

Les Terrasses de la Chaudiere
1, Promenade du Portage
Hull (Quebec)

Adresse postale/Mailing Address
Ottawa, Ontario
K1A 0N2

3 August 2001

Vancouver
580 Hornby St.
Suite 530
Vancouver, BC
V6C 3B6
(604) 666-2111
TDD: 666-0778
Fax: 666-8322

Winnipeg
275 Portage Av.
Suite 1810
Winnipeg, MB
R3B 2B3
(204) 983-6306
TDD: 983-8274
Fax: 983-6317

Montreal
405, [boul. de Maisonneuve est](#)
Suite B2300
Montreal (QC)
(514) 283-6607

Halifax
Bank of Commerce Bldg
1809 Barrington St.
Suite 1007
Halifax, NS
B3J 3K8
(902) 426-7997
TDD: 426-6997
Fax: 426-2721

Toronto
55 St. Clair Av. East
Suite 624
Toronto, ON
(416) 952-9096

Regina
Cornwall Professional Bldg
2125, 11th Avenue
Suite 103'
Regina, SK
(306) 780-3422

Edmonton
10405 Jasper Avenue
Suite 520
Edmonton, AB
(780) 495-3224

Mr. Chris Frank
Vice President
Programming and
Government Affairs
Bell ExpressVu LP
5ieme etage
105 rue Hotel de Ville
Hull, Quebec
J8X 4H7

Dear Mr. Frank:

I am writing to inform you of the results of the Commission's investigation into the matter of the broadcast of adult films by Bell ExpressVu's terrestrial and DTH pay-per-view undertakings.

The Commission accepts Bell ExpressVu's acknowledgment in its 27 April 2001 letter, that by failing to adhere to its obligation to oversee all programming broadcast, it broadcast inappropriate content in contravention of the codes to which it is required to adhere (the *Sex-Role Portrayal Code* and the *Pay Television and Pay-Per-View Programming Code Regarding Violence*).

While it takes seriously the contravention of the codes, the Commission recognizes the efforts that Bell ExpressVu has made to ensure that such a contravention does not occur again. Specifically, the Commission notes the removal of the Extasy and True Blue PPV channels, the discontinuance of the use of backhauls, the introduction of accountability at the senior management level, changes to Bell ExpressVu's daily operations, consumer education, revisions to Bell ExpressVu's Internal Policy for Adult Programming and exploration of the development of an industry wide PPV programming code.

The Commission commends the comprehensiveness of Bell ExpressVu's revised Internal Policy for Adult Programming. In the Commission's view, it is important that the policy also state that program suppliers and producers should be made aware of relevant portions of the adult programming policy, especially those areas pertaining to screening/editing standards and certification. It is also important to stipulate that the licensee should ensure that ratings are assigned to all programming and are displayed for the consumer, regardless of whether a program has been rated by a provincial rating board or the licensee.

The Commission expects Bell ExpressVu to incorporate these provisions into its internal policy and to resubmit it to the Commission by 28 September 2001.

In addition, the Commission directs Bell ExpressVu to report to the Commission on the status and effectiveness of the measures it has put into place to ensure that it complies with all applicable codes and regulations in the future. The Commission expects Bell ExpressVu to report to the Commission within two months of the receipt of this letter and once a year after that for the balance of its licence term.

The Commission also notes that Bell ExpressVu has been pursuing the development of an industry-wide PPV programming code. We note in this regard that the existing *Pay Standards and Practices Code*, to which PPV licensees are required to adhere, contains references to adult programming. In the Commission's view, it is preferable to incorporate additional provisions into this existing code, rather than to implement an additional, separate code. We note in this regard that while all provisions relating to adult programming should be reviewed, particular attention should be given to the subject of ratings and classification. Furthermore, Bell ExpressVu should assess the appropriateness of developing a common set of guidelines for the classification of adult programming (both films and programs) instead of relying on the different rating systems of provincial bodies.

The Commission expects Bell ExpressVu to work with key members of the industry and other relevant parties and experts to revise the existing provisions pertaining to adult programming in the *Pay Standards and Practices Code*, and to develop new provisions to be incorporated into it, in order to more effectively address the broadcast of adult programming.

As set out in CRTC PN 1988-13, *Guidelines for Developing Industry-Administered Standards*, the revision or development of provisions to be incorporated into the *Pay Standards and Practices Code* should be done in consultation with the public and experts and must be submitted to the Commission for approval. The Commission expects a proposed revised Code to be submitted for approval by 28 December 2001.

Until the Code has been revised, the Commission will use the following guidelines in applying the *Pay Standards and Practices Code* in order to determine whether an adult film or program is acceptable for distribution:

- A broadcaster must ensure that films are rated and possess a provincial rating certification number. Licensees must be prepared to prove that certification numbers apply to the exact version being aired.
- Where a film or program has not been rated by a provincial board, licensees must rate the material themselves using the Canada Customs and Revenue Agency guidelines (*Prohibited Importations Information Bulletin #20*, in reference to Tariff item 9899.00.00 [Obscenity, Child Pornography and Hate Propaganda]). Customs is a recognized expert in this area and has developed comprehensive guidelines in consultation with other experts.
- The Commission, when assessing complaints, will accept provincial certification. In assessing complaints for programs or films without provincial certification, the Commission will use the Customs guidelines.

The Commission reminds Bell ExpressVu that it continues to also be responsible for ensuring that programming adheres to the *Pay Television and Pay-Per-View Programming Code Regarding Violence* and the *Sex-Role Portrayal Code for Television and Radio Programming*.

Please be advised that this letter will be placed on Bell ExpressVu's public file.

Commission staff will be in touch with you in the near future in order to arrange a meeting to further discuss the expectations set out in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ursula Menke". The signature is written in a cursive style with a large initial "U".

Ursula Menke
Secretary General