

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 26/93

Dated the 18th day of March 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

KERRY SHARP

of Palmerston North

Broadcaster

TELEVISION NEW ZEALAND  
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

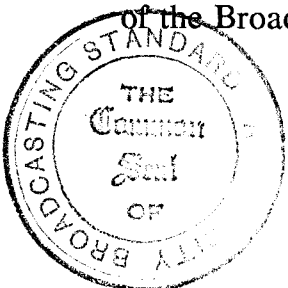
DECISION

Introduction

In the programme *48 Hours: AIDS in Orange County* which was broadcast on TV 1 on October 21 1992 at 11.00pm, attention was focused on the AIDS epidemic as it affected the people of Orange County, California.

Mr Kerry Sharp of Palmerston North complained to Television New Zealand Ltd, the broadcaster, that the programme conveyed the myth that sex was safer if a condom was used and that some of the information in the programme was inaccurate, unbalanced and promoted a dangerous deception and accordingly was in breach of the Television Code of Broadcasting Practice.

Responding that the programme was a socially responsible, compassionate feature broadcast in the public interest which did not contravene the broadcasting standards, TVNZ declined to uphold the complaint. As he was dissatisfied with TVNZ's response, Mr Sharp referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



## Decision

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 determined the complaint without a formal hearing.

A documentary programme entitled *48 Hours: AIDS in Orange County* which was broadcast on TV 1 on October 21 1992 at 11.00pm focused on families and individuals affected by the AIDS epidemic in Orange County, California. Mr Kerry Sharp of Palmerston North complained to TVNZ Ltd that the programme breached standards 1, 6 and 7 of the Television Code of Broadcasting Practice because it was inaccurate, unbalanced and promoted a dangerous deception.

In response, TVNZ reported that it had assessed Mr Sharp's complaint under the standards nominated by him. They state that broadcasters are required:

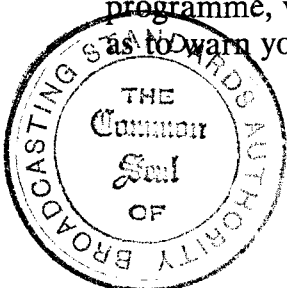
- 1 To be truthful and accurate on points of fact.
- 6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.
- 7 To avoid the use of any deceptive programme practice which takes advantage of the confidence viewers have in the integrity of broadcasting.

Mr Sharp claimed that it was inaccurate, misleading and lacking in balance to suggest to young people that using a condom would protect them against AIDS. He also alleged that the programme withheld information about the dangers of promiscuous sex and omitted to highlight the desirability of abstinence until marriage, then mutual fidelity for life to an uninfected partner. Under standard 7, Mr Sharp complained that a dangerous deception had been perpetrated by the programme because it "promoted" homosexuality as an acceptable lifestyle option, when, in Mr Sharp's view, it was a destructive aberration and was curable.

TVNZ in its response rejected Mr Sharp's arguments, commenting:

The Committee found it difficult to reconcile the socially damaging and inaccurate programme you describe with what appeared to it to be a socially responsible, compassionate feature [that] was in the public interest.

It reported that the programme did not suggest that a condom provided total protection, but argued that it was preferable to use a condom than to have unprotected sex. TVNZ denied that it had "promoted" homosexuality in the programme, observing that it simply recognised that homosexuality existed and was a vital factor in the AIDS debate. It also regarded Mr Sharp's plea for more attention to be given to chastity as irrelevant to the programme, which was intended to give information on how to make sex safer, as well as to warn young people that AIDS was becoming less selective in its victims.

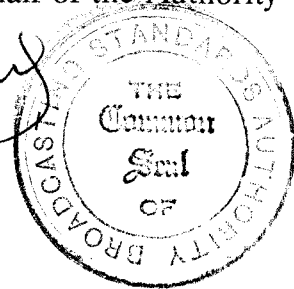


In declining to uphold the complaint, the Authority observed that it was in agreement with TVNZ that there was little relationship between the substance of the complaint and the programme which it watched. Indeed, the Authority considered that the complaint bordered on being vexatious. It regarded the programme as a compassionate and poignant account of the emotional impact of living with AIDS and the effect on the victims' families. It could find no breach of the standards cited, and was of the view that the programme was a balanced, objective discussion of the impact of AIDS which gave sufficient factual information to empower viewers to take steps to protect themselves from the disease.

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

Signed for and on behalf of the Authority

  
Iain Gallaway  
Chairperson



18 March 1993

## Appendix

### Mr Sharp's Complaint to Television New Zealand Limited

In a letter dated 24 October 1992, Mr Kerry Sharp of Palmerston North complained to Television New Zealand Limited about the programme *48 Hours: AIDS in Orange County* broadcast on Wednesday October 21, 1992 at 11.00pm.

Mr Sharp said that the programme conveyed the myth that the use of condoms will stop people from getting AIDS. This, he claimed, was not only inaccurate, but also unbalanced because it did not give any information about the failure rate of condoms. Noting that the spread of AIDS is largely by homosexual men, Mr Sharp claimed that TVNZ promoted homosexuality as normal, when in his view:

The practice of homosexuality and sodomy are a curse on our civilisation. Homosexuality is an aberration, an offence against nature and against God.

Mr Sharp said that the first standard had been breached because the programme did not focus on the only safe sex - abstinence until marriage followed by marital fidelity - and that it should have emphasised the risk and cost of casual sex. He said that it lacked balance because no information was given on the failure rate of condoms and the risks of participating in promiscuous sex. He claimed that there was evidence which showed condoms were not safe.

He also claimed that the programme breached standard 7 because it promoted the dangerous deception that homosexuality was an acceptable alternative lifestyle. He found this objectionable and said:

**Homosexuality is not natural or normal no matter how much TVNZ promotes it. It is like saying  $1+1 = 3!$  It is not true!**

He claimed that by withholding information from teenagers about abstinence, TVNZ was aiding and abetting the tragedy of AIDS and STDs. In his view, the message of abstinence was being

"drowned out in a sea of toxic teen-sex-is-inevitable-use-a-condom propaganda from "safe-sex" professionals and television programmes like **48 Hours:AIDS**.

### TVNZ's Response to the Formal Complaint

TVNZ advised Mr Sharp of its Complaints Committee's decision in a letter dated 17 December 1992.

TVNZ reported that it had assessed the complaint under the standards cited by Mr Sharp but:

found it difficult to reconcile the socially damaging and inaccurate programme [he] described with what appeared to it to be a socially responsible



compassionate feature...in the public interest.

According to TVNZ, the programme reported on the situations of people in Orange county and emphasised that AIDS was a disease that can afflict anyone. At no time did it claim that a condom provided complete protection. It concluded by observing that programmes such as this provided necessary advice on how to make sex safer and helped to empower people to make informed decisions for themselves about their chosen lifestyle. Overall, TVNZ believed that appropriate messages of warning were given. It declined to uphold the complaint.

### Mr Sharp's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 22 December 1992, Mr Sharp referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Mr Sharp disagreed with TVNZ's opinion that it had offered a balanced and socially responsible discussion on the implications of casual sex. He maintained that it was irresponsible to perpetuate the myth that sex was safe with a condom, and that it was inaccurate to suggest that homosexuality was anything but "a destructive habit-system". He urged for inclusion of an abstinence based programme on sex aimed at teenagers.

### TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 15 January 1993 and TVNZ's reply, 19 January.

TVNZ maintained that the programme comprised a series of straightforward stories about individuals and their response to the AIDS epidemic, the reality of living with an incurable disease and the impact on friends and families. It noted that the focus of the programme was simply to report on the AIDS epidemic in Orange County and that it did not attempt to make judgments on lifestyles, nor did it suggest that sex with a condom was entirely risk-free. It concluded that the programme took a socially responsible view of the consequences of the AIDS epidemic and its human consequences, while at the same time encouraging safer sex practices.

### Mr Sharp's Final Comment to the Authority

When asked to comment on TVNZ's reply, in a letter dated 22 January 1993, Mr Sharp maintained that the programme breached the standards requiring broadcasters to be truthful and accurate, and to show balance. He argued that young people were being deceived into believing that condoms would protect them, because the full facts about the failure rate of condoms were not given. Further, he claimed that it was irresponsible to promote homosexuality as an alternative lifestyle and cited research which showed that it was biologically and physiologically abnormal, morally wrong and destructive. He urged TVNZ to screen chastity/abstinence based sex education programmes.

