

groups who were at risk to identifying behaviour which facilitated transmission of the disease. As a practitioner of public health, he said it was important to get through the information on how people could prevent that. It was not the department's job to deal with their morals although the activity was related to morality. Recent information was that anal intercourse may not be much more risky than heterosexual intercourse. It was certainly not 100 times higher.

Homosexual groups were being stigmatised and it was better to concentrate on the behavioural side. Homosexuals were the original group into which Aids was introduced but the natural history of the disease was unknown.

In presenting submissions for the Corporation, Mr Hudson said that there had been different points of view within the period of current interest. Regard must be had to what had been available in other parts of the educational campaign, through other media and detailed magazine coverage. The Society for the Protection of Community Standards was attempting to change the agenda.

With regard to good taste and decency he submitted that, while the programme commenced at 8 p.m. at night, to have put it on very much later would have been to reduce the audience. It would have been unrealistic to have had a further programme following. The programme was not of a prurient nature, it was a sophisticated production using top-of-the-market techniques. The Broadcasting Corporation could not have afforded to have produced it itself and accepted the overseas version.

Dr English submitted that the programme failed to deal with the issues of anal intercourse and intravenous drug use and did not emphasise measures that were equally effective such as abstinence. The format breached standards of good taste and decency with its explicitness. It put standards at the base level of the less intelligent and poorly educated and appealed to the lowest common denominator. It would have been better to take the holistic approach of the Waiora programme.

### **Decision**

Before approaching the detailed criticisms, the Tribunal considered some general issues. It concluded that the unusual seriousness of the topic justified an explicit, arresting, educational approach. We also considered that, subject to a warning, it was appropriate to broadcast the programme at a time when the maximum viewing audience of those targeted was available. Parents would be in a position to exercise control over their children watching the programme if they were under an appropriate age. The programme was not prurient in its approach.

The major issue on which the Department of Health and the society differed was that the department wished to take people as they were and have them modify their behaviour in the interests of preventing the transmission of the disease, while the society wished to highlight the dangers to the community of homosexuals and drug users, to advocate abstinence (outside marriage) on both moral and practical grounds and to emphasise the safety of sex within marriage.

Fundamentally, this issue is not a new one and has cropped up in relation to health education generally and contraceptive advice to unmarried people in particular. There appears to be 2 strongly held views in society. One view does not accept the "lowering" of standards that has resulted in or accompanied widespread sexual activity outside marriage. It suggests that the provision of any information that enables contraception or prevention of disease to occur, runs a serious risk of promoting the activity itself. The other view is that the activity has been going on for some time and is not likely to be changed significantly by a moral campaign. Therefore, in the interests of the individual and society, education and information should be made available to those at risk.

The Tribunal is not going to resolve the diversity of society's

attitudes and acknowledges both these points of view within the community.

However, the Tribunal cannot take the position that it is wrong for the television service to be used to provide this information when society itself does not by law ban that information being given. It should be made clear that the complainant's witnesses did say they would accept an explicit programme in good taste, which emphasised at risk groups and was broadcast late at night.

The programme made a point of drawing attention to the fact that Aids did not just affect homosexuals and IV drug users. A major issue is the complaint that this programme should have emphasised that the people at risk were homosexuals and bisexuals and intravenous drug users. We noticed the complainant seemed to want to stigmatise homosexuals as well as their behaviour. (The Department of Health saw this as a danger, discouraging co-operation and disclosure within the gay community.)

The fact is that bi-sexual people can pass on the disease through heterosexual contact to people ignorant of the homosexual contact. An increasing number of women had been affected. The same is true for intravenous drug users. (It is not for the Tribunal to define or resolve the comparative risks of transmission and contraction between those having homosexual contact and those having heterosexual contact.) It is however clear to us as lay people that the risk is sufficiently high to justify a public health campaign directed to sexually active heterosexuals who do not limit themselves to one partner for life. We cannot deny health professionals the opportunity to make known the risks that the young heterosexual community is facing.

Our overall impression of the programme was that it did indeed make an assumption that many of its studio audience and many other young people were sexually active, in order to reach them. It also accepted many of their standards. (We noted without approval the assumptions in relation to heterosexual relationships that accepted the male as the aggressor and the female as the passive acceptor.) We think it was reasonable to portray the reality of those situations among those people rather than to try to include other educational information on male/female relationships in a programme intended for one specific purpose. Likewise it is permissible to accept the "promiscuity" of the targeted audience as a fact and give them options within their lifestyle. That is hardly a breach of community standards which we are obliged to apply.

We do not believe it is inappropriate to use amusing, eye-catching, off-beat methods of teaching rather than using lecturing, serious or moralistic approaches. In this respect, we did view a video of the other programme promoted for broadcast by the complainant. That programme did not match the programme complained about in quality, in watchability or in likely attraction to those for whom they are intended. In terms of television production there was no comparison.

The Tribunal also accepts that, in the unusual circumstances of this campaign, some regard can be had to the overall strategy of the Aids awareness campaign. In that setting, the programme complained of can be seen as directed to a particular audience rather than having of necessity to deal with every aspect of Aids, or at least address a wider audience, in one programme. Nor did there have to be other television programmes in the period of current interest specifically targeting other specific points of view on moral issues.

This programme was not about moral issues, it was about options for the heterosexually active, most of whom would be unlikely to stay watching a programme with a moralistic purpose.

We do not believe that this programme itself was unbalanced for the purposes it was intended and we do not find there was a need to balance the programme with a significant different point of view.