

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 99/92

Dated the 17th day of December 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

KERRY SHARP

of Palmerston North

Broadcaster

TV3 NETWORK SERVICES
LIMITED

I.W. Gallaway Chairperson
J.R. Morris
R.A. Barraclough
L.M. Dawson

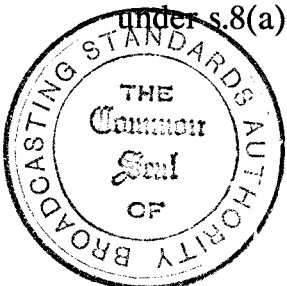
DECISION

Introduction

TV3 Special: Sex, a programme which took a light-hearted approach to the serious topic of safe sex, was broadcast by TV3 at 8.30 pm on 4 August 1992.

Mr Kerry Sharp of Palmerston North complained to TV3 Network Services Ltd, as the broadcaster, that the item was lacking in balance. He said it was wrong to emphasise the effectiveness of condoms in promoting safe sex, when the facts showed that condoms had a high failure rate. He believed that it was irresponsible for TV3 not to give all the truth concerning condoms. Abstinence before marriage and mutual fidelity during marriage, he continued, was the "only safe sex".

TV3 responded by pointing out that the programme was aimed at a young audience and that its message, delivered in a humorous manner, was to highlight the risks that were attached to unsafe sex. It declined to uphold his complaint. As he was dissatisfied with TV3's decision, Mr Sharp referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have viewed the programme complained about and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.

On 4 August 1992 TV3 broadcast a programme titled *TV3 Special: Sex* at 8.30 pm. Because of the youth of the actors and the way the characters were portrayed it was clear that the programme was targeted at teenagers and young adults and was designed to convey information about sexuality and safe sex practices to that group.

Mr Sharp complained to TV3 that the programme was lacking in balance because no information was given on the high failure rate of condoms and he maintained that it perpetrated the myth that sex was safe if a condom was used. He also alleged that the message of the programme was that STDs could be cured by antibiotics, which, he claimed, was not true.

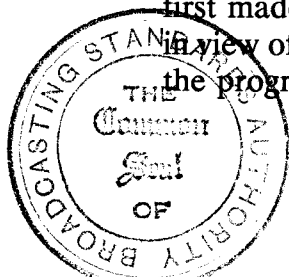
In response, TV3 reported that it had assessed Mr Sharp's complaint under s.4(1)(d) of the Broadcasting Act 1989 which reads:

- 4 (1) Every broadcaster is responsible for maintaining in its programmes and their presentation, standards which are consistent with -
- (d) The principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

It was TV3's view that "the programme dealt with the important issue of safe sex in a humorous but responsible manner." It emphasised the point that at no time did the programme claim that condoms were 100% safe, but argued that it was generally regarded by a large number of sources and authorities that they were capable of reducing the hazards of STDs and HIV.

In response to Mr Sharp's argument that the only safe sex was abstinence until marriage, TV3 observed that the programme was realistic enough to know that abstinence was not everyone's choice and that therefore it had an important role in educating young people about the dangers of a "liberal and careless" sex life.

The Authority's task is to investigate and review the broadcaster's decision. Accordingly it assessed the complaint against s.4(1)(d) which was the standard nominated by TV3 and which captured the concerns expressed by Mr Sharp in his original complaint. The Authority did not assess the complaint against standards 1 and 6 of the Television Code of Broadcasting Practice which Mr Sharp complained were breached. That claim was first made at the time when he referred the complaint to the Authority. Nevertheless, in view of the similarity of s.4(1)(d) and standard 6, the Authority has, in effect, assessed the programme under that provision.



In assessing whether the broadcaster had fulfilled its statutory obligation, the Authority first noted that the programme discussed a "controversial issue of public importance". It then examined the programme to see if it had made a reasonable effort to present significant points of view. The Authority agreed with TV3 that the style of the programme was humorous and observed that the acting was often highly exaggerated for comic effect. However it did note that there was a serious side to the information given in the programme and that, for example, by poking fun at the obtuse reasons people gave for not using condoms, viewers could well feel less embarrassed about discussing the subject with their partners. Overall the Authority felt that the programme made a reasonable effort to present all significant views and thus met the requirement for balance in section 4(1)(d).

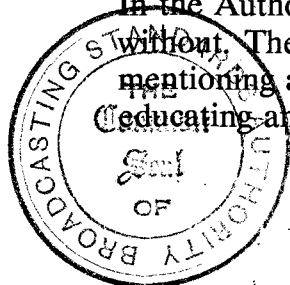
The Authority then went on to examine Mr Sharp's specific complaints. First, it considered his allegation that the programme conveyed the "myth" that sex was safe if a condom was used. The Authority was unable to find this allegation substantiated during the programme, noting, for example, that in the scene where a young man was seeing the doctor he was told "A condom will stop you getting most STDs." In agreement with Mr Sharp the Authority did, however, acknowledge that the programme accentuated the positive benefits of the use of condoms.

The Authority did not agree with Mr Sharp's assertion that the message of the programme was that STDs could be cured by antibiotics. The programme left people in no doubt about the grim reality of AIDS and some other STDs.

With reference to Mr Sharp's claim that STDs can be transmitted even when condoms were used, the Authority relied on expert advice from Dr Janet Say of the Auckland Area Health Board's STD Clinic, who explained that close body contact could spread some STDs despite the use of a condom. However she said condoms were useful as long as they covered the infected lesion or prevented body fluids from being swapped.

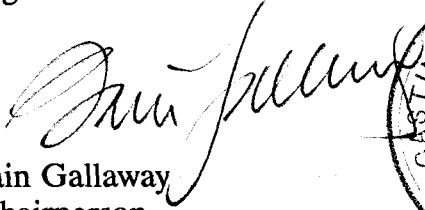
The Authority was of the view that the short vignettes which demonstrated the interrelationships between the young people portrayed was a graphic way to demonstrate the risk incurred from unprotected sex. The use of condoms was not at any time suggested as the ultimate answer to STDs. However, in contrast to unprotected sex, condom usage was recommended. Had the programme focused entirely on the efficacy of condoms the issue of how much they protect from disease may well have been important. However, the reliability of condoms was not the subject of the programme. Instead the focus was on lifestyle, and the serious message which was effectively conveyed by the use of humour was that a wanton and careless attitude to relationships would inevitably lead to long term suffering. To the young women who thought they were safe from disease if they were on the pill, and to the young men and women whose lifestyle included numerous casual sexual encounters, the message was clear: such attitudes may have serious, irreversible long term consequences.

In the Authority's view it was responsible to promote sex as safer with a condom than without. The programme-makers were entitled to emphasise that angle while only briefly mentioning abstinence as an option in the belief that this was the most effective way of educating an at-risk group in the community, ie sexually active young people.

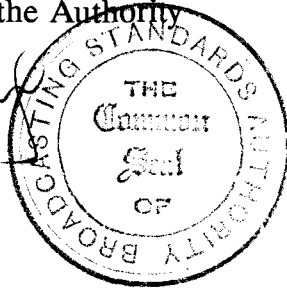


For the reasons set forth above, the Authority declines to uphold the complaint.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson
17 December 1992



Appendix

Mr Kerry Sharp's Complaint to TV3 Network Services Limited

In a letter dated 10 August 1992 Mr Sharp made a formal complaint to TV3 Network Services Ltd about *TV3 Special: Sex* which was broadcast on August 4, 1992 at 8.30 pm.

He said that the programme conveyed what he described as a myth that sex was safe if a condom was used. He believed that the programme lacked balance because it failed to give any information about the failure rate of condoms, and he claimed that it was irresponsible of TV3 not to give all the facts and the truth concerning condoms. In his six page letter he quoted from a number of sources facts which supported his claims. In particular he was concerned that young people would be under the misapprehension that they were safe if they used condoms when, he claimed, many STDs can be transmitted even when they are used.

His view was that abstinence was the only acceptable sexual practice for people before marriage and marital fidelity during marriage.

TV3's Response to the Formal Complaint

TV3 advised Mr Sharp of its Complaints Committee's decision on 7 September 1992. It reported that the complaint had been considered against s.4(1)(d) of the Broadcasting Act 1989 which requires the presentation of all significant views.

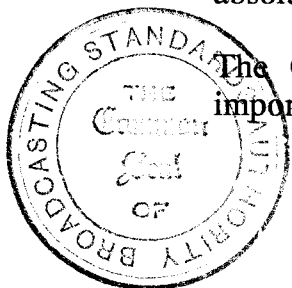
TV3 said that the committee was of the view that the programme dealt with the important issue of safe sex in a humorous but responsible manner. It wrote:

As a general comment, we note that the programme was preceded with a heavy censor warning, and the programme itself was aimed at younger people with a message delivered in a humorous manner to highlight the risks that are attached to unsafe sex. The programme endeavoured to show that the risks to young people of a liberal sex life, are considerable.

It did not believe that it was unreasonable to concentrate on the use of condoms as these were generally regarded as being capable of reducing the risk of STDs and HIV. At no time, it continued, did the programme suggest they were 100% safe. In reference to Mr Sharp's argument that the best option was to have no sex before marriage and then only one partner, TV3 commented that:

It would be fair to say that the programme realised that abstinence was not going to be the choice of many young people and that some precautions however absolutely imperfect they were, were to be recommended.

The Complaints Committee believed that the programme did perform an important function in the education of young people and was realistic enough to



realise that abstinence was not going to be the choice of many people. The message at the end of the programme clearly warned young people that a liberal and careless sexual life posed a great many threats. For the vast number of youngsters who will become sexually active before marriage, we believe this programme fulfilled an important function.

TV3 declined to comment on the veracity of the material in Mr Sharp's letter in support of his view about the relationship between the use of condoms and STDs, concluding that for most people, the programme took a reasonable and responsible view of a controversial topic.

Mr Sharp's Complaint to the Broadcasting Standards Authority

Dissatisfied with TV3's decision, Mr Sharp referred it to the Broadcasting Standards Authority on 13 September 1992 under s.8(a) of the Broadcasting Act 1989.

Mr Sharp maintained that the programme was "utterly lacking in balance because no information whatever was given about the failure rate of condoms." He alleged that the broadcast breached standards 1 and 6 of the Television Code of Broadcasting Practice because "it did not give the viewer all the facts and truth concerning the serious risk to life and health of trusting in the condom to provide "safer sex"."

He continued:

"TV3 Special: Sex" does not give the research evidence...showing the serious risk to life and health of the so-called "safer sex" practices. Using a condom is in reality "unsafe sex" yet the message conveyed repeatedly was that condoms provide "safer sex" or "protected sex". The truth is that condoms do not enable sexually promiscuous young people "to avoid the various forms of STD and HIV." This is a general assumption not supported by evidence from research.

The fact is chastity is the only safe sex... . Surely abstinence and not condoms is the appropriate line of defence.

Mr Sharp rejected TV3's argument that the programme was socially responsible, arguing that chastity and abstinence (safest sex) was not given at least equal attention. He continued that, in the interests of safety, television programmes should promote chastity.

TV3's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. It sent the complainant's comments on 15 September 1992. TV3 replied on 30 September that it had no further comment to make, being satisfied with the response given Mr Sharp in its letter of 7 September.

