

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 171/93

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Dated the 16th day of December 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of complaints by

CANTERBURY AREA HEALTH
BOARD

and

A.K. HARRIS
of Nelson

Broadcaster
TV3 NETWORK SERVICES
LIMITED

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

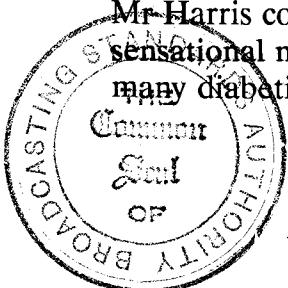
DECISION

Summary

An item entitled "Blood Sugar and Tears", dealing with some of the problems associated with diabetes, was broadcast on TV3's 20/20 programme between 7.30 - 8.30pm on Sunday 7 February 1993.

Describing the item as one involving "cheap sensationalism", the Deputy Commissioner of the Canterbury Area Health Board (Professor D.W. Beaven) complained to TV3 Network Services Ltd that the use of inaccurate factual material in the programme was alarmist.

Mr Harris complained that the item portrayed the subject of diabetes in a negative and sensational manner. Furthermore, it contained incorrect information in suggesting that many diabetics would not live beyond the age of 45 years.



Explaining that the information in the item was gathered from health care professionals, parents and children and that Professor Elliott of the University of Auckland's Medical School stated that the information was accurate, TV3 declined to uphold the complaints. Moreover, TV3 added, other viewers believed that the programme was positive in portraying an accurate account of the management of children with diabetes. Dissatisfied with TV3's decision, Mr Harris and, on the Board's behalf, Professor Beaven referred the complaints to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

For the reasons given below, the Authority upheld the complaints that two of the statements made during the item lacked balance and, consequently, breached the broadcasting standards.

Decision

The members of the Authority have viewed the item complained about and have read the correspondence (summarised in the Appendices). As is its practice, the Authority has determined the complaint without a formal hearing. This decision has not been released as speedily as the Authority would have liked. The delay has been caused principally by the absence overseas at different times of some of the parties.

Diabetes in children was the subject of an item on 20/20 on 7 February. It focused on two children in particular where, in each case, the diabetic father had died at a relatively young age. Both mothers eloquently related the hardships involved in caring for a diabetic child. Comment was provided by Professor Elliott from the Auckland University Medical School who not only spoke about the prognosis for children with diabetes but also explained the treatment he had developed - large quantities of vitamin B - for the prevention of the onset of diabetes in children.

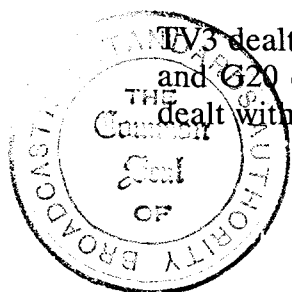
The Complaints

The Deputy Commissioner of the Canterbury Area Health Board (Professor Don Beaven) complained that the item was grossly inaccurate and alarmist. Contrary to the observations contained in the item, he continued, people now rarely died from diabetes, and kidney disease and eyesight damage were not inevitable by the age of 40 years. He referred to some Scandinavian studies which showed that the actuarial slopes for well educated diabetics were improving.

Mr Harris as the father of a diabetic also complained about the item's sensational approach. Based on the medical advice he had received, he said that the item was inaccurate as diabetics who took care of themselves were now capable of leading a healthy life of a normal span.

The Standards

TV3 dealt with Professor Beaven's complaint under standards G2, G12, G14, G15, G16 and G20 of the Television Code of Broadcasting Practice. Mr Harris' complaint was dealt with under standards G14, G15 and G16. The first two require broadcasters:



- G2 To take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in which any language or behaviour occurs.
- G12 To be mindful of the effect any programme may have on children during their normally accepted viewing times.

The others read:

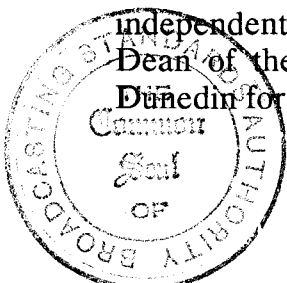
- G14 News must be presented accurately, objectively and impartially.
- G15 The standards of integrity and reliability of news sources should be kept under constant review.
- G16 News should not be presented in such a way as to cause unnecessary panic, alarm or distress.
- G20 No set formula can be advanced for the allocation of time to interested parties on controversial public issues. Broadcasters should aim to present all significant sides in as fair a way as possible, and this can be done only by judging every case on its merits.

When examining a referral, the Authority is confined to the standards nominated by a complainant. With these complaints, however, the standards were nominated by the broadcaster taking into account the complainants' concerns. Besides questioning the applicability of standards G14, G15 and G16 as they only apply to "news" - and 20/20 is a "current affairs" programme, the Authority decided that the issues raised by both complainants were more appropriately encapsulated in standards G1, G6 and G12. Standard G12, the need to be mindful of the effect of a programme on children, is listed above, and G1 and G6 expand on the rather terse statement in standard G14 and, in the Authority's view, better reflect the complainants' concerns than the standards nominated by TV3. They require broadcasters:

- G1 To be truthful and accurate on points of fact.
- G6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

The Medical Issues

After its first examination of the complaint, the Authority became aware that it did not have the expertise to determine some of the medical questions involved. Professor Elliott's extensive background in the prevention of diabetes was explained in the programme and Professor Beaven, one of the complainants, is an authority in its treatment. In these circumstances, the Authority decided it was appropriate to seek independent medical advice and, accordingly, it approached Professor J.G. Mortimer, the Dean of the Otago Medical School, a specialist paediatrician with responsibility in Dunedin for the diabetes service in children and in adolescents. His comments on some



of the specific alleged inaccuracies will be noted below at the appropriate places.

There is, however, one further issue dealing with the medical approach to diabetes on which the Authority comments by way of introduction. The matter was apparent from the correspondence relating to this complaint and is summarised in the preceding paragraph when Professor Elliott's primary concern is described as prevention while Professor Beaven's is treatment.

The medical treatment ethos advanced by Professor Beaven incorporates optimism and includes a positive attitude to the extent possible. Pursuant to his approach, developments in medical techniques which seem to be successful are recounted favourably although conclusive scientific results to confirm the new approach are yet to be received. On the other hand, Professor Elliott's support for the prevention perspective includes a degree of pessimism about developments in treatment. It involves drawing conclusions only on completed research results which, because of the time lag necessary to determine the outcome of newer methods, does not and cannot record the outcome of the new treatment methodologies.

The Authority has recognised these differing approaches but notes that the broadcasting standards, which it applies, do not and cannot take sides on whether either of these approaches is more reasonable or correct than the other.

The Effect of the Programme on Children

Standard G12

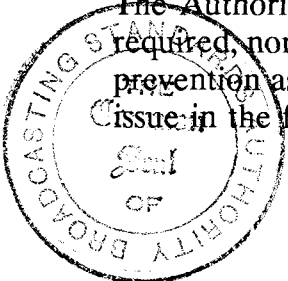
The Authority has taken into account the fact that diabetes in children is a serious disease and, regardless of the most optimistic attitude, it is a topic which can cause alarm to parents. The Authority believed, nevertheless, that an item about diabetes should not "sanitise" the material presented in order to avoid distress to sufferers or their families.

Taking into account this criterion, the Authority considered the complaints that the broadcast breached the obligation in standard G12 which requires a broadcaster to be mindful of the effect of a programme on children. Noting that the standard refers to all children, not only to children with diabetes, the Authority declined to uphold these complaints and concluded that the matters raised were more appropriately subsumed and incorporated into the balance requirements in standard G6.

Accuracy and Balance

Standards G1 and G6 of the Television Code and s.4(1)(d) of the Broadcasting Act

The Authority reiterates it is not a tribunal dealing with medical ethics and it is not required, nor is it able, to arbitrate on the divergent approaches taken by proponents of prevention as against the arguments advanced by those treating a disease. TV3 put the issue in the following way when responding to Professor Mortimer's observations:



It may be that it is medically ethical to err on the side of optimism however that is not a function of journalism. Merely because TV3 is criticised for reporting Professor Elliott's opinions which other medical professionals find ethically uncomfortable that cannot possibly be a basis for complaint about journalism when the journalist obtains from a reliable source either fact or honestly held opinion without being made aware of some other significant point of view. That is precisely why the legislation allows the broadcaster to publish an opposing point of view within the period of current interest. TV3 did so on this occasion.

The Authority's role is to determine whether the broadcast breached the appropriate standards in the Code of Broadcasting Practice - specifically standards G1 and G6.

The Authority noted that the item, as is a common journalistic practice, personalised the debate by focussing on two mothers of diabetic children who had agreed to participate in the programme and then drew general conclusions from the specific examples. As is also the usual practice, TV3 included the comments from an expert with many years' experience in the field. However, after the broadcast it was apparent that the expert's views were not accepted by others with expertise in the field. Dissension from Professor Elliott's opinion became apparent when TV3 included the comments from Professor Mann, President of the NZ Society for the Study of Diabetes, in the 20/20 programme broadcast the following week. His comments about life expectancy took the approach which Professor Beaven argued in his complaint should have been included in the broadcast. The extract from Professor Mann's letter which was broadcast is recorded at the top of page 7.

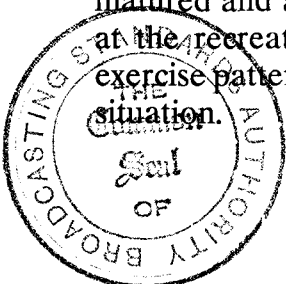
Statements Complained About

- (i) The item's allegation that a child with diabetes could die if unchecked throughout the night.

The item included some material from a camp for insulin-dependent diabetic children where the importance of checks throughout the night was stressed. Indeed, it was described as a matter of life and death. In his complaint, Professor Beaven stated that people now rarely died from diabetes and that children had not been recorded as dying in their sleep as the programme alleged.

In response, TV3 said that nursing staff at the camp had emphasised the need for constant vigilance and blood tests every two hours during the night to avoid "hypos and hypers". Vigilance during the night at home, TV3 added, was also necessary.

On this point, Professor Mortimer agreed that night-time was a concern for families with young diabetic children but, overall, considered the item's approach to be "unnecessarily alarmist". He referred to the stabilising of the diabetic management process as a child matured and as the family gained understanding of the disease. While two hourly tests at the recreational camp might be appropriate because of the unusual activities and exercise patterns, Professor Mortimer said that these were unnecessary in a normal home situation.



Noting that his clinical experience included one child with diabetes who died unexpectedly in his sleep, Professor Mortimer added that such an unusual event did not justify two hourly tests as a general practice and, he observed, the broadcast comments would undoubtedly add to the anxiety of the parents of a diabetic child.

In reply to Professor Mortimer, TV3 maintained that the reference to night-time tests in the item was specifically related to the children in camp. It had not advocated that practice as a general procedure. In addition, TV3 referred to what it described as the programme's fundamental issue not addressed by the complaints which was that the two women featured who agreed to participate had each lost a diabetic husband. Such rare experiences, TV3 argued, increased the anxiety of parents with diabetic children and the participants' comments were their honest opinions.

As will be apparent, the comments from the parties and from Professor Mortimer do not so much question the accuracy of the comment but its meaning and validity both in the context of the programme and as part of the treatment for the disease. On that basis, the Authority accepted that the comment which was broadcast was not inaccurate.

In assessing the comment on the basis of balance, the Authority was of the view that the item would have been improved by emphasising that the children at the camp were in an unusual situation where more extensive care was required than at home. It decided that although the management practices during the night at the camp had been given considerable focus, the at-home routine of one of the two children featured was seen not to involve blood testing throughout the night with the result that some balance was provided. On that basis, the Authority decided that the statement did not breach the balance requirement in standard G6.

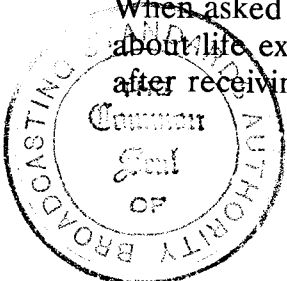
(ii) The allegation that most children with diabetes will live to be no more than 45 years

This comment was of particular concern to Mr Harris as it conflicted with the medical advice he had received over the years. Professor Beaven referred to the statistical trends from Scandinavia and maintained that the comment was inaccurate. TV3 listed four studies supplied by Professor Elliott to which he had added:

Modern treatment is reducing deaths in the first 20 years of the disease but there is a steeply rising mortality after this.

Professor Mortimer described the item's statement as unsupportable as the life expectancy of children receiving current forms of diabetic management was not yet known. He questioned the conclusions of one of the studies advanced by TV3 but emphasised that as nobody had received the modern treatment for longer than 20 years, the treatment's effect on mortality was not yet known.

When asked for comment on Professor Mortimer's report, TV3 argued that the remark about life expectancy was made about the specific children featured and was included after receiving advice from Professor Elliott and other health professionals.



TV3 furthermore, without conceding the accuracy of Professor Mortimer's reply, pointed out that a broadcaster's obligation under the balance provision of s.4(1)(d) of the Act was to report a contradictory view within the period of current interest. It continued:

TV3 fulfilled that obligation when it referred to the letter from Professor Jim Mann, President of the New Zealand Society for the Study of Diabetes received after the programme was published. The following passage from his letter to TV3 was broadcast on the edition of 20/20 next following the documentary "Blood Sugar and Tears" namely on the 14 February 1993:

The figures quoted in your programme regarding life expectancy probably relate to those developing diabetes before 1940. There have been major advances in diabetes care amongst those children who have developed diabetes in the last twenty years, 80 - 90% would be expected to be alive at age 50 and 75% at 65 years.

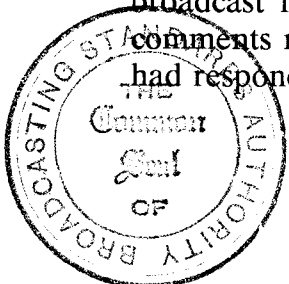
Because both the complainants and the broadcaster were able to provide some evidence to support their views, the matter was inconclusive and the Authority decided that it was a matter of opinion more appropriately evaluated under the balance requirement in standard G6 of the Code.

While accepting that TV3 believed the item was accurate when broadcast, the Authority considered that the letter from Professor Mann to the broadcaster was evidence that Professor Elliott's opinion were not shared by everyone working in the field. Although the extract from Professor Mann's letter broadcast on 14 February went some way to provide a contrary perspective and balance, as TV3's solicitors claimed, the Authority believed that it was insufficient to comply with the standards. The letter disclosed a substantial difference of opinion about a matter of great importance to diabetics and their families and, the Authority concluded, TV3's compliance with the balance provision in standard G6 required, within the period of current interest, a more thorough presentation of the views of others with expertise.

(iii) Professor Elliott's comment that children at the camp would have severe diseases of the blood vessels in the eyes, kidneys and legs in 20, 30 or 40 years.

Professor Beaven maintained that the inevitability of kidney disease and eyesight damage was reducing as a better understanding of diabetes was obtained and the education of young people improved while Mr Harris objected to the conclusive tone of the comment. TV3 reported that Professor Elliott stood by his comment.

That damage occurred over time to the eyes, kidneys and legs of insulin-dependent diabetic children was confirmed by Professor Mortimer. Nevertheless, he added, there was "good evidence" that the modern methods of management significantly delayed or diminished the onset of these complications. Consequently, the statement which was broadcast might or might not be correct. TV3 pointed out that Professor Elliott's comments reflected the current state of medical opinion to which Professor Mortimer had responded with "unproven evidence" to justify an optimistic opinion.



Because of the conflicting opinions, the Authority again decided that it would be more appropriate to view the issue as a matter of balance.

That comment about the inevitability of complications for insulin-dependent children, the Authority concluded, was unbalanced because insufficient focus had been given to the contrary perspective. The Authority accepted that the rate of complications for insulin-dependent diabetics has been considerably higher than in the general population. However, by omitting the possibility that changes in treatment could improve the situation in future, the Authority decided that the programme, while not necessarily inaccurate, had not been adequately balanced. The Authority was of the view that the contrasting range of views of eminent medical professionals should have been reported. It considered that this was essential during the period of current interest because the programme had dealt with issues of life and death.

Conclusion

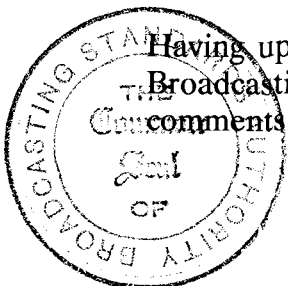
In conclusion, the Authority decided that the programme, while distressing for some viewers, was not necessarily untrue. Accordingly, the broadcast did not breach standard G1 of the Code. Although highlighting some of the hardships involved for diabetics and their families, the Authority decided that the item had not breached the requirement in standard G12 for broadcasters to be mindful of the effect of the programme on children. Despite these conclusions, as noted above, the Authority was of the view that the item would have been improved by emphasising that the children at the camp were in an unusual situation where more extensive care was required than at home.

On the issues of life expectancy and the possibility of the onset of complications, the Authority believed sufficient balance had not been provided during the period of current interest. Because as specified above the programme concerned issues of life and death for some people and because it had been challenged by respected medical experts, the Authority believed that TV3 had a responsibility to air their differing perspectives soon after the initial broadcast. The broadcast of Professor Mann's comments on 14 February went some way towards providing balance but the Authority decided that a more substantial and wide-ranging response to the item was warranted.

For the reasons set forth above, the Authority upholds the complaints that the broadcast by TV3 Network Services Ltd of an item on 20/20 on 7 February 1993 breached standard G6 of the Television Code of Broadcasting Practice in that its account of the life expectancy of children with insulin-dependent diabetes and the possibility of future complications did not give sufficient consideration to the widespread informed medical opinion that life expectancy has increased following changes in the treatment of the disease as has the time and extent of the onset of complications.

The Authority declines to uphold any other aspect of the complaints.

Having upheld a complaint, the Authority may impose an order under s.13(1) of the Broadcasting Act 1989. It does not intend to do so on this occasion as Professor Mann's comments were reported on 20/20 on 14 February. Although TV3 did not acknowledge



that the broadcast of those comments was necessary to minimise the breach of balance which had occurred in the item on the 7 February, the 14 February broadcast did provide some of the balance which should have been included within the period of current interest.

During its information-gathering process, the Authority was sent a copy of a letter from Professor Beaven to the New Zealand Medical Association in which he proposed a conference at which journalists would discuss medical ethics with medical practitioners. While acknowledging that this is not the Authority's business, it seemed a commendable suggestion.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



16 December 1993

Appendix ICanterbury Area Health Board's Complaint to TV3 Network Services Limited

In a letter dated 10 February 1993, the Deputy Commissioner of the Canterbury Area Health Board (Professor D.W. Beaven) complained to TV3 Network Services Ltd about what he described as the cheap sensationalism of a 20/20 item on diabetes broadcast on Sunday 7 February.

Professor Beaven argued that the programme was mischievous, poorly produced, grossly inaccurate and alarmist. Despite what was said in the programme, he continued, people now rarely died from diabetes, and kidney disease and eyesight damage were not inevitable by the age of 40 years.

Furthermore, recent statistical trends from well cared for, and well educated people with diabetes in Scandinavia show actuarial slopes improving greatly.

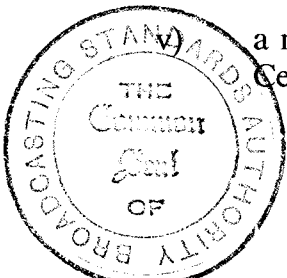
The grounds for the complaint were covered in more detail in a letter from Professor Beaven on the Board's behalf to TV3 dated 2 March. Repeating the concern about the inaccurate and alarmist nature of the item, he said that it had caused unnecessary distress to parents and children who viewed the programme. The programme had not acknowledged the following facts:

- a) people now rarely died from diabetes;
- b) children in Christchurch had not been recorded as dying in their sleep;
- c) maiming kidney disease and eyesight damage was not inevitable by 40 years and prognosis was steadily improving; and
- d) studies in Scandinavia showed improvements in actuarial slopes.

The grounds for the complaint were listed:

- i) the programme was sensationalist, breached good taste and exploited the grief of the two particular parents portrayed;
- ii) diabetes society spokespeople were not involved;
- iii) children in Canterbury who were encouraged to maintain normal blood sugar levels were alarmed by the programme;
- iv) the information about the future of people with diabetes was inaccurate; and

a number of parents and children had rung the Diabetes Life Education Centre in Christchurch to express their alarm and distress at the item.



The letter concluded:

We believe that the programme was not carefully edited and viewed by an advisory panel with a broad feeling about the longer term future of people with diabetes mellitus in adult life. Despite our protests about this programme, no opportunity was made to present an alternative point of view in the subsequent two weeks.

TV3's Response to the Formal Complaint

After some correspondence between the complainant, TV3 and the Broadcasting Standards Authority, TV3 advised the Canterbury Area Health Board of its Complaints Committee's decision in a letter dated 5 May 1993. It reported that the complaint had been considered under (renumbered standards) G2, G12, G14, G15, G16 and G20. It listed six points:

1. Information for the programme had been gathered from a number of health care professionals, parents and children. The chief source of information was Professor Bob Elliott from Auckland University's Medical School, a world authority on diabetes, who had said a child could die if symptoms associated with fluctuating sugar levels were left unchecked. TV3 added:

He told us the lives of diabetes children are inevitably shortened by the disease; "the average lifespan of a diabetic (insulin dependent) is 45 years"; the cause of death of most diabetes is related to their disease; "no matter how well diabetes is controlled, it will usually cause serious side effects later in life". He said insulin injections control the immediate symptoms of hypes and hypos but it will not prevent damage.

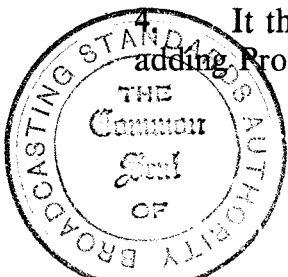
Professor Elliott, TV3 continued, stood by the accuracy of his comments on the programme.

2. Nursing staff at the holiday camp for children with diabetes featured on the programme, TV3 pointed out, advised of the need for constant vigilance of symptoms and that was confirmed by the production team when it spent a night in a home in which a child had diabetes.

3. Noting that Professor Elliott's work was being studied in 23 European countries, TV3 said the programme had produced some positive results. It reported:

We have been inundated with response from people who knew nothing before about diabetes, pleased to at last have some understanding. We have also heard from many parents grateful that what they call "the true picture" has finally been painted.

It then recorded the results of studies in Pittsburg (USA), Denmark and Israel, adding Professor Elliott's observation:



Modern treatment is reducing deaths in the first 20 years of the disease but there is a steeply rising mortality after this.

No child has been on 'modern' treatment for more than 20 years so effect on mortality is not known thereafter.

5. TV3 then reported that the people who appeared on the programme had done so willingly and, in declining to uphold the complaint, reported:

It was plainly obvious that diet and energy expended are linked to the management of blood sugar levels and as such, with appropriate testing, are indicators to what behaviour modifications may be necessary We reiterate that Professor Elliott stands by the programme.

6. TV3 acknowledged that the complainant held a different view to the one advanced during the programme and added:

This programme is one of the 'current affairs' genre and utilised the knowledge, indeed expertise of one of New Zealand's foremost health care professionals and others. Whilst we recognise the concerns you have, it must be recognised that this programme was not a definitive investigation into the state of diabetes in New Zealand. It explored the effects of diabetes on the families and people who appeared.

TV3 stated in conclusion that the standards had not been breached and suggested that differences of opinion in the health profession might be the basis of the complaint. It also rejected the complainant's comment questioning the reporter's ability, describing her as highly skilled.

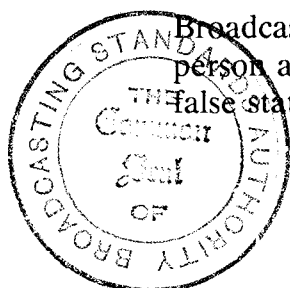
Canterbury Area Health Board's Complaint to the Broadcasting Standards Authority

Dissatisfied with TV3's response, in a letter dated 20 May 1993 Professor Beaven on the Board's behalf referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

In the Complaint Referral Form, completed at the Authority's request, he maintained that the programme appeared to show little understanding of the principle "not to do harm" when making health related programmes. Furthermore, the interviews showed no ethical sense or awareness that people who were damaged in some way suffered from reduced power and needed to be respected.

Emphasising that the item was unbalanced and likely to lead to a lot of alarm and despondency, he recorded in summary:

Broadcaster did not accept inaccuracies, did not name any medical advisory person and failed to acknowledge the need for sensitivity in a disorder where false statement can disempower people!



In an accompanying letter, Professor Beaven made the following points in response to TV3's decision to decline to uphold the complaint.

1. Professor Elliott, while well-known for his experimental work in diabetes in children, did not deal with diabetes in adults where considerable work had been done in the past 5 - 10 years leading to normalisation of blood sugar, blood pressure and lipids.
2. The research cited by Professor Elliott referred to material published before 1985 and might not adequately represent the more recent work.
3. As the complaint did not question Professor Elliott's expertise with children, TV3 had missed the point of the complaint.
4. The points about the published research were addressed earlier.
5. The major theme of the complaint was that when dealing with young people, the true professional must err on the side of optimism and give hope.
6. The point that the programme breached the good taste standard was evidenced by exploiting the grief and distress of people who had lost relatives.
7. The complainant stated:

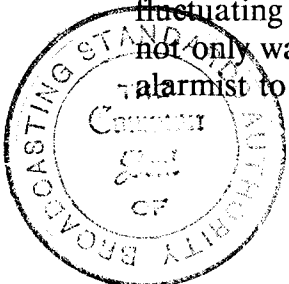
In the programme the strong impression was given that people would die from diabetes in their 40's - this is patently UNTRUE for the great majority of children with diabetes.

8. The complaint recorded that the item was factually incorrect as TV3 had not cited a 1989 Danish report, "the single most authoritative study on outlook in Diabetes'. Enclosing a copy, the complainant said the results were being used by the Canterbury Diabetes Services as standard practice during the last three years. He continued:

... much of the excess mortality for Professor Elliott's children can be anticipated to be reduced if Auckland Diabetes Services also adopted these methods of surveillance in the future.

We regret that Professor Elliott's references to you refer to the "historical" phase when previous world opinion, particularly among paediatricians, did not favour normalisation of blood sugar, surveillance of microproteinuria and the vigorous treatment of high blood pressure or lipids in young adults.

9. Reporting that there was no record of a child dying from "unchecked and fluctuating blood sugars" in Christchurch in the last decade, the complainant said that ~~not only~~ ~~was it unnecessary to test for blood sugar every two hours at night, but it was~~ ~~alarmist to suggest that it was necessary.~~



10. By reporting that vigilance in the home was necessary after observing one subject, Professor Beaven described TV3's comment as "the worst sort of unscientific observation".

11. Acknowledging that Professor Elliott's studies with nicotinamide were of considerable interest and not in dispute, the complainant questioned nevertheless his understanding of "managing early protein urea and blood pressure in young adults".

12. The complainant maintained that, in addition to Professor Elliott, the opinion of practitioners and consumer groups was also necessary.

The complainant finished with the following comments:

Lastly, could we indicate that the Christchurch School of Medicine has offered to host with an offer of assistance from the Diaethics Centre in Otago, a workshop on "**Intrusive interviewing in Health Subjects**" - with the aim of assisting and helping TV producers and front people in understanding matters relating to disempowerment of people with illness, loss of self esteem associated with illness and matters of professional privacy and confidentiality.

In conclusion, we find the TV3 letter did not address our concerns or answer our complaints.

TV3's Response to the Formal Complaint

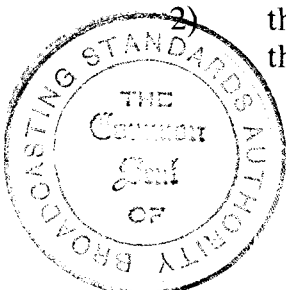
As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 31 May 1993 and TV3, in its response dated 14 June, recorded:

The TV3 Complaints Committee reiterates that this programme was not a definitive investigation into the state of diabetes in New Zealand. What it did was to explore the effects of diabetes on the families and people who appeared. We further reiterate that this programme does receive the support of Professor Elliott and those family members who were featured.

Further Correspondence

In view of the variation in medical opinion expressed by the complainant and the broadcaster, on 16 July 1993 the Authority sought an independent opinion on three specific matters. They were:

- 1) the reference to the need for regular checks during the night as a matter of "life and death";
- 2) the reference that most children with diabetes will live to be no more than 45; and



- 3) the references to the severe diseases which will develop over 20, 30, 40 years.

In his report dated 10 August 1993, the Dean of the Otago University Medical School (Prof. J.G. Mortimer) responded in his role as a Specialist Paediatrician with responsibility in Dunedin for the Diabetes Service in Children and in Adolescents.

He described the first statement as "unnecessarily alarmist". He acknowledged that the symptoms of hypoglycaemia could develop overnight but, he said, it was not a major issue in most families as diabetic management stabilised. He agreed with TV3 that the situation in recreational camps could be different but a comment about the practice in that situation could not be taken as the normal requirement. He believed that the comment breached standards G12 and G16.

With regard to the statement that most children would live to be no more than 45, Professor Mortimer pointed out that it was reported in the present tense and that children, undefined, presumably meant youths up to the age of 18 years. The comment, he stated, was unsupportable. While past retrospective studies provided some basis, he pointed out that the item referred to the life expectancy of children now receiving treatment for diabetes and maintained:

Most clinicians working in diabetes would be optimistic that the life expectancy for children recently diagnosed and currently under modern treatment, would have significantly improved from the statement given in this programme.

He expressed the opinion that the remark breached standards G14 and G12.

In the other comment, Professor Elliott stated children would develop various diseases to which, Professor Mortimer replied, modern methods of management allowed "the rate of onset of these other" complications to be significantly delayed and minimised. He added:

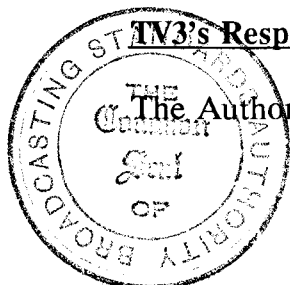
I believe the statement should have been counterbalanced with the more optimistic comment and this would be justified on recent evidence. In my view this statement does contravene standards G14, G16 and where applicable, G12.

Professor Mortimer concluded:

These comments are offered in good faith and in response to the specific items you have identified. They should not be constructed as personal criticism of Professor Elliott. I hold him in the highest regard for his original and innovative approach to the recognition and prevention of diabetes for which he has justifiably achieved international recognition.

TV3's Response to the Independent Opinion

The Authority sent a copy of Professor Mortimer's report to TV3 and in its reply,



dated 30 September 1993, it noted that it had been unable to discuss the matter with Professor Elliott who was currently in Europe. Another academic consulted had declined to comment in view of a possible conflict of interest. In the circumstances, TV3 had not been able to have Professor Mortimer's comments scrutinised by an expert. Nevertheless, it responded on the following matters.

With regard to the first statement about the possible death of a child with diabetes while sleeping, TV3 emphasised that the comment was related to children staying at the camp featured in the item. While not contesting Professor Mortimer's remarks about diabetic management strategies in general, TV3 pointed out that that was irrelevant to the situation described in the programme and that Professor Mortimer had insufficient knowledge of the specific conditions to conclude that the comment was unnecessarily alarmist. The programme was not presented as or intended to give advice on how parents should cope with diabetes. The broadcast of the honest opinion of some parents with diabetes children, TV3 stated, could not and did not breach broadcasting standards.

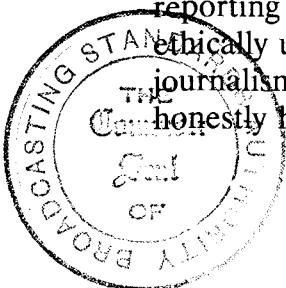
Professor Mortimer, TV3 continued, accepted that insulin dependent diabetes in children resulted in the complications and damage to eyes, kidneys and legs. Although Professor Mortimer argued that modern methods of treatment could delay or diminish the onset of the complications, Professor Elliott's comments had accurately reflected the current state of medical knowledge. The journalist's obligation to be accurate, TV3 added, did not necessarily coincide with the medical profession's duty to err on the side of optimism.

Regarding the comment that most children with diabetes would live to be no more than 45 years, TV3 maintained that it referred to the two children featured on the programme where the diabetic father of each had died from diabetes. Furthermore, TV3 stated that the opposing perspective had been reported in the *20/20* programme on 12 February 1993 when, referring to the item on diabetes broadcast the previous week, the following observation from the president of the NZ Society of Diabetes was reported:

The figures quoted in your programme regarding life expectancy probably relate to those developing diabetes before 1940. There have been major advances in diabetes care amongst those children who have developed diabetes in the last twenty years. 89.90% would be expected to be alive at age 50 and 75% at 65 years.

TV3 proceeded to raise two further matters. The first was the difference between medical ethics and journalism when it wrote:

It may be that it is medically ethical to err on the side of optimism however that is not a function of journalism. Merely because TV3 is criticised for reporting Professor Elliott's opinions which other medical professionals find ethically uncomfortable that cannot possibly be a basis for complaint about journalism when the journalist obtains from a reliable source either fact or honestly held opinion without being made aware of some other significant



point of view. That is precisely why the legislation allows the broadcaster to publish an opposing point of view within the current period of interest. TV3 did so on this occasion.

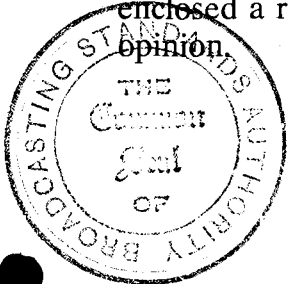
It concluded on the point:

It is our view that the Authority has no jurisdiction to determine the appropriateness of medical opinion, the difference of medical opinion nor the medical ethics which are clearly at the centre of the complaint.

The second matter concerned approaching "independent" experts and TV3 stated that it was "gravely concerned" that the Authority sought comment on a matter involving broadcasting standards from a person who had had no experience about journalism. Under the principles of natural justice, moreover, TV3 should have been consulted on whether an expert opinion was necessary, and if so, who was an appropriately independent party.

The Complainant's Final Comment to the Authority

Professor Mortimer's report and TV3's reply were forwarded to Professor Beaven of the Canterbury Area Health Board who, in a letter dated 6 October 1993, continued to express the opinion that the treatment for diabetes had improved and, in support of his contention about the low rate of complications with patient co-operation, enclosed a recent paper from the British Diabetic Association which confirmed that



Appendix II

Mr Harris' Complaint to TV3 Network Services Limited

In a letter dated 24 February 1993, Mr A.K. Harris of Nelson complained to TV3 Network Services Ltd about the item "Blood Sugar and Tears" broadcast on *20/20* between 7.30 - 8.30pm on Sunday 7 February.

Noting that his 25 year-old daughter was a diabetic, Mr Harris stated that the item dealt with the subject of diabetes in a negative and sensational manner. He had received medical advice that, provided diabetics took proper care of themselves, their chances of leading a healthy life of a normal span were very good. Consequently, he believed the item presented incorrect information to state, first, that most diabetics did not live beyond the age of 45, and secondly, that the health of currently healthy diabetic children would deteriorate so that most of them would suffer from blood vessel diseases in 30 years time.

He concluded:

In my opinion, this *20/20* programme is both bad journalism in that incorrect information is presented, and also cheap sensationalism, in that the programme appears to have been made solely for entertainment of the general public with little thought given to the effect that it would have on those who suffer from the disease.

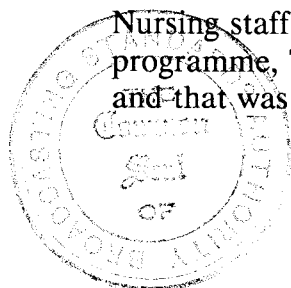
TV3's Response to the Formal Complaint

TV3 advised Mr Harris of its Complaints Committee's decision in a letter dated 5 May 1993 which was similar to the one sent to the other complainant. It reported that the complaint had been considered under standards G14, G15 and G16 of the Television Code of Broadcasting Practice. They require accuracy, objectivity and impartiality, that programmes do not encourage denigration or discrimination and that broadcasters be mindful of the effect of programmes on children.

TV3 explained that Professor Bob Elliott of the Paediatrics Department at the Auckland University School of Medicine was the main source of information for the item. He was recognised as a world expert on diabetes and had advised, on the basis of his studies, that "the average life span of a diabetic (insulin dependent) is 45 years" and that the cause of the death was a disease related to diabetes. TV3 reported:

Professor Elliott stands by what he said and maintains that all the information in the programme was accurate.

Nursing staff at the holiday camp for children with diabetes featured on the programme, TV3 continued, advised of the need for constant vigilance of symptoms and that was confirmed by the production team when it spent a night in a home in



which a child had diabetes.

Pointing out that Professor Elliott's work was being studied in 23 European countries, TV3 said the programme had produced some positive results. It reported:

We have been inundated with response from people who knew nothing before about diabetes, pleased to at last have some understanding. We have also heard from many parents grateful that what they call "the true picture" has finally been painted.

It then recorded the results of studies in Pittsburg, Denmark and Israel, adding Professor Elliott's observation:

. Modern treatment is reducing deaths in the first 20 years of the disease but there is a steeply rising mortality after this.

. No child has been on 'modern' treatment for more than 20 years so effect on mortality not known thereafter.

TV3 then reported that the people who appeared on the programme had done so willingly and, in declining to uphold the complaint, concluded:

It was plainly obvious that diet and energy expended are linked to the management of blood sugar levels and such, with appropriate regular testing, are indicators to what behaviour modifications may be necessary. ... We reiterate that Professor Elliott stands by the programme. This programme is one of the 'current affairs' genre and utilised the knowledge, indeed expertise of one of New Zealand's foremost health care professionals and others.

We must state that this programme was not a definitive investigation into diabetes in New Zealand. It explored the effects of diabetes on the families and people who appeared.

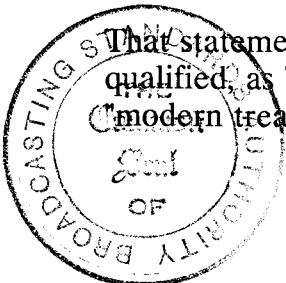
Mr Harris' Complaint to the Broadcasting Standards Authority

Dissatisfied with TV3's decision, in a letter dated 14 May 1993 Mr Harris referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

He stated that the essence of his complaint focussed on the statement which was broadcast:

Most diabetics will not live beyond the age of 45.

That statement, he continued, was unnecessarily negative and should have been qualified, as TV3 had done on its letter to him, with the rider that the effects of "modern treatment" on mortality were not yet known. He wrote:



Given this fact and the many advances made in the treatment of diabetes in the last 20 years, I believe that it is totally irresponsible (and factually incorrect) to state publicly on television without any form of qualification, that individuals who contract diabetes as children may have less than a 50% chance of living beyond the age of 45. This statement, and the generally negative and sensational tenor of the programme had a devastating effect on my daughter who is a "child onset" diabetic.

He enclosed a copy of his letter to TV3 in which he made the same point and in the Complaint Referral Form, completed at the Authority's request, he disputed TV3's argument that the programme was balanced.

TV3's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 26 May 1993 and TV3, in its reply dated 14 June, reiterated that the programme was not a definitive investigation into the state of diabetes in New Zealand but had explored, with the help of Professor Elliott and the families which were portrayed, the effects of diabetes on the featured people and their families.

Mr Harris' Final Comment to the Authority

In a letter to the Authority dated 23 June 1993, Mr Harris acknowledged receipt of TV3's letter and advised that he did not wish to comment further.

Further Correspondence

Mr Harris was subsequently advised by the Authority that it intended to obtain an independent medical opinion, a copy of which was later sent to him.

