue of various laws applicable to advertising, the proper authorities have adopted regulatory documents which are used most often to make the principles stated in the legislation more explicit.

The industry's development of voluntary standards, called self-regulation, is another major source of norms. Such voluntary rules have been written on the initiative of the various industries concerned, either to prevent the passing of more rigorous state regulations, or simply to respond to concerns expressed by the public.

The guidelines providing a framework for the activities of the audiovisual industry are simultaneously contained in legal and self-regulatory standards. It is thus important to distinguish the respective legal effects of these standards. Legal norms (laws and regulations) impose guidelines which are obligatory and for which respect is enforced by public powers. Self-regulatory standards are guidelines which companies in the industry establish for themselves and which are essentially voluntary.

Self-regulatory standards can in turn be integrated into the conditions following from state regulations, for example, when they are referred to by regulations or when respect for a self-regulatory standard becomes a condition to be fulfilled in order to obtain a licence issued by the authority responsible for regulating a given sector of the industry. In this way, originally voluntary self-regulation becomes incorporated as a standard with imperative obligations which can be enforced by state authorities.

The first part of this publication is devoted to the regulation of television. We will discuss the provisions adopted by the various organisations concerning programs for children. Such regulation and self-regulation mainly concern sexual stereotypes, violence and advertising.

In the second part, we provide an abstract of the regulations developed in the domain of children's film and video. We present a table summarizing the regulations in force in different Canadian provinces. For example, we describe the film and video classification system established by the Québec Régie du cinéma.

## **TELEVISION**

Almost all Canadian homes (99%) own a television set. In fact, approximately two thirds of them (59%) have more than one television. On average, every Canadian spends nearly 23 hours per week in front of the small screen. Canadian children between the ages of 2 and 11 spend about 18 hours per week watching television. Finally, around 76% of Canadian homes subscribe to cable and 78% of them are equipped with a VCR.

This illustrates the importance of the guidelines governing the presentation of programs intended for children. These guidelines are established by the Canadian Radio-television and Telecommunications Commission (CRTC) and also by associations of broadcasters and advertisers. They principally concern general programming standards: they establish rules regarding stereotypes, provisions meant to limit violent content and measures relating to the broadcast of advertising messages.

Below we describe the rules developed by the organisations most directly involved in the domain of television regulations concerning children: the Canadian Radio-television and Telecommunications Commission (CRTC), the Canadian

Association of Broadcasters (CAB), the Canadian Broadcast Standards Council (CBSC), the Canadian Broadcasting Corporation (CBC), the Canadian Advertising Foundation (CAF), the Canadian Cable Television Association (CCTA), the Cable Television Standards Council (CTSC), the Action Group on Violence in Television (AGVOT), the Conseil des normes de la publicité (CNP), the Office de la protection du consommateur (OPC), Health Canada, and the Canadian Tobacco Manufacturer's Council (CTMC). Note that many other organisations act in this domain and influence the decisions which are taken. These organisations are not, however, the subject of this publication.

## CHAPTER ONE

### REGULATIONS ESTABLISHED BY THE CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION (CRTC)

The Canadian Radio-television and Telecommunications Commission (CRTC) is an independent quasi-judicial organisation established by the *Broadcasting Act*. Its mission under the Act is to regulate and supervise all aspects of the Canadian broadcasting system in order to apply the broadcasting policy.

The Canadian broadcasting policy is stated in Section 3 of the *Broadcasting Act*. First it asserts the existence of a Canadian broadcasting system and sets out the basic principles which make up its foundation. These are broadcasting's nature as an "essential" public service and the public nature of frequencies. Second, the policy asserts the difference between French- and English-language broadcasting. Third, it states the objectives of the system as a whole. The system should:

(iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society....

Fourth, the Canadian broadcasting policy identifies the goals assigned to broadcasting undertakings and the aims related to the programming offered by such enterprises. Finally, the policy mentions the objectives linked to the national public broadcasting service, to the complementary televised programming services and to distribution undertakings.

In this way the Act stipulates that all the elements of the system must contribute, in an appropriate way, to originating and presenting Canadian programming and that:

(g) the programming originated by broadcasting undertakings should be of high standard;

(h) all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast;

(i) the programming provided by the Canadian broadcasting system should:

(i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes,

(ii) be drawn from local, regional, national and international sources,

(iii) include educational and community programs,

(iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern, and

(v) include a significant contribution from the Canadian independent production sector;

(j) educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system;

(k) a range of broadcasting services in English and in French shall be extended to all Canadians as resources become available.

In order to accomplish its mission, the CRTC is accorded a number of powers: it can adopt regulations governing the various categories of enterprises, it can grant, renew or modify the licences of programming companies and program distribution companies. With respect to these enterprises, it can impose conditions on the granting of licences, investigate complaints and pass rulings in order to compel them to conform to the law.

The CRTC has adopted general regulations on programming broadcast on television. According to Section 5 of the *Television Broadcasting Regulations*:

5. (1) A licensee shall not broadcast:

- (a) anything in contravention of the law;
- (b) any abusive comment or abusive pictorial representation that, when taken in context, tends to 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;
- (c) any obscene or profane language or pictorial representations; or
- (d) any false or misleading news

(1.1) For the purposes of paragraph (1)(b), sexual orientation does not include the orientation towards any sexual act or activity that would constitute an offence under the *Criminal Code*.

Pay-television companies have accepted to follow standards meant to guide their programming choices. The standards and practices with respect to pay television provide that "the discretion of personnel will be exercised responsibly and in good taste." It is mentioned that no material selected shall be contrary to the law, including the *Broadcasting Act* and the CRTC regulations, or be offensive to general collective standards. The standards and practices also provide for a system of classification intended to provide general information on the nature of the programming, and various advisory statements, clearly meant to fulfil the requirements of the regulation.

## **CHAPTER TWO**

### **REGULATION OF CHILDREN'S PROGRAMMING**

#### **2.1 The Role of the Canadian Radio-television and Telecommunications Commission (CRTC)**

The CRTC is also concerned with the availability of programming intended to meet the needs of children. This is why it has not limited itself to decreeing prohibitions, but has also attempted to obtain agreement from broadcasters to pursue this goal as provided for in the Act. Thus, throughout the history of its decisions to grant or renew licences, the CRTC has developed certain requirements with respect to programming for children.

When a television broadcaster submits a request for a licence renewal to the CRTC, the latter determines whether the programming company has fulfilled its promises. In particular, it examines the programming, verifies the times scheduled for programs in under-represented categories, which include programs for children, and studies the forecasts for spending on the broadcast of Canadian programs. In its renewal decisions, the CRTC formally records the company's promises and states expectations for the new period to which the licence will apply. With respect to programs for children, the CRTC made the following remarks in its decisions to renew the licences of *Television Quatre-Saisons* and *TI-Mtropole*:

**FCF INC. (QUATRE-SAISONS):** With regard to program development, *Quatre-Saisons* will allocate \$100,000 a year to the development of drama, variety and children's programming. The licensee committed to broadcast two, original, 30-minute information productions per week directed to young viewers between the ages of 8 and 11, and to broadcast one daily program aimed at children between the ages of 2 and 11. [...] Consistent with its position in 1992, the Commission expects the above-noted 30-minute program for children in the 2-11 age group to be Canadian.

**RESEAU DE TELEVISION TVA INC AND TEL-METROPOLE INC.:** The Commission notes the lack of any commitments by the licensee for the production of programs specifically for children [...]

Notwithstanding the restrictions that Quebec legislation places on advertising to children, the Commission expects *TI-Mtropole* to revise its programming policy as it pertains to Canadian children's programming, particularly in light of the need for programs of this type that reflect the concerns and aspirations of young "Qubcois." The Commission expects the licensee to present Canadian programs for children on a regular basis.

During the licence renewal of the Canadian Broadcasting Corporation (CBC) networks, the Council noted with respect to young-people's programs that:

For the licence term the CBC was expected to maintain an average of not less than 22.5 and 20.0 hours per week of

programming for children and youth for the English- and French-language television networks, respectively. The decision noted that these levels reflected what the two networks were offering at the time, and did not include family programming.

For all intents and purposes, the French-language network met its target, devoting 19 hours 40 minutes to such programming in the 1992-93 broadcast year. The Corporation made a commitment at the hearing to maintain a level of 20 hours per week of programming directed to children and youth. The Commission is satisfied that the French-language network has offered and will continue to offer a valuable service to this audience.

The English-language network, on the other hand, devoted only 15 hours per week, on average, to programming for children and youth in the 1992-93 season. [...]

Of the approximately 15 hours per week of such programming in the 1992-93 schedule, the Corporation targeted almost 12 hours 30 minutes to pre-school children and scheduled only 2 hours 30 minutes to children of school age between 4:00 p.m. and 6:00 p.m. [...]

The current weekday schedule of the English-language network reveals not only a reduction of morning programming for children, but an absence of Canadian after-school programming for teens and pre-teens. [...]

The Commission is of the view that there is a pressing need on the part of the English-language network to address this shortcoming, without diminishing the resources devoted to any other children's, youth or family programming in its schedule. In recognition of this urgency, the Commission has raised programming for children and youth to a priority immediately following that of Canadian content.

[...] For the new licence term the Commission expects the CBC to add immediately to its English-language network schedule, 2 hours 30 minutes per week of programming directed to teens and pre-teens on the English-language network, rising to five hours per week by the end of the licence term [...].

Broadcasters must concentrate their efforts on respecting the commitments they make when their licences are granted and renewed. However, the CRTC is not alone in its concern for children's programming. Other organisations such as the Canadian Association of Broadcasters have ensured that broadcasters undertake certain commitments regarding programming for children.

## 2.2 The *Code of Ethics* of the Canadian Association of Broadcasters (CAB)

In February 1988, the Canadian Association of Broadcasters (CAB) developed its *Code of Ethics*. In this document, broadcasters recognize "...the necessity for ethical business standards in dealing with advertisers and their agencies." Clause 3 of this code deals with children's programs in the following terms:

Recognizing that programs designed specifically for children reach impressionable minds and influence social attitudes and aptitudes, it shall be the responsibility of member stations to provide the closest possible supervision in the selection and control of material, characterizations and plot. Nothing in the foregoing shall mean that the vigour and vitality common to children's imaginations and love of adventure should be removed. It does mean that programs should be based upon sound social concepts and presented with a superior degree of craftsmanship; that these programs should reflect the moral and ethical standards of contemporary Canadian society and encourage pro-social behaviour and attitudes. The member stations should encourage parents to select from the richness of broadcasting fare, the best programs to be brought to the attention of their children.

A Code of Ethics Committee, made up of five people, is responsible for determining whether the code is respected. In 1989, the CAB established the Canadian Broadcast Standards Council (CBSC).

The CBSC's role is "...to promote high quality, responsible broadcasting in Canada; to administer codes of industry standards [...] and to deal with complaints from members of the public."

## CHAPTER THREE

### THE REGULATION OF STEREOTYPES

For close to twenty years, the CRTC has been responding to frequently-expressed concerns in favour of controlling stereotypes in programming. This goal appears all the more important since young viewers seem to be the target group most affected by the persistence of stereotypes on television. Measures have been adopted in this domain by the CRTC, the Canadian Broadcasting Corporation (CBC), broadcasting associations and the advertising industry.

#### 3.1 Measures Taken by the Canadian Radio-television and Telecommunications Commission (CRTC)

In the 1960's many questions arose about the potential effects of the presence of stereotypes on radio and television. Toward the end of the 1970's, the CRTC created, at the request of the Minister of Communications, a task force to study the issue. The mandate of the task force was to develop guidelines intended to promote the elimination of sexual stereotypes on radio and television. It chose to study stereotypes conveyed with respect to women, and its report, *Images of*

*Women*, published by the CRTC in 1982, states many recommendations. The CRTC then applied these recommendations. It requires broadcasters to provide a report of the initiatives they have taken to limit the presence of stereotypes in their programs. Moreover, broadcasting and advertising associations are developing self-regulatory measures on this subject.

The CRTC evaluated the progress made as of 1986. In its public notice titled *Policy on Sex-Role Stereotyping in the Broadcast Media*, it restated the three goals guiding its approach: 1) reduction in the presence of sexual stereotypes, 2) reception of commitments from broadcasters and advertisers and 3) increasing awareness among people in the industry. It reviewed the work accomplished and issued recommendations to the industry that the measures taken should be pursued.

In 1986, the CRTC announced its intention to oblige broadcasters, whether or not they were members of the Canadian Association of Broadcasters (CAB), to respect the guidelines concerning sexist stereotypes developed by that association. At the time their licences were to be renewed, the CRTC would determine whether they had respected them. This condition was placed on all "...licencees of radio and television stations that originate 42 or more hours of programming per week and of radio and television networks that distribute 7 or more hours of network programming per week."

### 3.2 The Canadian Broadcasting Corporation (CBC) Program Policies Regarding Stereotypes

In 1979, the Canadian Broadcasting Corporation (CBC) added provisions to its Program Policies in which it committed itself to reflecting the role of women in Canadian society. Moreover, it developed language guidelines in order to fight sexist stereotypes. This program policy has been revised a number of times since 1979. The latest version, *Stereotypes in CBC Programming*, came into effect in 1994. It includes directives which apply to all types of programs, including those intended for children.

The CBC program policy defines the notion of "stereotype" as follows: "a fixed or conventional notion or conception as of a person, group, idea, etc. held by a number of people and allowing for no individuality, critical judgement, etc."

The CBC recognizes the dangers which may be entailed by the broadcasting of programs conveying stereotypes, and tolerates certain such programs on the condition that the stereotypes are an essential element in the program. "The use of stereotype characters in CBC presentation may arise only from the requirements of the plot, such as in drama, comedies, etc."

### 3.3 The *Code of Ethics* and the *Sex-Role Portrayal Code for Television and Radio Programming* of the Canadian Association of Broadcasters (CAB)

Beginning in the late 1970's, the Canadian Association of Broadcasters (CAB) took an interest in the elimination of sex-role stereotypes by making recommendations to the Task Force formed by the CRTC with a view to modifying the *Code of Ethics*. Clause 15, dealing with sexist stereotypes, was added as a result of these recommendations:

Recognizing that stereotyping images can and do cause negative influences, it shall be the responsibility of broadcasters to exhibit, to the best of their ability, a conscious sensitivity to the problems related to sex-role stereotyping, by refraining from exploitation and by the reflection of the intellectual and emotional equality of both sexes in programming.

In 1990, the CAB published the *Sex-Role Portrayal Code for Television and Radio Programming*, which was the reformulation of a document titled *Voluntary Guidelines on Sex-Role Stereotyping* produced by the same organisation in 1986. This code is administered by the Canadian Broadcast Standards Council (CBSC) and respect for this code is enforced by the CRTC, which makes such respect a licensing condition for broadcasters.

The general principles and guidelines developed in this code apply to all programs shown on television. They must thus be taken into account in the production and broadcasting of children's programs. One of these general principles was written specifically with respect to children:

[d] Broadcasters shall be sensitive to the sex-role models provided to children by television and radio programming. In this context, programmers shall make every effort to continue to eliminate negative sex-role portrayals, thereby encouraging the further development of positive and progressive sex-role models. The "sexualization" of children in programming is not acceptable, unless in the context of a dramatic or information program dealing with the issue.

#### Guideline 4, "Exploitation," also deals with children:

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.

The general principles and guidelines stated in this code also apply to advertising messages.

### 3.4 Canadian Advertising Foundation (CAF) Guidelines

The Canadian Advertising Foundation (CAF) administers the advertising industry's program of self-regulation. The CAF is also charged with dealing with complaints about advertising received by the Canadian Broadcast Standards Council (CBSC).

In 1981, the Task Force on Sex-role Stereotyping in the Broadcast Media tabled draft guidelines intended to eliminate stereotypes in advertising messages. In 1987, the CAF set up the Advisory Committee on Sex-Role Stereotyping, which was responsible for spreading information about and applying the guidelines developed by the task force. These guidelines, which have undergone a number of revisions, are now intended for all Canadian media, which are free to adhere to them. The most recent version of this document, *Gender Portrayal Guidelines*, dates from 1994. It includes guidelines on many subjects: authority, decision-making, sexuality, violence, diversity and language. Among these subjects, Guideline 3 deals with sexuality in advertising and is specifically related to children:

Advertising should avoid the inappropriate use or exploitation of sexuality of both women and men.

[The comments explaining this guideline mention that: ]

(ii) Sexualization of Children: Boys and girls under 16 must not be portrayed as displaying adult sexual characteristics. Similarly, adult women must not be portrayed as girls or with child-like characteristics while maintaining adult sexual characteristics.

Let us add that these guidelines apply equally to advertising messages produced in Canada and those with foreign sources which are carried by Canadian broadcasting companies.

## CHAPTER FOUR

### THE REGULATION OF VIOLENCE

In the past, Canadian society has often expressed concerns about the violence conveyed by media. With respect to television violence, many procedures have been established since the 1970's. Thus, in 1975, the CRTC organized a conference during which it invited many specialists to study the issue of television violence. This conference created collective awareness of the complexity of the problem and of the need to undertake more research in this domain. In 1977, the publication of the *Report of the Royal Commission on Violence in the Communications Industry*, ordered by the Government of Ontario, confirmed the magnitude of the problem of television violence. The report argues that there is a link or a causal relation between the phenomenon of violence in the communications industry and the level of violent crime in society though it is nonetheless not possible to measure the strength of the television-viewer relationship. This document also discusses the issue of the influence of American programs on Canadian broadcasters and producers, who note the success of the former with television viewers.

Toward the end of the 1980s, the radio and television industry took concrete action to supervise violence on television, especially in so far as it affects young viewers. Many other actors also played roles in the institution of a strategy to counter television violence in Canada. These actors were the federal government's Advertising Management Group and the Institute of Canadian Advertising, among others. For example, in 1993 the federal government's Advertising Management Group adopted specific guidelines with respect to violence in advertising messages. Through these guidelines, it expressed its intention to no longer broadcast advertising messages during programs containing explicit scenes of violence or sex. The Institute of Canadian Advertising invited its member organisations to examine the content of television programs containing violent scenes in order to develop criteria to evaluate the violence.

#### 4.1 The Canadian Radio-television and Telecommunications Commission (CRTC) Policy

Toward the end of the 1980's, decision-makers undertook action to combat television violence. In effect, in 1987, in its decisions concerning specialty programs and pay television, the CRTC stated it expected licencees to demonstrate:

particular care and discretion in the presentation and scheduling of programs which depict scenes of violence and to abstain from showing any programs portraying excessive or gratuitous violence.

In 1989, a shooting occurred at the Montral Ecole Polytechnique in which 14 women were killed. This shattering tragedy caused people to be more attentive to finding ways to counter violent actions, one of the results of which was the mobilization of the Government regarding violence on television. In 1990, the Minister of Communications asked the President of the CRTC to examine the possible links between violence in society and violence on television. Then, in 1992, Marie-ve Larivire was found dead, raped and murdered. Marie-ve's sister, Virginie Larivire, was convinced there was a relation between television violence and her sister's tragic end, and decided to circulate a petition throughout Canada demanding the adoption of a law against television violence. She collected 1.5 million signatures, which she presented to the Prime Minister of Canada. According to the President of the CRTC, Keith Spicer, Virginie Larivire's action had a profound effect on the national conscience. She made people aware of the problem of violence on television and brought violence to the forefront of our collective concerns.

"The CBC will pay rigorous attention to the scheduling of programs with violent scenes. Such programs will generally be scheduled during adult viewing periods." We must also mention that the CBC must show viewer advisories directed to television viewers during films which contain violent scenes.

#### 4.3 The *Voluntary Code Regarding Violence in Television Programming* of the Canadian Association of Broadcasters (CAB)

In 1987, the Canadian Association of Broadcasters (CAB) produced a preliminary version of a voluntary code with respect to television violence which was to be revised a number of times. After examining several versions of this code, the CRTC accepted and published the last one, the *Voluntary Code Regarding Violence in Television Programming*, in Autumn 1993. The CAB was the first organisation to submit such a code for approval by the CRTC. This code came into effect on January 1, 1994. From that date on, the CRTC required broadcasters to follow the code and imposed it as a licensing condition. It should be noted that the CRTC agreed to endorse this code only on the condition that a system of classifying programs be developed and incorporated into it. The CAB agreed to this condition. Moreover, following this CAB initiative, the CRTC pressured all sectors of the broadcasting industry to present codes and action plans in order to solve the problem of television violence.

When they accept to submit themselves to the CAB *Voluntary Code Regarding Violence in Television Programming*, private Canadian broadcasters endorse the code's statement of principle. The following are a few examples of the principles in that statement:

##### Statement of principle

- 1.1 Canadian private broadcasters understand and accept they have a responsibility to their viewers, in addressing the issue of violence on television.
- 1.2 By their adherence to this Voluntary Code of practice, Canadian private broadcasters are publicly endorsing the following principles:
  - 1.2.1 that programming containing gratuitous violence not be telecast,
  - 1.2.2 that young children not be exposed to programming which is unsuitable for them,
  - 1.2.3 that viewers be informed about the content of programming they choose to watch.
- 1.5 The depiction of violence within children's programming shall not be so realistic as to threaten young children, to invite imitation, or to trivialize the effects of violent acts.

In the Code following the Statement of Principle, two guidelines concern the content of programs:

##### The Code

1. Content perpetrators.

The *Voluntary Code Regarding Violence in Television Programming* also mentions the directives to be followed with respect to the scheduling of programs. For example:

##### 3. Scheduling

###### 3.1 Programming

- 3.1.1 Programming which contains scenes of violence intended for adult audiences shall not be telecast before the late evening viewing period, defined as 9 pm to 6 am.
- 3.1.2 Accepting that there are older children watching television after 9 pm, broadcasters shall adhere to the provisions of article [...] (viewer advisories), enabling parents to make an informed decision as to the suitability of the programming for their family members.
- 3.3 Advertisements which contain scenes of violence intended for adult audiences, such as those for theatrically presented feature films, shall not be telecast before 9 p.m.

In 1992, the CRTC launched a program aimed at restricting violence on television. The long-term goal of this program was to take action to make violence on television socially unacceptable. Thus, the CRTC published two studies. *Scientific Knowledge about Television Violence*, summarizes approximately 200 scientific studies on television violence and its effects, while *Summary and Analysis of Various Studies on Violence and Television* concerns the means adopted by foreign countries to counter violence.

Following the publication of these reports, the CRTC prompted the various partners in the broadcasting industry to take concrete measures to fight against violence and to establish a dialogue between themselves. It required that broadcasters develop voluntary measures and that cable television companies produce their own anti-violence strategy. Moreover, the CRTC demanded that the leaders of the Canadian pay-television industry and specialty services discuss television violence with television broadcasters and cable television companies. The CRTC also organized meetings with various actors in the domain (the Canadian Teachers' Federation, the Canadian Home & School & Parent-Teacher Federation, the CAF, the CBC, the Canadian production community) to discuss possible means of collaboration to eliminate violence on television.

In 1993 a colloquium on television violence was organized with the support of the CRTC, at the C.M. Hincks Institute, in Toronto. During this conference, the Minister of Communications proposed a five-point strategy: 1) the adoption of a very strict code of ethics concerning dramatic programs and videoclips; 2) the development of an awareness campaign; 3) the organisation of a competition between the principal Canadian advertisers with the goal of encouraging those advertisers not to broadcast advertising messages during programs with violent scenes; 4) collaboration with the United States targeting the resolution of the problem of the broadcast of programs with violent scenes; and 5) the creation of the Virginie Larivire Television Award honouring those who have contributed to the reduction of television violence and to the production of quality youth programs. Moreover, the various participants raised the importance of encouraging people to develop critical media skills.

In parallel with the CRTC effort, the House of Commons Standing Committee on Communications and Violence held hearings on television violence in order to gauge the size of the problem. A few months later, this committee published a report, *Television Violence: Fraying our Social Fabric*, in which it listed twenty-seven recommendations requiring the participation of all involved. Among other things, it endorsed the CRTC's approach with respect to voluntary cooperation. Then, in April 1993, an international conference on television violence was organized in Montral.

In a CRTC publication titled *Canada & TV Violence : Cooperation & Consensus*, which dealt with action taken regarding violence on television, five guiding principles underlying the CRTC's approach were identified:

1. Abandon an ideological, legalistic and therefore combative approach in favour of a cooperative strategy recognizing TV violence as a major mental-health problem for children.
2. Adopt the goal of protecting children, not censoring adults, in order to strike a reasonable balance between the right to freedom of expression and the right of children to a healthy childhood.
3. Stick to a focused agenda on gratuitous or glamorized violence, not diffusing efforts by adding on sex, foul language, family values, specific feminist concerns, or other distinct, more controversial issues.
4. Bring all players to the table -- broadcasters, advertisers, producers, parents, teachers, psychiatrists, and the regulator.
5. Have both a short-term and long-term perspective.

Four specific objectives govern the CRTC's approach:

- a) Implementing strong, credible industry codes;
- b) Providing the public with better information through program classification;
- c) Giving viewers more control through new V-chip technology; and,
- d) Changing attitudes through public awareness and media literacy programs.

In autumn 1995, the CRTC held regional consultations on television violence. These consultations were followed by a

national public hearing which took place in October. Through these consultations, the CRTC gathered comments from the public and the industry with respect to the path to be taken in this domain.

In March 1996, in a report titled *Respecting Children: A Canadian Approach to Helping Families Deal with Television Violence*, the CRTC explained the broad strokes of its policy regarding television violence. This report reflects the CRTC's position according to which the adoption of industry codes and a method of program classification represents 10% of the solution to the problem of television violence, and the anti-violence chip another 10%. In the end, according to the CRTC, the establishment of public-awareness and media literacy programs make up 80% of the solution to the problem. The main points of this policy are the following :

- As of September 1996, Canadian broadcasters will be responsible for encoding a V-chip-based rating for violence in the programs they broadcast.
- The cable distribution industry will be responsible, as of September 1996, for making available affordable V-chip devices to subscribers.
- The Commission is directing the broadcast industry through its Action Group on Violence on Television (AGVOT) to develop a four-to-six-level, informative and user-friendly violence rating system which will be reviewed for approval by the Commission.
- If AGVOT does not have a satisfactory classification system in place by September, the Commission will expect Canadian broadcasters to classify programs according to the system currently used in the Shaw-Rogers V-chip trials.
- Cable, direct-to-home and multipoint distribution systems will be responsible, preferably in September 1996 but no later than January 1997, for ensuring that programming of U.S. services distributed in Canada is encoded with a V-chip-based rating.
- If American broadcasters, by January 1997, do not themselves encode the programming which they originate with a system judged sufficiently effective and parent-friendly for Canada, Canadian distributors will be responsible for developing alternative methods for ensuring that the programming of foreign signals they distribute is encoded with violence ratings acceptable to the CRTC.
- The distribution industry is expected to ensure, by September 1996, that appropriate marketing and communications strategies are conducted to inform consumers about the availability and use of the V-chip.
- English-language pay and pay-per-view services will be allowed to continue to use the ratings of the provincial rating boards for the feature films they broadcast. French-language programming services, including pay and pay-per-view, will use the rating system of Quebec's Regie du Cinema. However, the Commission encourages the industry to work towards integrating the rating schemes of the provincial rating boards, including Quebec's Regie du Cinema, into a single system that all programming undertakings could use.
- The Commission expects to be informed whether the Canadian Broadcast Standards Council (CBSC) will act as a clearinghouse for the exchange of ratings information and act as an arbitrator in cases of dispute.
- The Canadian broadcasting industry is being advised to pursue its efforts to increase the supply of top-quality, non-violent children's programs, and to further develop and continue to work already underway promoting media literacy.

Through this policy, the CRTC makes concrete its intention, which it has expressed many times in the past, to bring broadcasters and cable companies to develop a classification system compatible with the anti-violence chip within the time limit it prescribes. In the same vein, the CRTC adopts provisions regarding signals imported from the United States in order to ensure that American broadcasters rate their programs to be distributed in Canada. If American broadcasters do not do so, foreign signals will have to be classified by Canadian cable companies, with encoded ratings legible by the anti-violence chip.

#### 4.2 The Canadian Broadcasting Corporation (CBC) Program Policies Regarding Violence

The Canadian Broadcasting Corporation (CBC) has shown itself to be sensitive to the concerns of consumers regarding violence. In the 1980's, it established two program policies relating to programs of a violent nature. The latest versions of these documents, titled *Violence in Programming* and *Violence in Children's Programming*, date from 1994.

Generally, these policies state that children should not be exposed to the content of adult programs. Certain children may react very badly to the presentation of television programs containing scenes of aggression and violence. For these reasons, "The CBC places a high value on providing positive role models in its children's programming. It stresses co-

operative interaction and the non-violent resolution of conflict...." The following are a few examples of television content which the CBC cites as possibly harmful if presented in children's programs:

1. Excessive aggression, including torture and sadistic beatings;
3. Undue cruelty shown by adults to children, or children to other children;
6. Criminal actions that children can easily imitate, such as hanging scenes, etc.;
8. Cartoon material that attempts humour through stripping people of their dignity, through the portrayal of aggression linked with sexual overtones or with stereotypes.

"The CBC will pay rigorous attention to the scheduling of programs with violent scenes. Such programs will generally be scheduled during adult viewing periods." We must also mention that the CBC must show viewer advisories directed to television viewers during films which contain violent scenes.

#### 4.3 The *Voluntary Code Regarding Violence in Television Programming* of the Canadian Association of Broadcasters (CAB)

In 1987, the Canadian Association of Broadcasters (CAB) produced a preliminary version of a voluntary code with respect to television violence which was to be revised a number of times. After examining several versions of this code, the CRTC accepted and published the last one, the *Voluntary Code Regarding Violence in Television Programming*, in Autumn 1993. The CAB was the first organisation to submit such a code for approval by the CRTC. This code came into effect on January 1, 1994. From that date on, the CRTC required broadcasters to follow the code and imposed it as a licensing condition. It should be noted that the CRTC agreed to endorse this code only on the condition that a system of classifying programs be developed and incorporated into it. The CAB agreed to this condition. Moreover, following this CAB initiative, the CRTC pressured all sectors of the broadcasting industry to present codes and action plans in order to solve the problem of television violence.

When they accept to submit themselves to the CAB *Voluntary Code Regarding Violence in Television Programming*, private Canadian broadcasters endorse the code's statement of principle. The following are a few examples of the principles in that statement:

##### Statement of principle

- 1.1 Canadian private broadcasters understand and accept they have a responsibility to their viewers, in addressing the issue of violence on television.
- 1.2 By their adherence to this Voluntary Code of practice, Canadian private broadcasters are publicly endorsing the following principles:
  - 1.2.1 that programming containing gratuitous violence not be telecast,
  - 1.2.2 that young children not be exposed to programming which is unsuitable for them,
  - 1.2.3 that viewers be informed about the content of programming they choose to watch.
- 1.5 The depiction of violence within children's programming shall not be so realistic as to threaten young children, to invite imitation, or to trivialize the effects of violent acts.

In the Code following the Statement of Principle, two guidelines concern the content of programs:

#### **The Code**

##### **1. Content 1.1 Canadian broadcasters shall not air programming which:**

- contains gratuitous violence in any form\*
  - sanctions, promotes or glamorizes violence
- (\*"Gratuitous" means material which does not play an integral role in developing the plot, character or theme of the material as a whole.)

This code contains precise rules concerning children's programs. For example:

2. Children's programming

2.3 Animated programming for children, while accepted as a stylized form of storytelling which can contain non-realistic violence, shall not have violence as its central theme, and shall not invite dangerous imitation.

2.6 Programming for children shall not contain realistic scenes of violence which create the impression that violence is the preferred way, or the only method to resolve conflict between individuals.

2.7 Programming for children shall not contain realistic scenes of violence which minimize or gloss over the effects of violent acts. Any realistic depictions of violence shall portray, in human terms, the consequences of that violence to its victims and its perpetrators.

The *Voluntary Code Regarding Violence in Television Programming* also mentions the directives to be followed with respect to the scheduling of programs. For example:

### 3. Scheduling

#### 3.1 Programming

3.1.1 Programming which contains scenes of violence intended for adult audiences shall not be telecast before the late evening viewing period, defined as 9 pm to 6 am.

3.1.2 Accepting that there are older children watching television after 9 pm, broadcasters shall adhere to the provisions of article [...] (viewer advisories), enabling parents to make an informed decision as to the suitability of the programming for their family members.

3.3 Advertisements which contain scenes of violence intended for adult audiences, such as those for theatrically presented feature films, shall not be telecast before 9 p.m.

Among other things, this code contains directives on the necessity of broadcasting advisories to the audience when programs not reserved for an adult audience include scenes of violence. One of these directives regarding advisories is intended to protect children:

### 5. Viewer advisories

5.2 Broadcasters shall provide a viewer advisory at the beginning of, and during programming telecast outside of late evening hours, which contains scenes of violence not suitable for children.

Finally, guidelines are formulated regarding violence against women and against specific groups:

### 7. Violence against women

7.2 Broadcasters shall ensure that women are not depicted as victims of violence unless the violence is integral to the story being told. Broadcasters shall be particularly sensitive not to perpetuate the link between women in a sexual context and women as victims of violence.

### 8. Violence against specific groups

8.1 Broadcasters shall not telecast programming which sanctions, promotes or glamorizes violence based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age, or mental or physical disability.

This code, in effect since January 1, 1994, is applied by the Canadian Broadcast Standards Council (CBSC). The CBSC is also responsible for dealing with complaints lodged by the public. It resolves complaints directly with the station or network involved. A group made up of specialists from the broadcasting industry takes care of unresolved complaints. For example, in 1994, the CBSC studied the case of the *Mighty Morphin Power Rangers* program for which it had received complaints. Following its statement on the fact that this program contravened a number of provisions of the CAB code on violence, YTV and Global removed this program from their schedules. We must note, however, that the CRTC is the authority of last instance in cases where consumers are dissatisfied with CBSC decisions.

#### 4.4 The Action Plan of the Canadian Cable Television Association (CCTA) and the Role of the Cable Television Standards Council (CTSC)

Toward the end of 1992, the Canadian Cable Television Association (CCTA) expressed its concerns with respect to television violence by presenting the Community Channel Leadership Project, of which the theme was to be violence. This project, which brought employees in the cable television programming domain and citizens of the regions in question, targeted the establishment of initiatives to improve public knowledge of the media.

In 1993, the CCTA formed a task force the mandate of which was to study American programs transmitted by cable and to present a report on that subject to the CRTC. In parallel, the CCTA began to develop a code and an action plan on television violence. A version of these documents was submitted to the CRTC in 1995, but they have not yet been approved officially.

The action plan, *Violence On Television - Action Plan*, expresses the CCTA's position with respect to measures to be adopted to allow television viewers to control their exposure to violent content shown on the small screen. Thus in 1995 the CCTA presented a document to the television violence hearings in which it advocated the following actions:

- the establishment of a classification system that will provide viewers with information on program content;
- the deployment of technology that will work in concert with the classification system to allow viewers to screen out programming they do not wish to receive; and,
- a collaborative industry-wide information campaign to assist viewers on how to make informed viewing choices.

These measures reflect the position of the cable television industry, which is opposed to the institution of regulations resting on the principle of the cable company's intervention in the content retransmitted and the control by a third party of the television program choices of the individual. The CCTA pursues its approach in order to promote the development and use of control technology by subscribers. So long as such technology is not available, the cable television industry is conscious of the fact that the CRTC could be motivated to establish means to counter the problem of the reception of programs containing violent scenes originating outside the country. During the transition period, the CCTA would be ready to undertake substitution of programming coming from American services under the following conditions:

- the programming is a series and is found to be too violent for children based on a full public review, by the CRTC, of the programming in question;
- the CRTC has established a minimum number of people that would have to complain about a given program in order to trigger a review by the CRTC;
- the programming is aired before the 9:00 pm watershed hour; and, cable companies are explicitly required by CRTC regulation to provide substitute programming and the decision is widely publicized.

In contrast, as soon as a cable company has undertaken the installation of subscriber-control technology, it would be free of any obligation to respect the conditions mentioned above.

Moreover, in 1993, the industry decided to apply the *Sex-Role Portrayal Code for Television and Radio Programming* and the *Voluntary Code Regarding Violence in Television Programming* to programs produced by cable television companies for community channels.

Complaints concerning violence on cable services must be addressed to the Cable Television Standards Council (CTSC)

#### 4.5 Other Action Taken in the Cable Television Domain

As examples, it is appropriate to point out the initiatives taken by two cable television companies which have demonstrated their interest in the problem of television violence and have chosen to take steps to decrease it.

In Fall 1994, Le Groupe Videotron Ltee set up a parental control system on Vidoway. This parental control system allows access to a channel or selection on the Vidoway menu to be blocked at all times. Vidotron developed this system in response to certain concerns expressed by the public with respect to violence, nude scenes, bad language, etc. By using this system, parents can prevent their children from watching certain programs or certain channels which they consider inappropriate.

Another example is that of Shaw Cablesystems in Edmonton, Alberta, which has undertaken to test the V-chip (anti-violence chip) on Superchannel with 80 subscribers in the Edmonton area. This company is continuing its research in order to determine the efficiency of this new technology, the distribution costs involved, and consumer response. Rogers Cablesystems and CFCF Cable have joined Shaw Cablesystems in these trials.

#### 4.6 *The Pay Television and Pay-Per-View Industry Code of Programming Standards and Practices*

Pay television and pay-per-view television licencees have united their efforts to develop a code on violence. This code, *The Pay Television and Pay-Per-View Industry Code of Programming Standards and Practices*, was approved with certain modifications by the CRTC in 1994. Pay television and pay-per-view licencees have been subject to the provisions of this code since Jan. 1, 1995. Furthermore, the CRTC will impose respect for this code as a condition on licence renewal for the licencees in question.

Part of this code is titled *The Pay Television and Pay-Per-View Programming Code Regarding Violence* and deals exclusively with violence. Some of the guidelines contained in this part of the document were written with respect to children's programs. These guidelines are similar to those adopted in the *CAB Voluntary Code Regarding Violence in Television Programming*. Moreover, just as in the case of the CAB code, the pay television and pay-per-view television licencee code respecting violence includes a provision according to which no program containing violent scenes intended for an adult audience shall be shown before 9 p.m. or after 6 a.m.

This code also provides for the classification of programs. Pay-television and pay-per-view television licencees shall respect the rating assigned by the provincial film classification body, or when programs have not been so rated, the licencees shall assign a rating in accordance with the criteria developed by the film classification body of the province where the program originated. Other guidelines concern classification. For example, the following deals with children:

4.6 Viewer advisories and ratings will appear "on air," in both written and spoken forms, in all programming not suitable for children.

With respect to advertising material, pay television and pay-per-view television licencees are subject to the provisions of the *CAB Voluntary Code Regarding Violence in Television Programming*. Thus, as is explained in a provision of the *Pay Television and Pay-Per-View Programming Code Regarding Violence*,

5.0 Where programming is aired during preview periods Licencees will exhibit only programming that meets the same standards of scheduling and content contained in the Canadian Association of Broadcasters Voluntary Code Regarding Violence in Television Programming. This same provision will apply to any promotional material provided to cable operators, for distribution on barker channels. Any clips so provided which are unsuitable for children will be clearly identified as unsuitable for broadcast before 9 p.m. or after 6 a.m.

Apart from the steps taken to develop a shared code, other actors in the domain of pay and pay-per-view television have adopted measures intended to spark television viewers' awareness of violence on television. For example, there was the initiative of Communications Astral, which announced its intention in 1993 to insert a warning during the broadcast of films. Thus it projects a flashing white "V" on a red square at the beginning of all films containing violent scenes, and then every half hour during the broadcast. Moreover, various pay-television channels, such as the Family Channel, have announced their intention to refrain from broadcasting programs containing scenes of violence.

Certain specialty programming companies, such as Vision TV and Muchmusic Network, have written statements of intent aimed at reducing the presentation of violent programs on television. Specialty programming channels have also submitted a code regarding violence to the CRTC.

As demand has increased in the television domain, many enterprises have put new, unique, specialty channels on the market. In 1995, the CRTC adopted a policy regarding the distribution of video game programming following the request for authorization from Sega of Canada Inc. to offer a video-game service to cable subscribers. Cable companies and video-game service enterprises can be authorized to provide video-game programming services under certain conditions. Some of these conditions are in answer to concerns about violence, stereotypes, advertising and children:

6. The undertaking's programming complies with the Canadian Association of Broadcasters' Sex-Role Portrayal Code for Television and Radio Programming, Voluntary Code Regarding Violence in Television Programming and Broadcast Code for Advertising to Children, as amended from time to time and approved by the Commission.

7. The video games offered via the undertaking's programming service are categorized and information is provided to subscribers indicating, at a minimum, the suitability of individual games for use by children and adolescents.

Moreover, all other enterprises which foresee offering such a service are invited by the CRTC to provide for a protection mechanism such as that suggested by Sega. This protection mechanism would use an integrated "V-chip" in the channel adaptor. Thus, parents could use a coded message to limit access to certain games they consider inappropriate for their children.

#### 4.7 Action Group on Violence on Television (AGVOT) Initiatives

The Action Group on Violence on Television (AGVOT) was formed in 1993 following a conference on violence which took place at the C.M. Hincks Institute in Toronto. This group is made up of the principal actors in the television domain, in other words the Association of Canadian Advertisers, the CAB, the CBC, the CCTA, the Canadian Film and Television Production Association, the Association des producteurs de film et de télévision du Québec, pay television and specialty programming services, and pay-per-view television licencees. Representatives of the CRTC and the Ministry of Canadian Heritage attend AGVOT meetings as observers.

In conformity with the objectives stated by the CRTC, AGVOT has developed a four-point program, which is summarized as follows by the CRTC:

- Self-regulation by the industry, closely monitored by the CRTC.
- A national program classification system.
- New technology to give viewers, especially parents, direct control over which programs enter their homes.
- Public awareness and media literacy programs.

A few months later, AGVOT adopted a general statement of principles concerning television violence. In this statement, AGVOT established the basic standards which would govern the presentation of violent scenes in television programs. The most important guidelines in this statement as summarized by the CRTC are the following:

- Programs that contain gratuitous violence will not be shown on television.
- The Canadian broadcasting industry is committed to uphold freedom of expression and to maintain journalistic, creative and programming independence and integrity.
- All persons who are licensed to carry on broadcasting undertakings accept the responsibility, as established in the Broadcasting Act, for the programs they broadcast, and are committed to act effectively and expeditiously in resolving programming concerns expressed by their viewers.
- Each licencee will prepare program schedules giving due consideration to the nature of the service and the expected viewing audience. Each licencee also recognizes its special responsibility when selecting programs directed at children.
- In order to facilitate informed viewing choices, licencees will provide their viewers with appropriate information on the content of their programs consistent with the nature of the service.
- Each member of the Canadian Broadcasting industry undertakes to adopt a code dealing with violence in television programming, based on this General Statement of Principles.

The members of AGVOT committed themselves to adhering to the principles of this general statement and to developing action plans intended to reduce violence on television.

Moreover, since 1993, they have been evaluating various systems of film and video classification which could be used in English Canada: the members of the Québec broadcasting industry have chosen to retain the classification system presently used, which was developed by the Québec Régie du cinéma. Regarding this, in 1994 AGVOT conducted a survey in order to determine the opinion of the anglophone population with respect to a projected shared system of classification. The results of interviewing 1573 anglophone Canadians show that they are very much in favour of the creation of a joint system of classification, which would include notices respecting violent scenes, nudity, adult themes and coarse language. On average, the respondents thought that young people under 16 years of age should not be exposed to television content which is violent, deals with subjects reserved for adults or includes coarse language.

Following this survey, AGVOT continued to develop the classification system. It must be noted that this is no small

task, for AGVOT must manage to reconcile the various interests of its members, who offer distinct programming services. In spite of their differences, the members of AGVOT have succeeded in coming to an agreement on certain general principles concerning the classification system. The following are a few examples of these principles:

- The primary function of any classification system should be to assist Canadian parents in making informed viewing choices for, and with, their children.
- Any classification system for use by the broadcast industry should be created for that intent. It should reflect the intended audience for programming which is broadcast on television, and which reflects the requirements of the various broadcast industry codes now in place
- Integration with other classification systems, such as those for theatrical and home video rental, is not practical for all broadcast services.

All those concerned realize that for policies such as the classification system proposed by AGVOT to be efficient, there must be an agreement made with the principal suppliers of audiovisual content, which are presently American television and film companies. While the completion of such a project seemed very improbable a few years ago, recent decisions made by the American Congress have created the possibility of collaboration in order to establish a North-American classification system.

On one hand, the recent (February 1996) adoption of the *Telecommunications Act 1996* is an example of this. Among the provisions contained in this act, we find:

(c) Requirement for Manufacture of Televisions that Block Programs. – Section 303 (47 U.S.C. 303), as amended by subsection (a), is further amended by adding at the end the following:

(x) Require, in the case of an apparatus designed to receive television signals that are shipped in interstate commerce or manufactured in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus be equipped with a feature designed to enable viewers to block display of all programs with a common rating, except as otherwise permitted by regulations pursuant to section 330(c)(4).

The Federal Communications Commission (FCC) is responsible for stipulating the regulations permitting the application of the requirement and for setting the date such regulations come into effect. The act also provides that video program distributors have one year to commit themselves voluntarily to developing ratings for violent, sexual or indecent video programs and to broadcasting signals in accordance with such ratings. Otherwise a committee will be created to determine guidelines concerning the classification of television programs and the regulations governing the transmission of signals when programs have been rated. On the other hand, the industry has expressed its intention to institute, by January 1, 1997, a voluntary system of classification of television programs.

Finally, both the American broadcasting industry and the cable television industry have ordered numerous studies. The most recent, the *National Television Violence Study*, published in February 1996 and funded by the U.S. National Cable Television Association deals with types of violence portrayed in American television programming, program ratings and viewer advisories.

## CHAPTER FIVE

### THE REGULATION OF ADVERTISING

Given the economic stakes involved in televised production today, we can only note the important and influential role advertising plays in this domain. The partisan nature of advertising (which follows from the fact that advertising is funded by advertisers) justifies the application of regulations in order to protect consumers from misleading advertising and from certain unfair advertising practices. Many authors have emphasized the role played by advertising in instilling values and spreading stereotypes. It is in the spirit of countering the potentially harmful effects of advertising, and above all of protecting the target audience most likely to be so affected, that in 1973 a member of the Canadian Parliament proposed a bill prohibiting the broadcast of commercial advertising during children's programs. While this bill was not adopted, it gave rise to many debates and discussions. Moreover, it motivated public undertakings to study the potential effect of advertising on children. At the same time in Quebec, the *Mouvement pour l'abolition de la publicité aux enfants* (MAPE) also exerted pressure in favour of the adoption of stricter regulations regarding children.

A few years later, in 1978, the Quebec Legislature adopted the *Consumer Protection Act*, of which one of the provisions prohibits the broadcast of advertising during children's programs. As might be expected, the adoption of this act annoyed toy and food-product companies, who worried about loss of revenue and expressed concern regarding a drastic decline in the choice of programs offered to children. In 1989, one of these companies, Irwin Toy Ltd., went before the Supreme

Court of Canada with the intention of demonstrating that the Quebec legislation was unconstitutional since it restricted freedom of expression. This effort was in vain: even though the Supreme Court recognized commercial advertising as a type of message protected by freedom of expression, it ruled that the limitation imposed on freedom of expression by this act was justified and that it was a regulatory technique sufficiently well defined to attain the ends desired.

## 5.1 The Regulation of Advertising Directed to Children

Advertising, in particular that directed to children, seems to be a perpetually controversial subject. There have been many concerns about, among other things, the effect television may have on the development and perceptions of young children. As was emphasized by the Supreme Court of Canada in *Quebec (Attorney General) v. Irwin Toy Limited*,

... generally, the concerns at the origin of the act and the voluntary regulation in this domain have to do with the special vulnerability of young children with respect to manipulation by media, their incapacity to distinguish fiction from reality or to grasp the persuasive intention carried by the message, and the secondary effects of external influences on the family and parental authority.

In light of such concerns, we will look at the legislation and regulatory codes with respect to advertising directed to children which have been adopted by the regulatory organisations and the industry. In particular, we will study the regulation instituted by the Canadian Broadcasting Corporation (CBC), the Canadian Association of Broadcasters (CAB), the Advertising Standards Council (ASC) and the Office de la protection du consommateur (OPC).

### 5.1.1 The Canadian Broadcasting Corporation (CBC) Program Policy Regarding Advertising

In 1975, the Canadian Broadcasting Corporation (CBC), in agreement with the CRTC, adopted a policy prohibiting the broadcast of advertising messages addressed to children during its programming.

Certain programs on Canadian Broadcasting Corporation television may not be sponsored or interrupted by advertising messages. In effect, according to the CBC program policy *Programming Not Eligible for Commercial Content*, revised in 1995, national and provincial school broadcasts and programs directed to children under 13 years of age are subject to such restrictions. The only advertising messages which may be broadcast are billboards intended to identify the underwriter, and makers of children's products may not be underwriters. Note that the CBC has chosen to adopt standards stricter than those followed by private broadcasters

### 5.1.2 The Canadian Association of Broadcasters (CAB) *Broadcast Code for Advertising to Children*

In 1973, the CRTC requested private broadcasters to conform to the provisions of the advertising code written by the Canadian Association of Broadcasters (CAB), the *Broadcast Code for Advertising to Children*. The following year, the CRTC imposed respect for this code as a licensing condition, a condition which is still in force today. Pay-television licences were prohibited from broadcasting advertising during their programming. Specialized programming services are generally subject to the same licensing conditions as all other broadcasters with respect to the *Broadcast Code for Advertising to Children*

The latest version of this code was approved in 1993. This code is administered by the Children's Advertising Section of the Canadian Advertising Foundation (CAF) in English Canada only. In effect, Quebec is set apart since it has adopted legislation prohibiting advertising during children's programs. The *Broadcast Code for Advertising to Children* was designed with the intention to "...ensure that children are not subject to inappropriate or misleading advertising, and are not unduly pressured to buy, or have their parents buy, particular products." This code targets certain types of advertising messages in particular:

(c) A Child Directed Message - A "child directed message" is a commercial message on behalf of a product or service for which children are the only users or form a substantial part of the market as users, and the message (i.e. language, selling points, visuals) is presented in a manner that is directed primarily to children.

The following are examples of the provisions of this code:

#### 3. Factual Presentation

(b) Written, sound, photographic and other visual presentations must not exaggerate service, product or premium characteristics, such as performance, speed, size, colour, durability, etc.

(d) When children's advertising shows results from a drawing, construction, craft or modelling toy or kit, the results should be reasonably attainable by an average child.

#### 4. Product Prohibitions

(a) Products not intended for use by children advertised either directly or through promotions that are primarily child-oriented.

#### 5. Avoiding Undue Pressure

(a) Children's advertising must not directly urge children to purchase or urge them to ask their parents to make inquiries or purchases.

#### 6. Scheduling

(b) No station or network may carry more than four minutes of commercial messages in any one half-hour of children's programming or more than an average of 8 minutes per hour in children's programs of longer duration

#### 7. Promotion by Program Characters, Advertiser-Generated Characters, and Personal Endorsements

(c) Professional actors, actresses or announcers who are not identified with characters in programs appealing to children may be used as spokespersons in advertising directed to children.

#### 8. Price and Purchase Terms

(d) When more than one toy is featured in a commercial message it must be made clear, in audio and video, which toys are sold separately (this includes accessories).

#### 9. Comparison Claims

(b) In the case of toys or children's possessions, comparisons should not be made with the previous year's model, even when the statements or claims are valid.

#### 10. Safety

(b) Commercial messages must not show products being used in an unsafe or dangerous manner. (e.g. tossing a food item into the air and attempting to catch it in the mouth, etc.)

#### 11. Social Values

(a) Children's advertising must not encourage or portray a range of values that are inconsistent with the moral, ethical or legal standards of contemporary Canadian society.

Other guidelines also appear in appendix to this code in order to provide broadcasters, advertisers, advertising agencies and media representatives with clarification of certain clauses. For example, one of these guidelines targets advertising directed to preschool-age children:

#### 2. Pre-Schoolers

Children of pre-school age often are unable to distinguish between program content and advertisements. Therefore, any commercial message scheduled for viewing during the school-day morning hours should be directed to the family, parent or an adult, rather than to children and should have the requisite ASC clearance number if appearing in or adjacent to a child-directed program.

All broadcasters which are members of the CAF (except those in Quebec, which must respect the legal prohibition on broadcasting advertising messages directed at children) have accepted to act in accordance with this code. Moreover, they have committed themselves to submitting their advertising messages to an evaluation committee for approval. This committee is commonly called the Children's Pre-clearance Committee. When a commercial message is in accordance with the provisions set out in the *Broadcast Code for Advertising to Children*, the committee issues an approval number, thus authorizing broadcasters to televise such a message.

### 5.1.3 The Canadian Advertising Foundation (CAF) *Canadian Code of Advertising Standards*

As early as 1963, the Canadian advertising industry provided itself with a set of guidelines regarding advertising: the *Canadian Code of Advertising Standards*. Since 1963 this code has been revised regularly. In English Canada, it is published by the Canadian Advertising Foundation (CAF) - Standards Council and administered by the Advertising Standards Council and the regional councils. The Standards Council is supported by the Standards Division of the Canadian Advertising Foundation (CAF), which is responsible for coordination. In French Canada it is published by the Conseil des normes de la publicité (CNP), which also administers it. Generally, it is endorsed by the majority of advertisers, advertising agencies, media which communicate advertising and suppliers participating in the advertising process. This code defines advertising as "any paid message communicated by Canadian media with the intent to influence the choice, opinion or behaviour of those addressed by the commercial messages." It provides directives regarding the way in which products and services may be promoted and not regarding the types of products and services which may be promoted.

#### **The *Canadian Code of Advertising Standards* contains three provisions directly concerning children:**

##### 13. Advertising to Children

Advertising which is directed to children must not exploit their credulity, lack of experience, or their sense of loyalty, and must not present information or illustrations which might result in their physical, emotional or moral harm. [...]

##### 14. Advertising to Minors

Products prohibited from sale to minors must not be advertised in such a way as to appeal particularly to persons under legal age and people featured in advertisements for such products must be, and clearly seen to be, adults under the law.

##### 15. Taste, Public Decency

[...] Advertising must not present demeaning or derogatory portrayals of individuals or groups; must not exploit violence, sexuality, children, the customs, convictions or characteristics of religious or ethno-cultural groups, persons with disabilities or any other person, group or institution in a manner which is offensive to generally prevailing standards.

It is also stated that broadcast advertising directed to children in English Canada shall be regulated in a distinct manner by the *Broadcast Code for Advertising to Children*.

A committee specially established by the CAF meets regularly to evaluate advertising messages. When they are in conformity with the requirements of the code, the committee issues them with an authorization number. Telecasters are responsible for broadcasting only those commercial messages which have received an authorization number.

The Standards Division of the CAF deals with complaints regarding all national English-language advertising. The Conseil des normes de la publicité (CNP) takes care of complaints concerning national French-language advertising and those originating in Quebec. The regional councils are responsible for studying complaints about English-language advertising in their respective regions.

### 5.1.4 Quebec Office de la protection du consommateur (OPC) Regulations

In 1978, the Quebec Legislature adopted the *Consumer Protection Act*. Yet it was only two years later, in 1980, that this act came into force. The mission of the Office de la protection du consommateur (OPC) is to ensure this act is applied. Section 252 of the act defines the action of advertising as "to prepare, utilize, distribute, publish or broadcast an advertise-

ment, or to cause it to be distributed, published or broadcast."

Sections 248 and 249 of the *Qubec Consumer Protection Act* prohibit televised advertising in Qubec directed to children under 13 years of age in the following terms:

248. Subject to what is provided in the regulations, no person may make use of commercial advertising directed at persons under thirteen years of age.

249. To determine whether or not an advertisement is directed at persons under thirteen years of age, account must be taken of the context of its presentation, and in particular of

- (a) the nature and intended purpose of the goods advertised
- (b) the manner of presenting such advertisement;
- (c) the time and place it is shown.

The *Regulation respecting the application of the Consumer Protection Act* provides for several exceptions. Among other things, it is possible to broadcast an advertising message on television to announce a show intended for children, on the condition that such an advertising message is in conformity with certain requirements stated in the regulation. For example, a commercial message may not:

- (a) exaggerate the nature, characteristics, performance or duration of goods or services;
- (e) directly incite a child to buy or to urge another person to buy goods or services or to seek information about it;
- (g) advertise goods or services that, because of their nature, quality or ordinary use, should not be used by children;
  - (j) portray a person acting in an imprudent manner;
  - (o) suggest that owning or using a product will develop in a child a physical, social or psychological advantage over other children of his age, or that being without the product will have the opposite effect;
  - (p) advertise goods in a manner misleading a child into think [sic.] that, for the regular price of those goods, he can obtain goods other than those advertised.

Thus, the *Consumer Protection Act* prohibits certain products (toys, sweets and foods) and certain services from being advertised during children's programs unless the televised advertising message in no way interests children. Thus, special attention is given to certain characteristics of advertising messages. For example:

1. the use of themes relating to fantasy, magic, mystery, suspense or adventure.
2. the use of persons with whom a child can identify: the undue use of children, the use of children's voices, of heroes, of imaginary or fanciful creatures, and of animals.
5. the use of music which appeals particularly to children.

This type of advertising is permitted in programs other than those for children under the condition that the content of the advertising message does not address children under 13 years of age.

Moreover, the OPC has established directives applying to cases in which advertising is addressed equally to parents and children. This type of advertising message may be broadcast only during programs for which the percentage of the

audience made up of children between 2 and 11 years of age is less than 15%. An advertising message intended exclusively for children may be broadcast only during programs for which children make up less than 5% of the audience. In the case of a new program or a program schedule change, the OPC provides that advertisers shall consider carefully the following criteria in order to respect the above-mentioned directives: "1) the type of program, 2) the time of broadcasting, 3) competition from other programs at the same time, and 4) the data on viewing levels...."

Note that this act targets only commercial advertising. Educational advertising is permitted, but it must respect certain conditions which will not be discussed here.

The provisions of the *Qubec Consumer Protection Act* cannot be applied to signals originating outside Qubec which are retransmitted by cable companies. Thus, advertising messages from English Canada and the United States are presently not subject to these regulations. With respect to this, the Coalition contre la publicité aux enfants, made up of many consumer associations, and the *Office de la protection du consommateur* (OPC) have been trying since 1990 to pressure the CRTC to remedy this situation, which runs contrary to efforts which have been agreed upon until now.

## 5.2 Canadian Radio-television and Telecommunications Commission (CRTC) Regulations Concerning the Advertising of Alcoholic Beverages

Televised advertising of alcoholic beverages has been regulated since the mid-1930's. At that time, the Canadian Broadcasting Commission was responsible for establishing regulatory standards concerning alcoholic beverages.

Today the CRTC applies regulations which stipulate that it must authorize advertising messages before they may be broadcast. Provincial laws also apply to advertising on alcoholic beverages, but we will not discuss such legislation here.

Since 1986, the CRTC has applied the *Code for Broadcast Advertising of Alcoholic Beverages*, a revised version of the guidelines used for many years. Two provisions of this code refer to children. According to them, advertising messages must not:

(h) be directed at persons under the legal drinking age, associate any such product with youth or youth symbols, or portray persons under the legal drinking age or persons who could reasonably be mistaken for such persons in a context where any such product is being shown or promoted;

(k) contain an endorsement of any such product, personally or by implication, either directly or indirectly, by any person, character or group who is likely to be a role model for minors because of achievement, reputation or exposure in the mass media.

An advertising message which does not respect both of these provisions of the code may not be broadcast unless its content is modified.

This code has been criticized in a number of ways, principally concerning two issues which the CRTC summarizes as follows:

... the content guidelines contained in the Code; and the alleged portrayal of alcoholic beverage consumption in association only with "the good times," with the harmful effects of excessive alcohol consumption being rarely, if ever, depicted.

In 1994, the Advisory Committee on Alcoholic Beverage Advertising, formed to study advertising messages in order to ensure that the code is respected, recommended certain modifications to the code. This committee, composed of representatives from the Canadian Broadcasting Corporation (CBC), the Canadian Association of Broadcasters (CAB) and Health Canada, assists the CRTC in its task of analyzing such messages. In light of this committee's recommendations, the CRTC hopes to correct:

...a number of discrepancies and shortcomings that have been noted over the years. [...] The proposed revisions to the Code are intended to strengthen the provisions relating, among other things, to [...] the use of youth symbols and of role models for youth....

The following are those changes to the content which concern models presented on television to children. The clause dealing with endorsement, cited above, would be modified as follows:

### Commercials messages for alcoholic beverages shall not :

(d) contain an endorsement of the product, personally or by implication, either directly or indirectly, by any person, character or group who is or is likely to be a role model for minors because of a past or present position of public trust, special achievement in any field of endeavour, association with charities and/or advocacy activities benefiting children, reputation or exposure in the mass media.

A new provision concerning the representation of people under the legal age for consuming alcohol is proposed. It would be prohibited to:

(c) portray the product in the context of, or in relation to, an activity attractive primarily to people under the legal drinking age

Moreover, an interpretative section would be added at the end of the Code. This section would not be an integral part of the Code, but would be designed to allow this code to be interpreted. The following are parts of this section relating to the clauses quoted above:

With reference to paragraph (b):

The message shall be overtly directed to persons who are of the legal drinking age in the province where the message is broadcast. No such message should depict, under any circumstances, children, children's toys, children's clothing, playground equipment, or wading pools. Objects that are commonly used by children, but not considered childish when used by adults (e.g. most sports equipment, frisbees and colouring pencils) may be depicted in such messages. Mythical or fairy tale characters appealing to children, such as Santa Claus, the Tooth Fairy or the Easter Bunny, should not be depicted in such messages under any circumstances.

With reference to paragraph (c):

The product should not be portrayed in the context of, or in relation to, for example, a performance, event or activity where the audience or the participants are expected to be predominantly people under the legal drinking age, or where the television or film audiences of the featured performer(s) or purchasers of recordings by the featured performer(s) consist predominantly of people under the legal drinking age.

With reference to paragraph (d):

Once established as a role model for minors, a person will be considered to remain a role model for a period of 10 years from the date of retirement from the activity.

These revisions have not yet been approved since the CRTC is presently calling for observations on them in order to collect comments, reactions and suggestions from the people and organisations concerned.

## 5.3 Advertising Regulations Concerning Tobacco Products

### 5.3.1 The Tobacco Products Control Act

The *Tobacco Products Control Act* was passed in 1988. The purpose of this act is to:

3. ...to provide a legislative response to a national public health problem of substantial and pressing concern and, in particular, [...]

(a) [...]

(b) to protect young persons and others, to the extent that it is reasonable in a

free and democratic society, from inducements to use tobacco products and consequent dependence on them.

In order to accomplish these goals, the *Tobacco Products Control Act* imposes limits on tobacco-product promotion and advertising. Paragraph 2 of Section 4 of this act prohibits televised advertising of tobacco products in Canada:

(2) No person shall, for consideration, publish, broadcast or otherwise disseminate, on behalf of another person, an advertisement for any tobacco product offered for sale in Canada.

In its *RJR-MacDonald Inc. v. Canada (Attorney General)* decision, the Supreme Court of Canada ruled that the restrictions imposed by the *Tobacco Products Control Act* are not compatible with the constitutional guarantee of freedom of expression provided for in the *Canadian Charter of Rights and Freedoms*. While agreeing that Parliament may exercise control over the advertising and promotion of tobacco products, the Court concluded that the legislation is too broad and that it is not supported by sufficient data to justify a complete prohibition of advertising. Measures which attenuate freedom of expression must be designed so that they do not hinder freedom of expression beyond the degree necessary to the attainment of Parliament's goals. According to the Supreme Court, a less global measure would have been just as efficient without restricting freedom of expression.

In consequence, Sections 4, 5, 6, 8, and 9 of the *Tobacco Products Control Act* are not in effect, though the other provisions of the Act remain in force. At present, there are thus no longer any legislative measures prohibiting the advertising, promotion, retail sale, use of trademarks and labelling of tobacco products.

Following this decision by the Supreme Court of Canada, the Department of Health published a document called *Tobacco Control: A Blueprint to Protect the Health of Canadians*. This document appeared in the context of the *Tobacco Demand Reduction Strategy* launched in February 1994 by the Department in order to reduce tobacco dependency in Canada. The principal program was designed to support the public consultations held in early 1996. It emphasized measures establishing the conditions and requirements for the manufacture, sale and marketing of tobacco products in Canada, such as the prohibition on tobacco advertising (a general prohibition which also concerns televised advertising). The Government intends to submit a new bill taking into account constitutional guidelines by Spring 1996.

### 5.3.2 The *Tobacco Industry Voluntary Packaging and Advertising Code*

The Canadian Tobacco Manufacturers' Council (CTMC) is made up of three companies: Imperial Tobacco, RJR-MacDonald and Rothmans, Bensons and Hedges. In December 1995 it presented a code: the *Tobacco Industry Voluntary Packaging and Advertising Code*. With this code, tobacco-products manufacturers intend to regulate voluntarily their constitutional right to advertise.

The self-regulatory code includes certain provisions concerning young people:

#### 3. Tobacco Advertising Restrictions

##### Prohibited advertising

3.1 No tobacco product advertising shall be directed to persons other than adult consumers of tobacco products;

3.2 A tobacco product advertisement's content and placement may be considered in determining its intended audience; in particular, tobacco product advertisements:

(d) shall not portray tobacco products in the context of or in relation to any activity attractive primarily to non-adults;

3.5 No tobacco product advertising shall be transmitted by radio or television and none shall be placed on cinema screens or on video tapes of cinema films.

The CTMC and its member companies have stated their intention to take action to ensure that non-members of the CTMC, such as other tobacco-product manufacturers, importers, distributors and retailers, conform to this code

Finally, the CTMC has set up the Tobacco Advertising Supervisory Committee. This committee is responsible for

ensuring the Code is applied. A pre-clearance mechanism allows enterprises to submit a proposed advertising message in order that it may be given prior approval as conforming to the provisions of the Code. Advertisers are invited to refrain from broadcasting advertising messages which do not respect the provisions of the Code.

## FILM AND VIDEO

The VCR has changed television-viewing and film-attendance habits. In 1994, 78% of Canadian homes possessed a VCR. The same year, one Quebecois out of three claimed to have seen three films or more per month, either in a theatre or on videocassette, during the last twelve months, and the weekly reach of VCR use in Canada had attained 31%. These statistics reveal the importance of this form of leisure activity in our society.

In the following section, we will present a synthesis of the various film and video classification systems in effect in Canada. Then we will examine the Quebec Rgie du cinma decisions related to classification by age category, as an example of the regulation in this domain.

## CHAPTER SIX PROVINCIAL FILM BOARDS

### 6.1 Film Classification Systems

In Canada, the regulation of motion-picture films falls under provincial jurisdiction. Nine provinces (the only exception is Newfoundland) have adopted film classification systems. Prince Edward Island and New Brunswick use, however, the same film classification system as Nova Scotia and in 1995 they formed a common film regulation commission called the Maritime Film Classification Board. In the North West Territories, there is legislation which imposes film classification, but there is no film board. Finally, the Yukon has no film classification system: it applies British Columbia's regulations.

The seven film boards (British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec and Maritime) do not use the same film classification systems. Each film board establishes its own system and classifies films in accordance with set categories. The various classification systems differ from one province to another and, depending on the province, include from three to five categories. As well as a system of classification, each film board has provided for classification exemptions for certain films. These exemptions vary from province to province. For example, some Canadian provinces have adopted a policy authorizing their film boards to refuse to classify films containing content judged inappropriate for viewing. It must be noted that all provinces authorize the placing of viewer advisories, as well as their category of classification, on films. Finally, all provinces permit decisions classifying films into the various categories to be appealed.

### 6.2 Video Classification Systems

Seven provinces (Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick and Prince Edward Island) require that videos be classified in accordance with a classification system. As in the case of the classification of films, New Brunswick and Prince Edward Island use the same video classification system as Nova Scotia which is established by the Maritime Film Classification Board. Only seven provinces (British Columbia, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia and Prince Edward Island) have adopted a video labelling system, in other words a system whereby all videocassettes in circulation are identified using a sticker notifying viewers of the advisories issued by the various film boards. Alberta and Ontario have no such system. The following table summarizes the many film and video classification systems used in Canada.

## CANADIAN FILM AND VIDEO CLASSIFICATION SYSTEMS

Canada	Film classification system/ Film classification system categories	Video classification system / Video classification system categories
British Columbia	1) General; 2) Mature; 3) 14 Years and Older; 4) Restricted: Under 18 Accompanied; 5) Adult: 18 and Over.	- Regulations on the sale and rental of video cassettes for adults only.
Alberta	1) General; 2) Parental Guidance (Advised); 3) Mature (Adult Accompaniment Required for 14 and Under); 4) Restricted Adult: 18 and Over.	- No regulations govern the classification of video cassettes rented or sold for personal use or for use in discotheques, hotels, bars, etc., unless such video cassettes are presented to the public for an entrance fee.
Saskatchewan	1) General; 2) Parental Guidance (Suggested); 3) Parental Accompaniment (Required): Persons Under 14; 4) Restricted: 18 and Older.	- Film Classification System = Video Classification System.
Manitoba	General; 2) Parental Guidance; 3) Parental Accompaniment: Persons Under 15; 4) Restricted: 18 and Over; 5) 18 + : Adults Only.	- Film Classification System = Video Classification System.
Ontario	1) Family; 2) Parental Guidance; 3) Adult Accompaniment: 14 and Under; 4) Restricted: 18 or Older.	- Film Classification System = Video Classification System.
Quebec	1) General; 2) 13 Years and Over; 3) 16 Years and Over; 4) 18 Years and Over.	- Film classification system = Video classification system.
Nova Scotia	1) General; 2) Parental Guidance; 3) Adult Accompaniment Under 14; 4) Restricted: Parental Accompaniment Under 18; 5) Explicit Material: Adults 18 and Over; 6) Exempt.	Film classification system = Video classification system.
Prince Edward Island	-Use of Nova Scotia's film classification system.	- Use of Nova Scotia's video classification system.
New Brunswick	- Use of Nova Scotia's film classification system.	- Use of Nova Scotia's video classification system.
Newfoundland	- No film classification system.	- No video classification system.
North West Territories	- Obligatory film classification but no film board to classify films. - Generally, the use of the same film classification system as that of Alberta.	- Information not available
Yukon	- No regulations on the classification of films. - In practice, use of British Columbia's film classification system.	- Information not available.

Let us take a more detailed look at the film and video classification system established by the Rgie du cinma du Qubec.

## CHAPTER SEVEN

### THE QUEBEC REGIE DU CINEMA

In Quebec, the *Cinema Act*, adopted by the Qubec Legislature, provides for the establishment of a regulatory organisation responsible for controlling and monitoring film. This organisation, the Rgie du cinma, classifies films, issues licences to distributors, movie theatre operators and video retailers, and ensures that motion picture distribution and use rights are respected.

The policy on film "applies to all fields of film activity relating, in particular, to the production, distribution and exhibition of films and the retailing of video material." This policy targets the attainment of a number of goals, including that concerning the "establishment of mechanisms to oversee the production, exhibition and distribution of such works." This specific goal requires our attention, for it explains the Rgie du cinma's intention to establish a film classification system.

Sections 76 and 76.1 of the *Cinema Act* provide details of the conditions under which a stamp is required. Generally, the Rgie du cinma must issue a stamp for every film presented in public and for every film sold, rented, shared or exchanged on a commercial basis. Section 81 explains the Rgie du cinma's film classification process. It states the classification categories adopted in Qubec and certain conditions on the Rgie du cinma's acceptance to classify a film:

81. ...if of the opinion that the content of the film does not interfere with public order or good morals, in particular, that it does not promote or condone sexual violence, [the Rgie] shall, for the protection of youth, classify the film under one or the other of the following classes:

- (1) "For all," if it considers that the film may be viewed by persons of all ages;
- (2) "13 and over," if it considers that the film may be viewed only by persons 13 years of age or older;
- (3) "16 and over," if it considers that the film may be viewed only by persons 16 years of age or older;
- (4) "18 and over," if it considers that the film may be viewed only by persons 18 years of age or older.

With respect to such classification, Section 86 of the *Cinema Act* provides prohibitions:

86. No person may admit to the public exhibition of a film,
- (1) a person under 13 years of age who is not accompanied by a person of full age, if the film is classified "13 and over,"
  - (2) a person under 16 years of age, if the film is classified "16 and over,"
  - (3) a person under 18 years of age, if the film is classified "18 and over."

Similar restrictions apply to video:

- 86.2 No person may, in a video material retail outlet, sell, lease or lend video material to, or exchange such material with, a person
- (1) who is under 13 years of age, if the film is classified "13 and over";
  - (2) who is under 16 years of age, if the film is classified "16 and over";

- (3) who is under 18 years of age, if the film is classified "18 years and over";
- (4) who is under 18 years of age, if the film consists primarily of scenes of explicit sexual activity and is the object of a filing certificate issued by the Rgie before 15 June 1992.

The Rgie may refuse to classify films which it rules to be contrary to public order or good morals.

The *Regulation respecting licences to operate premises where films are exhibited to the public, distributor's licences and video material retail dealers licences* (1995) sets out a number of rights and obligations. Among those rights and obligations, Sections 17, 18 and 26 state that the licence-holder of a permit to operate an establishment where films are presented to the public must post the Rgie du cinma classification category of the film to be shown. This same licensee, like the holder of a distribution licence, must indicate the classification category, and, if applicable, the Rgie du cinma's remarks, and descriptions and characterizations of the film when it publishes advertisements in newspapers. The classification category published must be in conformity with the illustrations of the symbols issued by the Rgie du cinma.

Moreover, in order to protect youth, the regulation provides that the holder of a video retail licence has three ways to present adult material: 1) in an area reserved for such videos with dividers which do not allow the content of the display to be clearly distinguished and which is announced by a sign: "ADULTS"; 2) on a shelf or automatic distributor so that only the titles of the films are visible; 3) in a catalogue placed out of public sight or in the area reserved for adult video cassettes. Posters for such films must fulfil the same requirements as the catalogue. The advisory material provided by the Rgie also must be used in order that the public will be able to be informed of the category assigned to the film.

## CONCLUSION

The various measures aimed at supervising programs and other audiovisual works intended for children are part of the effort to establish mechanisms to better control audiovisual content.

Such measures are often accompanied by a preventive action plan, designed to educate and inform the public about the effects of various audiovisual contents. For example, the CRTC hopes the measures will be taken in the following sense:

The Commission's view [...] continues to be that long-term public awareness and media literacy programs are paramount to changing attitudes about the acceptability of TV violence and to creating an understanding about the harmful effects of TV violence on children. The Commission also considers that, while industry codes, program classification and consumer-empowering technology will continue to play an essential role in addressing the issue, public awareness and media literacy programs represent most of the solution to TV violence.

The CCTA community programming project, the CAB national public information on violence campaign, and the creation of the Media Awareness Network are three examples of initiatives providing good illustrations of the approach increasing numbers of organisations seem to prefer.

From 1992 to 1994, the CCTA designed a community programming project, called *Stop the Silence on Violence*, for which the staff and volunteers of many community cable television channels in Canada produced hundreds of hours of programs. In 1994 broadcasters organised, through the CAB, a national public information campaign on the theme *Speak Out Against Violence*. This campaign allowed the broadcast of public-interest press releases and of informative documents intended to aid consumers to take measures to counter violence. A set of suggestions for community projects, for both radio and television, was also distributed.

The second aspect of this campaign was launched in March 1996. This project, *You can make a difference*, provides for the broadcast of public-interest messages. It deals with themes such as violence against women and children, targets media awareness and disseminates practical advice.

With the same goal to inform, the National Film Board (NFB), following a colloquium on violence which took place at the C.M. Hincks Institute in Toronto, took the initiative to set up a project which consists in establishing a media education network. This independent, non-profit network was launched thanks to the collaboration of the NFB, the Government, non-profit organisations and private enterprises. The primary objective of this organisation is to provide a data base on an Internet site containing information about various issues which are the subjects of television programs, and about tools to educate children regarding television viewing. Moreover, it attempts to establish a dialogue between the public and the organisations concerned. In September 1995, the English-language network, Media Awareness Network, came into operation. The Réseau d'éducation-Médias, its French-language equivalent, will be launched in 1996.

In spite of these initiatives, it remains to be shown that the public is ready to play an active role with respect to the audiovisual content to which children are exposed. The role to be assigned to members of the public is in no way negligible since it would lead them to assume part of the social responsibility for the potential effects of viewing television content.

Generally, there are various options open to cultural industries and government in order to reach these goals. Very strict audiovisual legislation could be considered, or a completely *laissez-faire* attitude could be taken. As we have seen in the preceding pages, Canada seems to have opted for an intermediate solution. In effect, in spite of the fact that there is legislation applying to certain parts of the audiovisual industry, Canada seems to aim at adopting regulations and self-regulatory codes, and at sharing responsibility with audiences.

Thus, the responsibility with respect to audiovisual content becomes a responsibility shared equitably by the industry and the public. In our opinion, this is the perspective in which we must situate approaches in order to regulate and self-regulate broadcast audiovisual content.

## **APPENDICES**

### **APPENDIX A**

*The Broadcasting Act, R.C.S. c. 11, Part I*  
[Excerpt]

### **APPENDIX B**

*The Consumer Protection Act, R.S.Q. c.P-40.1,*  
s.248, 249 and 252

### **APPENDIX C**

*The Regulation respecting the application of the Consumer Protection Act, R.R.Q., 1981, c.P. 40.1, r.1, s.87, 88, 89, 90 and 91*

### **APPENDIX D**

"Stereotypes in CBC Programming,"  
Program Policy, No. 2 (1994)  
Canadian Broadcasting Corporation

### **APPENDIX E**

"Sex-Role Portrayal Guidelines for Television and Radio Programming," excerpt from *Sex-Role Portrayal Code for Television and Radio Programming* (1990)  
Canadian Association of Broadcasters

### **APPENDIX F**

"Violence in Children's Programming,"  
Program Policy, No. 7 (1994)  
Canadian Broadcasting Corporation

### **APPENDIX G**

*Voluntary Code Regarding Violence in Television Programming* (1993)  
Canadian Association of Broadcasters

### **APPENDIX H**

"Pay-Television and Pay-Per-View Programming Code Regarding Violence," Public Notice 1994-155 (1994)  
Canadian Radio-television and Telecommunications Commission

### **APPENDIX I**

"Programming Not Eligible for Commercial Content,"  
Program Policy No. 11 (1995)  
Canadian Broadcasting Corporation

### **APPENDIX J**

*The Broadcast Code for Advertising to Children* (1993)  
[Excerpt]  
Canadian Association of Broadcasters

### **APPENDIX K**

*Application Guide for Sections 248 and 249 of the Quebec Consumer Protection Act (Advertising Intended for Children Under 13 Years of Age)* (1980)

*[Excerpt]*

Office de la protection du consommateur

## **APPENDIX L**

**"Code for Broadcast Advertising of Acolholic Beverages,"  
Public Notice 1986-247 (1986)  
Canadian Radio-television and  
Telecommunications Commission**

## **APPENDIX M**

*The Tobacco Industry Voluntary Packaging and  
Advertising Code (1995)*  
*[Excerpt]*  
Canadian Tobacco Manufacturer's Council

## **APPENDIX N**

Examples of Film Classification Systems

## **APPENDIX O**

**List of Intervenors Appearing At Regional Consultations and of Those Appearing At the Public Hearing (1995)  
Canadian Radio-television and  
Telecommunications Commission**

## **APPENDIX P**

*V-Chip Trial Violence Rating Scheme (1996)*  
Canadian Radio-television and  
Telecommunications Commission

## **APPENDIX Q**

**List of Principal Organisations Cited  
(English Names, French Names and Acronyms)  
List of Principal Organisations Cited  
(English Names, French Names and Acronyms)**

Action Group on Violence in Television (AGVOT)  
Groupe d'action sur la violence la tellvision (GAVT)  
Advertising Standards Council  
Conseil des normes de la publicit (CNP)  
Advisory Committee on Sex-Role Stereotyping  
Comit consultatif sur les strotypes sexistes  
Alcoholic Beverage Broadcast Advertising Advisory Committee  
Comit consultatif de la rclame radiodiffuse en faveur de boissons alcoolises  
American Congress  
Congrs amricain  
Astral Communications  
Communications Astral  
Canadian Advertising Foundation (CAF)  
Fondation canadienne de la publicit (FCP)  
Canadian Association of Broadcasters (CAB)  
Association canadienne des radiodiffuseurs (ACR)  
Canadian Broadcasting Corporation (CBC)  
Socit Radio-Canada (SRC)  
Canadian Cable Television Association (CCTA)  
Association canadienne de la tlvision par cble (ACTC)  
Association of Canadian Advertisers (ACA)  
Association canadienne des annonceurs (ACA)  
C.M. Hincks Institute  
Institut C.M. Hincks  
Cable Television Standards Council (CTSC)  
Conseil des normes de la tlvision par cble (CNTC)  
Canadian Broadcast Standards Council (CBSC)  
Conseil canadien des normes de la radiotlvision (CCNR)  
Canadian Film and Television Producers Association  
Asociation canadienne de production de film et de tlvision  
Canadian Home & School & Parent-Teacher Federation

Federation canadienne des associations foyer-cole et parents-maitres  
 Canadian Radio-television and Telecommunications Commission (CRTC)  
 Conseil de la radiodiffusion et des telecommunications canadiennes (CRTC)  
 Canadian Teachers' Federation  
 Fdration canadienne des enseignantes et des enseignants  
 Canadian Tobacco Manufacturer's Council (CTMC)  
 Conseil canadien des fabricants des produits du tabac (CCFPT)  
 Children's Pre-Clearance Committee  
 Comit d'approbation pralable de la publicit destine aux enfants  
 Code of Ethics Committee  
 Comit du Code de dontologie  
 Federal government's Advertising Management Group  
 Groupe de gestion de la publicit du gouvernement fdral  
 Health Canada  
 Sant Canada  
 House of Commons  
 Chambre des communes  
 Institute of Canadian Advertising  
 Institut de la publicit canadienne  
 Maritime Film Classification Board  
 Commission cinmatographique des Maritimes  
 Media Awareness Network  
 Reseau ducation-Mdias  
 Ministry of Canadian Heritage  
 Ministre du Patrimoine  
 National Film Board (NFB)  
 Office national du film (ONF)  
 Parliament of Canada  
 Parlement du Canada  
 Qubec Legislature  
 Parlement du Qubec  
 Standards Division of the Canadian Advertising Foundation  
 Division des normes de la Fondation canadienne de la publicit  
 Standing Committee on Communications and Culture  
 Comit permanent des communications et de la culture  
 Supreme Court of Canada  
 Cour suprme du Canada  
 Task Force on Sex-Role Stereotyping in the Broadcast Media  
 Groupe de travail sur les strotypes sexistes dans les mdias lectroniques

## NOTES

### **THE CENTRE DE RECHERCHE EN DROIT PUBLIC**

Founded in 1962, the Centre de recherche en droit public (CRDP) is the oldest research centre at the Universit de Montral, and one of the largest North American research centres in the domain of communications law.

The CRDP includes university researchers engaged in work on health law, communications law, theory of law, sociology of law, and also constitutional law and administrative law, thus a large number of Masters and Phd students are pursuing their education in the various areas of CRDP research. In addition to the professors belonging to the CRDP, the Centre can count on contributions from many professors in faculties of law as well as from experts in other disciplines.

The CRDP takes research initiatives, organises them and concentrates them using a method which it has pioneered in Canada. It is a place where fundamental research is performed from multidisciplinary perspectives on issues which are at the heart of present social problems.

#### **The Research Program**

The Centre de recherche en droit public explores problems on the cutting edge of contemporary Canadian legal research. It has first-class research expertise in law regarding theory, life and health technology, and information technology.

Since the early 1970's, the Centre de recherche en droit public has included a team focusing the study of communications law. Initially concentrating on constitutional aspects of the law regarding communications, the team has extended its sphere of action to work on fundamental rights and techniques specific to the development of standards in the domains of information, communications, artistic production and media. Legal issues related to the dematerialisation of legal relations and transactions, such as the legal dimensions of information superhighways, are part of its research program. The CRDP is also engaged in detailed research on expert systems and intelligent documentary systems.

#### **Sample Publications**

The following are among the publications dealing with information law which have been completed recently at the CRDP:

Pierre Trudel and France Abran, *Droit de la radio et de la télévision* (Montréal: Éditions Thémis, 1991).

Pierre Trudel and France Abran, eds., *Droit du public l'information et vie privée: deux droits irréconciliables?* (Montréal: Éditions Thémis, 1992).

Pierre Trudel, Guy Lefebvre and Serge Parisien, *La preuve et la signature dans l'échange de documents informatisés au Québec* (Les publications du Québec, 1993).

Daniel Poulin, Pierre Trudel and Ejan Mackaay, *Les autoroutes électroniques - usages, droits et promesses* (Cowansville: Éditions Yvon Blais, 1995).

Pierre Trudel, *Le contrôle des contenus indésirables dans les environnements électroniques: éléments d'une stratégie respectueuse de la liberté d'expression et des impératifs découlant du respect des valeurs fondamentales en milieu numérique* (Québec: Secrétariat de l'autoroute de l'information du Québec, 1996).

The CRDP was the first francophone research centre to establish a WWW site on the Internet. Considered by *PC Computing Magazine* to be one of the most useful Internet sites in the legal domain, it can be accessed at the following address:

<http://www.droit.umontreal.ca/>

## For More Information:

To those interested, the CRDP makes available a list of its recent publications as well as a more complete work describing its research program.

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## CENTRE FOR YOUTH AND MEDIA STUDIES (CYMS)

The Centre for Youth and Media Studies (CYMS) was created in 1988 with the financial aid of the *CRB Foundation* and the support of the Faculté des arts et des sciences of the Université de Montréal. CYMS and its member laboratory, the New Technologies Research Laboratory (NTRL) which was established in 1993, aim to further understanding of traditional media and new technology, and to maximize their potential for young people.

Bringing together researchers from such fields as communication, psychology, education, economics, and law, the CYMS/NTRL encourages close collaboration between researchers and theorists to contribute to theoretical knowledge, and at the same time provide practical findings which can assist industry and certain political, cultural and educational institutions in making strategic decisions.

CYMS studies deal with various subjects such as the influence and educational potential of television with respect to adolescents, the place of television in the family, family mediation in television viewing, the viewing of French-language television by young non-francophones, stereotypes presented on television, children and television violence, the regulation of advertising, and the educational potential of interactive television technology for children.

Finally, it contributes to the academic training of young researchers and to the dissemination of the results of its research in national and international professional and scientific works

## A Few CYMS Publications

Micheline Frenette, and Andr H. Caron, "Children and Interactive Television: Research and Design Issues" (1995) *Convergence*, Vol. 1, No. 1 33-60.

Andr H. Caron, "Children, Advertising and Television: Choices in a New Media Environment" in Stephen Frith and Barbara Biggins, eds., *Children and Advertising: A Fair Game?* (Sydney, Australia: University of South Wales, 1994) 94-111.

Andr H. Caron, *Analyse de l'offre et de l'écoute de la programmation pour enfants au Canada 1992-1993* (Montréal: Centre for Youth and Media Studies, Département de Communication, Université de Montréal, 1993) 133 p.

Micheline Frenette, Andr H. Caron and Brigitte Valle, *La télévision et le développement international avec les jeunes* (Montréal: Centre for Youth and Media Studies, Département de Communication, Université de Montréal, 1993) 154 p.

Andr H. Caron, Micheline Frenette and S. C. Croteau, *La famille et la télévision* (Québec: Ministère des Communications du Québec, 1992) 61 p.

Luc Giroux, Louise Landreville and Magali Dupont, *Les adolescents montréalais et la télévision de langue française - Analyse comparée des comportements, attitudes et attentes des adolescents francophones et allophones* (Québec: Ministère des Communications du Québec, 1992) 209 p.

## For More Information:

The Centre for Youth and Media Studies, like the New Technologies Research Laboratory, brings the list of its publications up to date regularly. For more information, contact the CYMS at the following address:

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*Consumer Protection Act*, R.S.Q. c.P-40.1.

*Pay Television Regulations* SOR/90-105; amended by SOR/91-588, SOR/93-356, SOR/94-224.

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*Television Broadcasting Regulations* SOR/87-49; amended by SOR/87-425, SOR/88-415, SOR/89-162, SOR/90-320, SOR/91-587, SOR/92-611, SOR/92-615, SOR/93-208, SOR/93-353, SOR/94-220, SOR/94-634.

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