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CHAIRPERSON'S REPORT JULY 2016 TO JUNE 2017

A. THE YEAR THAT WAS

1.

The year under consideration started with some challenges, due mainly to the fact that the Chairperson, Mr Justice Ratha Mokgoathleng, resigned during the Annual General Meeting (AGM) on 23 July 2016. The two deputy chairpersons, Mr Brian Makeketa and Prof Henning Viljoen, then stepped into the void. Mr Makeketa fulfilled the role of acting chairperson in an exemplary manner. Prof Viljoen helped to keep the ship on course, as it were, by continuing to check the judgments and adjudications by commissioners as well as the Registrar's decisions.

2.

Certain matters could not be resolved at the said AGM and so a special general meeting was called on 3 September 2016. The most important matter was the proposed amendment of the Constitution. This emanated from a request by the National Association of Broadcasters (NAB) to effect certain changes to our Constitution. The BCCSA Constitution determines that it may be amended at the AGM or at a Special General Meeting (SGM) called by the Commission. At the SGM in September, the Constitution was discussed clause by clause by the commissioners present, and certain amendments were agreed upon. The amended Constitution appears on the BCCSA website.

We have been approached by the NABSA over the past two years with requests/suggestions that the BCCSA Constitution be amended in regard to the following:

- that the chairperson of the Appointment Committee be appointed by the NAB (and not by the chairperson of the BCCSA),
- that the number of commissioners be reduced to 6 (from the current 12),
- that the chairperson of the BCCSA be appointed by the Appointment Committee (rather than the commissioners of the BCCSA),
- that the term of office of the chairperson be reduced to 4 years, and that of the commissioners to 3 years (instead of 5 years in both cases),
- that the BCCSA report quarterly on its finances to the NAB and give notice of its AGM to the NAB,
- that the NAB should approve any amendments to the Constitution and the Procedure of the BCCSA (currently the BCCSA has sole power to amend its Constitution and Procedure) and
- that the NAB may at any time terminate the existence of the BCCSA (a power that currently rests with the BCCSA alone).

We decided not to accede to any of these requests/suggestions as they would impact on the independence of the BCCSA. Since its inception in 1993, and particularly after its recognition by the IBA in 1995, it has been clear that the BCCSA has functioned as an independent, quasi-judicial, adjudicating body that is answerable only to a court of law. The BCCSA will resist any effort to chip away at its independence.

The principle of independence of the BCCSA is closely related to the principle that members of the public and broadcasters are at an equal level when appearing before a BCCSA Tribunal.

3.

Because the term of office of the commissioners was drawing to a close, the BCCSA put out advertisements requesting nominations for new members. This was done by the Registrar, and from 7 September 2016 nominations were submitted. A shortlist of 20 persons was duly compiled. Arrangements were made with Judge Johan van der Westhuizen, who had recently retired from the Constitutional Court, to chair the Appointment Committee that was tasked to appoint the new Commission, as determined in clause 5.1 of the Constitution. The meeting of this committee took place over two days, from 15 to 16 November 2016.

In clause 5.1 of the Constitution the composition of the Appointment Committee is described as consisting of the chairperson, the chairperson of the NAB, the chairperson of the BCCSA, and two independent persons appointed by the chairperson of the committee. As the BCCSA was without a chairperson, the Commission decided that Prof Viljoen, as acting chairperson at that time, would represent the BCCSA on the committee. This was done in terms of clause 6.2 of the Constitution, which states that any reference to the chairperson includes a reference to the deputy chairperson.

At the meeting of the committee, 11 names were decided upon and these persons were informed of their appointment to the Commission. Their 5-year term of office started on 1 January 2017.

4.

On 8 February 2017, a SGM was arranged to attend to certain constitutional matters. The chairman of the Appointment Committee, Judge Johan van der Westhuizen, presided over the affirmation and confirmation of the newly appointed commissioners in terms of clauses 5.6 and 5.7, respectively, of the Constitution.

5.

The election of the chairperson of the Commission needed to be finalised at the SGM. An unusual situation had developed where Prof Viljoen had not officially been appointed to the Commission after the expiry of his term of office. A new chairperson had to be appointed by the Commission. However, a slight problem had arisen in that only 2 commissioners (Mr Makeketa and Dr Linda Venter), both of whom had served on the previous Commission, had any recent experience of the work of the BCCSA, and they both declined nomination for the chairmanship. One commissioner, Prof Sunette Lötter, who is a full-time professor at Unisa, had served on the Commission previously, and she then accepted nomination. Before voting took place, Prof Viljoen reminded commissioners that guidelines for the position were laid down by Prof Kobus van Rooyen, who had chaired the BCCSA for 22 years. In the guidelines, he recommended that the chairperson should set aside approximately 30 hours per week for BCCSA work. Prof Viljoen, a retired academic, was able to comply with this guideline, and had, furthermore, gained experience as acting chairperson. In the end, he was elected chairperson. Prof Lötter and Mr Makeketa were elected as the two deputy chairpersons.

6.

One achievement that needs to be mentioned is that a draft document, Frequently Asked Questions, was initiated by the chairperson in December 2016. Prof Viljoen consulted with experienced commissioners (Dr Venter, Mr Makeketa and previous chairperson, Prof Van Rooyen) in compiling this document. At the beginning of 2017 the task was completed and the document was put onto the BCCSA website. The purpose was to inform the listening and viewing public as to what constitutes a valid complaint, as well as procedures to be followed when lodging a complaint. It is hoped that that the number of complaints will be reduced, making things easier for the Registrar.

7.

For the first time in the history of the BCCSA, a successful application for review was brought against the BCCSA in the High Court in Johannesburg. The application was brought against the decision by the previous chairperson in terms of Rule 3.9 of the

Procedure of the Commission. The Rule empowers the chairperson to require a complainant to sign a waiver of its rights to sue a broadcaster for damages following a broadcast. Such waiver may be demanded by the chairperson as a condition prior to the consideration of a complaint in terms of the BCCSA Code and Procedure. The application was for reviewing and setting aside the decision of the chairperson and for declaring the Rule unconstitutional because it denied a complainant its right to approach a court for redress. The applicant also applied for a cost order against the chairperson and against the BCCSA. We decided not to oppose the application because of the risk of costs and, in particular, because the Rule is more to the advantage of broadcasters in the sense that it protects them against civil action while they are responding to a complaint before the BCCSA. The High Court granted the application. Although the BCCSA did not oppose the application, the applicant applied for and obtained a cost order against the chairperson and the BCCSA. Since writing to the attorneys for the applicant, explaining the position of the BCCSA, and requesting that the cost order not be enforced, there has, as yet, been no response. We have since removed the Rule from our Procedure in compliance with the court order. Such removal has up to now not had any material effect on the work of the BCCSA and, indeed, it is not expected that there will be any material effect.

B. ACTIVITIES BY COMMISSIONERS

8.

At the SGM a training workshop was held for the new commissioners, under the guidance of the older members. Topics such as freedom of expression, the protection of children, and hate speech were discussed, and all present benefited from the experience. New commissioners have since attended Tribunal hearings, while others have written adjudications.

9.

Deputy chair Brian Makeketa addressed Capricorn FM in Limpopo on the Code of Conduct.

Prof Viljoen was interviewed live on SAFM on 12 September on the Code of Conduct, and limitations to freedom of expression were explained. He also held workshops on

the Code of Conduct with Cape CCFM 107.5 FM as well as Whale Coast FM in Hermanus, which has since resigned as a signatory to the BCCSA Code, owing mainly to financial considerations.

C. TRIBUNAL HEARINGS AND ADJUDICATIONS

10.

During the course of the year, 10 sittings of the Tribunal were held in which 25 cases were heard and judgments duly delivered. A total of 55 adjudications were written by various commissioners. The protection of children remains one of our main concerns. It has come to our notice that a particular broadcaster chose to use viewer profiles and statistics of the Broadcasting Research Council of South Africa (BRC) to decide on advisories and age restrictions. This is a matter of great concern, since the BRC classifies children over the age of 15 as adults, and those under the age of 13 as children (it is unclear how the BRC classifies children between the ages of 13 and 15). This is a direct contradiction of the definition of a child in both BCCSA Codes of Conduct, namely a person under the age of 18 years. The BCCSA intends to take this matter up with the broadcasters.

D. CONTRAVENTIONS OF THE CODE OF CONDUCT

The list of cases and adjudications in which contraventions of the Code were found is attached.

E. APPEALS HEARD BY THE COMMISSION

A list of appeals against adjudications and judgements is attached.

F. NUMBER OF COMPLAINTS RECEIVED

A list of the number of complaints received and the number of complaints referred for adjudication and to tribunals is attached.

G. STAFF MATTERS

In January this year, Deyana Julius was appointed as secretary. She had previously been employed at the BCCSA, and she soon adjusted to the new role. We are pleased to have her back on the staff.

Kyle Erentzen remains a stalwart, and his assistance has, over the years, become increasingly valuable to the BCCSA. We are grateful to Rebecca Nzama for her hard work and loyalty as an office assistant over the past 20 years or more.

Shouneez Martin, the Registrar, has been with the BCCSA for over 23 years, and her assistance is indispensable to the success and smooth working of the BCCSA.

H. THE COMMISSIONERS

As mentioned above, the term of office of the new commissioners started on 1 January 2017. Only 3 of the 12 previous commissioners were reappointed, and this initially presented some difficulties (Prof Lötter had previously served on the Commission, but she had resigned owing to work pressure). However, Commissioners have over the course of the year gained insight into the work and procedures of the Commission.

As Commissioners gain experience, they are in a position to write adjudications, and, in certain instances, judgments. As the BCCSA is a quasi-judicial adjudicating body, some measure of legal knowledge and experience is required to serve effectively. A thorough knowledge of the Codes of Conduct, which broadcasters are obliged to adhere to, is essential; a thorough familiarity with their interpretation and past application will help to ensure that there is consistency in adjudications and judgments. The broadcasters use the latter as guidelines for scheduling their programmes and for deciding on audience advisories. Though it is possible for Commissioners who lack a legal background to acquire the necessary knowledge and experience over time, it would seem wise to retain continuity and ensure the effective working of the BCCSA by appointing an equal number of old and new Commissioners, rather than making what amounts to a clean sweep.

I. FINANCES

As always, we are grateful for the financial support rendered by the National Association of Broadcasters (NABSA). This support is provided in terms of the founding agreement of the BCCSA. This support should be seen as a contractual

obligation on the part of the NAB, reflecting the obligation which the State has for the payment of salaries of judges and magistrates. The provider of the finance should not use this obligation to try and influence the working of the body which sits in judgment over its members.

The finances of the BCCSA are in a healthy state, thanks to the responsible and transparent manner in which business is done by the Registrar and her staff, the chairperson and Finance Committee, and especially the accountant, Marion Mansfield who will unfortunately be retiring at the end of this year. We thank Ms Mansfield for her many years of excellent service to the BCCSA, and wish her well in her retirement.

J. CERTIFICATE OF COMPLIANCE TO ICASA.

In ICASA's recognition of the BCCSA it is required that the Regulator be informed annually whether broadcasters have complied with the orders of the BCCSA. It may confidently be stated that all broadcasters that are subject to the jurisdiction of the BCCSA, as a consequence of their membership of NABSA or the Association of Christian Broadcasters, both of which consent to the jurisdiction of the BCCSA, have given effect to all rulings of the BCCSA and have abided by the procedures applied by the BCCSA. Where they were directed to pay a fine, they did so within the stipulated time, and where a correction or the summary of a decision had to be broadcast, this was done. A list of these broadcasters is attached. It should, furthermore, be noted that between 30 000 to 34 000 BCCSA advertisements are broadcast each year.

Finally, a word of thanks to all, including the broadcasters, for working together in such a manner that the BCCSA continues to be a respected institution in South Africa.



PROF HENNING VILJOEN
BCCSA CHAIRPERSON
30 September 2017

COMPLAINTS SUMMARY

AUGUST 2016 TO AUGUST 2017

In the period **1 August 2016** to **31 August 2017** the BCCSA received a total of **2219** complaints.

1713 complaints were rejected on the basis of lack of detail, despite requests to substantiate the complaint. These complaints addressed: *Advertisements, Subscription Fees, SABC TV Licence, Consumer matters, Printed Media, News24, Internet and Social Media, Cinema movies, Dignity of another person, Broadcasters not signatories of the BCCSA, Requests for dismissal of presenters, Scheduling changes, Cell phone providers, Human Rights matters, not members of the National Association of Broadcasters.*

148 complaints were dealt with by the Registrar, pursuant to her mandated authority.

118 complaints concerned an episode of 'Isidingo', in which white people were allegedly portrayed as racists. The matter was referred to a Tribunal, which was attended by one Complainant. **The complaint was dismissed.**

160 complaints concerned the SABC1 programme, "Generations the Legacy". Four of the complaints complied with BCCSA Procedural Rules. An adjudicator dismissed the complaints.

55 complaints were adjudicated by a Commissioner of the BCCSA.

25 complaints were referred to a Tribunal of the BCCSA.

LIST OF JUDGMENTS AND ADJUDICATIONS¹

1 AUGUST 2016 TO 31 AUGUST 2017

Case No: 12/2016 - Montsho vs e.tv - Language - grossly offensive language in pre-recorded broadcast when large numbers of children likely to have been in the audience - contravention of Code. **The complaint was upheld. The serious contravention of the Code resulted in the Tribunal imposing a fine of R 10 000.00.**

Case No: 13/2016 - Ronald, Mackinnon and Others vs East Coast Radio - Complaints from listeners on the performance of a presenter on a Durban - based commercial radio station - complaints premised on comments made on the afternoon drive show – presenter's utterances were of a ridiculous, bizarre and non-sensical nature - comments complained about on-air merely humorous - content and context in which comments were made not serious - No breach of the Code. **The complaint was not upheld.**

¹ Original summaries as per the Adjudication and Judgment

Case No: 14/2016 - Glebeland Hostel Community Violence Victims (South Durban KZN) vs Multichoice Channel 404 - When reporting on press conference - Broadcaster not only ignoring request, although not maliciously, but failing to conceal identities of victims in a following broadcast as well as on its website. **Complaint settled between the parties and Tribunal requested to settle wording of apology to be broadcast on the Broadcaster's channel.**

Case No: 15/2016 - Erasmus vs Jacaranda FM - The complaint a about the programme where a member of the public confessed to having sex with the bridesmaid and the bride's sister one hour before his wedding. Jacaranda FM is an adult radio station and the broadcast was held to fall within the boundaries of freedom of expression. Semble: The broadcaster was warned against broadcasting promos at times when children are likely to be in the audience. A system of warnings was recommended to guard against violations of the code. **The complaint was not upheld.**

Case No: 16/2016 - Mlenga vs eNCA - Complaint against the interpretation of a Broadcast whereby the complainant is of the view that a wrong interpretation of what was said by one of the people by the Broadcaster is likely not to convey with certainty the plight of those communities. Broadcaster argued that while the interpretation may not have been clear and accurate as argued, it did not affect the integrity and context of the whole story, which was to highlight the plight of those communities in regard to basic services, including water. **The complaint was not upheld.**

Case No: 17/2016 - Shivambu vs SABC Channel 404 - Complaint that in a news/comment programme the Broadcaster failed to invite someone with knowledge of the Vatsonga to challenge the statements by the Deputy Minister of Co-operative Government and Traditional Affairs on this topic - although titled a news programme, listeners and viewers were invited to phone in and comment on the subject of the programme - Tribunal decided previously that only a person whose views are challenged should be allowed to appear on programme - Complainant tried to phone in but failed - principle remains that the public was invited to express their views on air, thereby obtaining balance. **The complaint was not upheld.**

Case No: 18/2016 - Timile vs Rainbow Community Radio - Complaint against broadcast by Christian Broadcaster for the way in which it conducted its so-called Thanks-Give-A-Thon drive for donations. Complainant describing it inter alia as unbridled extortion, emotional blackmail and brainwashing of its listeners. Broadcaster describing complaint as frivolous, vexatious and a figment of the Complainant's imagination - only possible contravention is lack of balance in programme in terms of clause 13. However this complaint does not apply to a controversial issue of public importance - in any case, a phone-in type of programme ensures that opposing points of view are broadcast, thus complying with clause 13. **The complaint was not upheld.**

2017

Case No: 01/2017 - Busch vs M-Net - This is a complaint about a broadcast by Carte Blanche in which the Complainant, a public figure and television personality was portrayed not to be the person he claimed to be, namely a lover of big cats and conservationist, but in fact a person who ill-treated his animals. The Complainant alleged that the Broadcaster did not make reasonable efforts to fairly present opposing points of view and failed to provide

him with the opportunity to respond to the allegations against him and that the Broadcaster also failed to exercise exceptional care and consideration in matters that involved the dignity and privacy of the Complainant. From the correspondence between the Broadcaster and the Complainant it appeared that the Complainant refused to appear on camera and this caused him to miss the opportunity to present his side of the case. He was thus the author of his own misfortune. **The Tribunal found that the Broadcaster made reasonable effort to fairly present Complainant's version of the facts even though he refused to appear on camera. The Tribunal also found that the Complainant's right to privacy and dignity, being that of a public figure, was overridden by a legitimate public interest. The complaint was not upheld.**

Case No: 02/2017 - Maine vs PowerFM - Application for condonation for late filing of a complaint.

Case No: 03/2017 - Daile vs SABC3 - Complaint where the contact number of the Complainant was used on Isidingo. *An appeal against BCCSA adjudication No: 01/A/2017 - sanction of a reprimand imposed for a contravention of Clause 15(1) on privacy.*

Case: 04/2017 - Nthusetsang vs SABC SAFM, News - Held that the two reports about a convicted serial rapist was not considered explicit or graphic in terms of the Code. **The complaint was not upheld.**

Case No:05//2017 - Hart v Ligwalagwala - Complaint that broadcast of news item defamed Complainant without giving him opportunity to put his side of case. **Tribunal finding that clause 11(1) relating to broadcasting of news truthfully, accurately and fairly, was violated. Broadcaster ordered to allow Complainant airtime to put his side of the case, should he so wish to do so.**

Case No:06//2017 - The Daily Sun vs Metro FM & SABC2 - Defamation - Withdrawal of complaint based on settlement between parties - **approved by the BCCSA Tribunal.**

Case No: 07/2017 - Butler vs M-Net - Application for condonation for late filing of a complaint. **The complaint was not accepted.**

Case No: 08/2017 - Lukua and Alleluia Ministries International vs PowerFM - Defamation. Withdrawal of complaint based on settlement between parties. **The settlement was approved by the BCCSA Tribunal.**

Case No: 09/2017 - Rebosis Property Fund Ltd, Ngebulana & Billion Group vs M-Net - Lack of Balance, Clause 28.1 not applicable, Clauses 28.2 and 28.3 not contravened. **The complaint was not upheld.**

Case No: 09/2017 - Rebosis Property Fund Ltd, Ngebulana & Billion Group vs M-Net - A complaint was lodged against Carte Blanche concerning a broadcast during which it was implied that the complainant was complicit in a corrupt property devaluation scheme allegedly conducted in the Property Evaluation Department of the Johannesburg City Council. While the complainant's response to the situation was read out by the presenter, the complainant was not interviewed on camera and did not appear on the show. The complainant contended that sec 28.1 of the Code was infringed as the programme lacked

balance. Requests afterwards by the complainant for a follow-up report to address the perceived slur on their company were denied. Clause 28.1 is not applicable as that clause refers to news. Carte Blanche complied with both the requirements of Clause 28.2. It was clear that the interviewees expressed their opinions. The facts upon which these opinions were based were mentioned. The focus of the insert was the fraudulent conduct at the Property Evaluation Department of the City of Johannesburg. The complainant was given an option to appear on the programme but they chose to respond by letter. The video on the website falls outside the jurisdiction of the BCCSA and no finding is therefore made on that aspect of the complaint. **The complaint was dismissed.**

Case No: 11/2017 - Van Wyk & Several Others vs SABC3 - Several complaints about inter racial violence being shown on family programme called Isidingo. **No contravention found** of sanctioning or promotion of violence between races (clause 4(1)) or of hate speech (clause 4(2)). The broadcaster saved by provision of clause 5 which exempts a broadcaster from the provisions of clauses 3 and 4 in case of bona fide drama.

Case No: 12/2017 - Balanco vs eNCA - Complaint of hate speech after broadcast of an interview with a Black man in which White men were implicated for the death of a young Black boy. No allegations made by Broadcaster and no evidence of advocacy of hatred and incitement to cause harm. **The complaint was not upheld.**

Case No: 13/2017 - Steward and Mihal vs 702 - Discussion programme on the controversial issue of the role of ex president FW de Klerk in the political discourse on the future of this country, a matter of public importance - hostile environment created by presenter and intolerance demonstrated against opposing views - no reasonable efforts made by presenter to fairly present opposing points of views - no right to reply granted De Klerk or spokesperson by invitation to appear on programme that was clearly intended to criticise De Klerk - spokesperson's call cut off while trying to present an opposing point of view - **contravention of clause 13 of Code found, Broadcaster reprimanded. An appeal was lodged by the Broadcaster. The application for leave to appeal was heard on the 12th October 2017.**

Case No: 14/2017 - Moremi vs Multichoice ANN7 Channel - Complaint that The Respondent erroneously used Complainant's image during a broadcast - administrative error - Tribunal did not find contravention of clause 15 (1) because the error was not grossly negligent. The broadcaster has subsequently **broadcasted an apology and rectification.**

Case No: 15/2017 - Karson vs Multichoice ANN7 Channel - Complaint against comments made by an ANN7 analyst concerning Mr Pravin Gordhan, who was referred to as a sour former Finance Minister who was mobilising support against Mr Gigaba. Tribunal held that the comments were clearly the opinions of the analyst and were linked to facts as genuinely perceived by him and were not broadcast as absolute facts or truths. **The complaint was not upheld.**

Case No: 16/2017 - Appeal against Adjudication No: 14/A/2017 - Gersh vs Metro FM - **Appeal dismissed.**

Case No: 17/2017 - Application for Leave to Appeal 702 vs Steward and Mihal - The Chairperson of the BCCSA will hear arguments on the 12th October.

Case No 18/2017 - Mosana vs 702 - Complaint that the dignity of the Public Protector was impaired during an interview with her spokesperson on the Eusebius McKaiser show. The Tribunal finding that clause 12(1) of the Code, which entitles broadcasters to broadcast comments on and criticism of any actions of public importance, was not contravened - neither was there a contravention of clause 13(2), which requires of a broadcaster to allow a person, whose views are to be criticized, a right to reply. Lastly, it was found that the right to dignity of the Public Protector was overridden by a legitimate public interest, as determined by clause 15(1). **The complaint was not upheld.**

Case No: 19/2017 - Hibbers and Benson vs etv - The broadcaster appealed against the BCCSA adjudication that its broadcast of the series 'Unusual Suspect' on 17 May 2017 between 17:30 and 18:30 was in contravention of clause 6(1) of the Broadcasting Code whereby a fine of R10 000 was imposed.

The Tribunal revisited the meaning of 'child' as per clause 1 of the BCCSA including that of BARCSA in line with the broadcaster's understanding when scheduling its programmes. To manage the latter risk the Tribunal urge all broadcasters to consistently apply the BCCSA code with the common understanding that a child is any person below the age of 18. **The broadcaster's appeal was upheld.**

ADJUDICATIONS BY COMMISSIONERS **1 AUGUST 2016 TO 31 AUGUST 2017**

Adjudication No: 29 /A/2016 - Raedani vs Phalaphala FM - Complaint about a pastor on an early morning show making derogatory remarks, during his sermon, about Gay and Lesbian people in such provoking way that it amounted to hate speech. **Broadcaster is found not to have contravened the Code.**

Adjudication No: 30 /A/2016 - Zulu vs Ukhozi FM - The complaint pertains to the use of the term 'iNkosi' kaMasikandi, 'king' of Maskandi. The complainant is of the view that the term King is solely reserved for the royal family. **Broadcaster is found not to have contravened the Code.**

Adjudication No: 31 /A/2016 - Kruger vs RSG - Alleged that programme contained distorted assumptions that were offensive and confusing to believing Christians. **Broadcaster is found not to have contravened the Code.**

Adjudication No: 32/A/2016 - Van Zeeburg vs 947 - Complaint that a very offensive Afrikaans "swear word" was not bleeped out like its counterpart in English and that children were exposed to this. **Broadcaster is found not to have contravened the Code.**

Adjudication No: 33/A/2016 - Scheepers and Kleynhans vs Multichoice - A complaint concerning the use of a derogatory term by presenter. **The complaint was not upheld.**

Adjudication No: 34/A/2016 - Benjamin vs Jacaranda FM - Allegedly offensive and shameful comment made by a presenter. **No contravention of the Code.**

Adjudication No: 36/A/2016 - Marsland vs SABC3 - Complaint about a comedy show where the comedian allegedly continually referred to rape and child abuse. **Broadcaster is found not to have contravened the Code.**

Adjudication No: 37/A/2016 - Allderman vs Enca - Complaint that a news item contained a racist statement by a guest speaker. **Broadcaster is found not to have contravened the Code.**

Adjudication No: 38/A/2016 - Boshoff vs East Coast Radio - Complaint that a joke on radio contained undesirable material for children. **The complaint was not upheld.**

Adjudication No: 39/A/2016 - Freese vs East Coast Radio - Complaint that a joke on radio contained undesirable material for children. **The complaint was upheld and the broadcaster was reprimanded.**

Adjudication No: 40/A/2016 - Nkosi & Ntsunguzi vs Multichoice Channel 161 - Two complaints about the broadcast of extremely violent content that entailed corporal punishment (man beating a woman), during family time at 18h30, allegedly without pre-warning. **The complaints were upheld and the broadcaster was reprimanded.**

Adjudication No: 41/A/2016 - Jordaan and Morisson vs Multichoice, Channel 122 - Two complaints regarding a promotional clip that allegedly contained material inappropriate for viewing by children, which also made false claims about the actual show's suitability for a young audience, since it contains violent scenes of a sexual nature. **The complaints were not upheld.**

Adjudication No: 42 /A/2016 - Dickson vs 5FM - A complaint alleging Hate Speech was made against one of the FRESH@FIVE presenters. **Broadcaster was found not to have contravened the Code.**

Adjudication No: 43/A/2016 - Stock vs YFM - Complaint regarding a song that contained 'vulgar' lyrics that were sexually inappropriate at a time when children might have been listening. **The broadcaster conceded that they erred in playing the uncensored version of the song. The broadcaster was reprimanded**

Adjudication No: 44/A/2016 - Strydom vs 947 - A complaint against *Highveld Stereo* concerning the playing of alleged offensive lyrics during the *HomeBrew* programme on 4 April 2009 at 19:15. The complainant alleged that the song contained unacceptable foul language, that it was vulgar and demeaning to women, and that it was aimed at people living in Benoni, portraying them as uneducated and mentally retarded. He further complained that the artist made a mockery of the Afrikaans language, that words such as *doos* and *naai* were used, which is demeaning towards women. **The complaint was not upheld.**

Adjudication No: 01/A/2017 - Diale vs SABC3 - Isidingo - Disruption of privacy consequent to broadcast of private mobile phone number in an episode of a popular soap opera. **The contravention of the code entails that an individual's right to privacy was infringed. As sanction the broadcaster is reprimanded and requested to broadcast a correction within three days after receiving this adjudication.**

Adjudication No: 02/A/2017 - Paradine vs SABC3 - The Exes Promo - A complaint was lodged against a promo for an adult programme carrying a 16L advisory, which was broadcast before the watershed and allegedly contained disgusting sexual innuendos considered harmful to children. **The complaint was not upheld.**

Adjudication No: 03/A/2017 - Steyn vs East Coast Radio - Complaint that a discussion on radio contained excessive and grossly offensive sexual references that could be harmful or disturbing to children. **The complaint upheld and a fine was imposed.**

Adjudication No: 04/A/2017 - Mdlala vs Metro FM - The presenter used the derogatory word “Grigamba” live on air. **The complaint was not upheld.**

Adjudication No: 05/A/2017 - Down Syndrome South Africa and Others vs East Coast Radio - Thirteen complaints about radio presenter’s alleged discriminatory, denigrating and unacceptable reference to people who have Down Syndrome. **The complaint was dismissed.**

Adjudication No: 06/A/2017 - Beran vs 5FM - The use of unacceptable language when young children formed part of the audience. **The complaint was not upheld.**

Adjudication No: 07/A/2017 - Nontanda vs Metro FM - Complaint was based on Somizi Mhlongo’s (radio host) use of vulgar language during the show that might be harmful to children. **The complaint was not upheld.**

Adjudication No: 08/A/2017 - Barrett vs Multichoice, Channel 122 - The complaint concerned a promo “skit” by comedian John Vlismas, flighted at about 19h30 just before Valentines Day 2017. The complainant alleged that it was in extremely poor taste and offensive, as it made fun of suicide, which is a serious issue among teenagers in South Africa. **The complaint was not upheld.**

Adjudication No: 09/A/2017 - Rapulaa vs SABC1 - The usage of profane language by various artists during the #MMA broadcast on the 25th February. **The complaint was upheld. The broadcasters was reprimanded and was instructed to issue an apology as offered in their argument on sanction.**

Adjudication No: 10 /A/2017 - Botha vs SAFM - Complaint that news item regarding the DA’s proposed disciplinary action against Ms Helen Zille was inaccurate and incorrect. **The complaint was not upheld**

Adjudication No: 11/A/2017- Mathewson vs Jacaranda FM - Complaint concerning the broadcast of a discussion on masturbation at the workplace during the afternoon drive show. **The complaint not upheld.**

Adjudication No: 12/A/2017 - Hanekom vs SABC, RSG - Complaint about alleged unbalanced programme on radio. **The complaint was not upheld.**

Adjudication No: 13/A/2017 - Mdletse and Kelobang vs Metro FM - Metro FM DJ Fresh in his 20th April 2017 Breakfast Show encouraged sexual speech towards children - Metro FM DJ Fresh in his 24th Breakfast Show broadcasted material which bordered on exposing children to explicit sexual content and that was done in a very bad taste. **The complaints were upheld and the broadcaster was sanctioned to apologise on air.**

Adjudication No: 14/A/2017 - Gersh vs Metro FM - alleged racist remark by a presenter on the station's lunch time show. **The complaint was dismissed.**

Adjudication No: 15 /A/2017 - Crème vs Tuks FM - Complaint that the topic of discussion and language used on a campus radio station were harmful to children. **The broadcaster was found not to have contravened the Code.**

Adjudication No: 16/A/2017 - Du Plessis vs 567 - Complaint about the accuracy of a news report. **The broadcaster was found not to have contravened the Code.**

Adjudication No: 17/A/2017 - Burgess vs SABC3 - Complaint that SABC3 broadcast a programme that contained nudity at a time when many children were likely to be part of the audience and that it was allegedly harmful to them. **The complaint was not upheld.**

Adjudication No 18/A/2017 - Holgate vs 5FM - News report alleged to have been too graphic and was broadcast without any warning. **The complaint was not upheld.**

Adjudication No: 19 /A/2017 - Mc Comb vs Multichoice, channel 405(ANN7) - Complaint that ANN7 broadcast was considered to be one-sided and promoted hate speech against White people. **The complaint was not upheld.**

Adjudication No: 20/A/2017 - Dimpleby vs Multichoice, Channel 405 (ANN7) - Complaint concerning the repeated broadcast of a distorted news item. **The complaint was upheld and the Broadcaster was fined R20 000.**

Adjudication No: 21/A/2017 - Hibbers vs e.tv - The glamorization of violence at the time when a large number of children are likely to be part of the audience. **The complaint was upheld and the broadcaster was fined. The broadcaster lodged an appeal against the decision.**

Adjudication No: 22/A/2017 - Dlamini vs Ligwalagwala FM - Advocacy of hatred and incitement of violence against the LGBTI community. **The complaint was not upheld.**

Adjudication No: 23/A/2017 - Cassim vs 702 - A misrepresentation of the facts during a news report. News report was revised in later report. **The broadcaster was found not to have contravened the Code.**

Adjudication No: 24/A/2017 - Robertson vs SABC1 - The complaint is about the broadcast of violent scene against a woman; without any parental guidance sign. **The complaint was not upheld.**

Adjudication No: 25/A/2017- Charlotte vs vs 702 - A complaint was received concerning the

- a) appalling racism and denigration by a radio talk show host;
- b) directed at a caller who had quite rightly commented on the host's unfair bias;
- c) the general conduct of the radio talk show host.

The broadcaster was found not to have contravened the Code.

Adjudication No 26/A/2017 - Warden vs SABC2 - Klagte oor onnodige gedetailleerde inhoud van 'n toneel wat demonstreer hoe maklik 'n lewe geneem kan word of genadedood toegepas kan word. **Die klagte was nie gehandhaaf nie.**

Adjudication No: 27/A/2017 - MSIMANGA, MOFOKENG, MBASA, MNCUBE vs SABC1 - Material considered to be harmful to children. The complainants allege that episodes of the soapie "Generation the Legacy" featured scenes of sex and nudity. **The complaint not upheld but the broadcaster was advised to add a "sex" verbal warning.**

Adjudication No: 28 /A/2017 - Ndlovu vs e.tv - Complaint about a nude scene broadcast during the watershed period. **The broadcaster was found not to have contravened the Code.**

Adjudication No: 29 /A/2017 - Andrag vs Multichoice - Cartoon Network - Complaint about use of the expression *Oh, my God* in a children's programme. **The complaint was not upheld.**

Adjudication No: 30/A/2017 - Logie vs SABC, SAFM - A complaint against a news report broadcast by the programme PM Live on the SABC radio channel SAFM on 19 July 2017 at approximately 16:45. The news report concerned an offensive, racist email supposedly sent by an employee of MiWay Insurers which had been posted on social media on 19 July 2017. **The complaint was not upheld.**

Adjudication No: 31/A/2017 - Wegneer vs Smile FM - Complaint against alleged sexual innuendos that were extremely sexist, lewd and misogynistic, offensive not only to listeners but also to the female employees of *Smile FM*. **The complaint not upheld.**

Adjudication No: 32/A/2017 - Marnewick vs SABC, RSG - Klagte oor 'n program wat volgens die klaer Godslanderlike materiaal bevat. **Die klagte was nie gehandhaaf nie**

Adjudication No: 33/A/2017 - Lekhuleni vs SABC 1 - To determine whether the use of a Nguni word describing the human private parts during a TV broadcast has contravened the code of conduct. **The complaint was not upheld.**

Adjudication No: 34/A/2017 - Khumalo vs 702 - Impairment of reputation and dignity. **The complaint was not upheld.**

Adjudication No: 35/A/2017 - McMurdie vs eNCA - To determine whether broadcaster eNCA contravened the subscription broadcast service licensee code in respect of news and comment on matters of public importance following a complaint that a report on the appointment of new judges to the bench amount to racial prejudice, and that the news item was "spiced-up" as "anti-white propaganda". **The complaint was not upheld.**

Adjudication No: 36/A/2017 - Agjee vs SABC3 - Complaint that a promo for *The Man Cave* was allegedly sexist and discriminatory. **The complaint not upheld.**

Adjudication No: 37/A/2017 - Cloete & Smit vs SABC 2 - Content containing violence considered to be harmful to children in the latest 7de Laan storyline. **The complaint was upheld in view of no additional warning to the age restriction.**

Adjudication No: 38/A/2017 - Motadi vs 702, Rufus Adjudicating - Complaint on the comment made by radio 702 host Bongani who kept on saying that Dr Dlamini-Zuma threatened white people by saying that if radical economic transformation is not achieved she cannot guarantee their safety, security and stability. **The complaint was not upheld.**

Adjudication No: 39/A/2017 - Logie vs SAFM - A tribute by a friend praising Mr Zola Ntutu's generosity of spirit was actually condoning or encouraging an unlawful conduct. **The complaint was upheld.**

Adjudication No: 40/A/2017 - Blake vs 567 - Complainant is upset -

- (a) and feels that his dignity and honour has been hurt by the response of the broadcaster to the voice note ("Voice Note") that the Complainant had sent to the radio show via the WhatsApp social platform;
- (b) that only part of the Voice Note was actually broadcast and the part that was not broadcast was bringing balance to the part that was broadcast; and
- (c) some of the specific words used by the broadcaster, is slang that the Complainant does not know how to interpret. **The complaint was not upheld.**

Adjudication No: 41/A/2017 - Hoppe vs SABC, Goodhope FM - To determine whether the use of the word "psychopathic" during a discussion in a radio broadcast to refer to individuals who follow a vegetarian diet amounts to hate speech and incites prejudice against vegetarians. **The complaint was not upheld.**

BCCSA COMMISSIONERS

- **Prof Henning Viljoen (BCCSA Chairperson)**
- **Dr Mohamed Alli Chicktay**
- **Prof Bonke Clayton Dumisa**
- **Ms Nokubonga Fakude**
- **Mr Dzuguda Rufus Kharidzha**
- **Prof Sunette Lötter (BCCSA Deputy Chairperson)**
- **Adv Johannes Dibatsela Maabane**
- **Mr Brian Makeketa (BCCSA Deputy Chairperson)**
- **Mr Edwin Naidu**
- **Mr Tshidi Seane**
- **Adv Boitumelo Tlhakung**
- **Dr Linda Venter**

BCCSA SIGNATORIES

TELEVISION BROADCASTERS

- e-tv
- M-Net
- Multichoice
- SABC1
- SABC2
- SABC3
- Trinity Broadcasting Network
- StarSat

RADIO BROADCASTERS

COMMERCIAL RADIO

- Algoa FM
- 567 (Cape Talk)
- 702 (Talk Radio)
- 947 (Highveld)
- Capricorn FM
- Classic FM
- East Coast Radio
- Gagasi 99.5FM
- Heart 104.9 FM
- Jacaranda 94.2 FM
- Kaya FM
- KFM 94.5
- LM Radio
- OFM
- Power FM
- Smile 90.4 FM
- YFM
- **SABC RADIO BROADCASTERS:**
 - Radio Sunshine
 - Ligwalagwala FM
 - Munghana Lonene FM
 - Radio Metro
 - Ukhozi FM
 - CKI Stereo
 - Good Hope FM
 - Radio 2000
 - Motsweding FM
 - PhalaPhala FM
 - RadioSonderGrens
 - SAFM
 - 5FM Radio
 - Lotus
 - Thobela FM

- **Ikwewezi FM**
- **Lesedi FM**
- **Umhlobo Wenene FM**

COMMUNITY RADIO

- **Bay FM (CBFM)**
- **Bok Radio**
- **Chai FM**
- **Fine Music Radio**
- **Hot 91.9 FM**
- **Kovsie FM**
- **MFM**
- **Mix FM**
- **Radio Islam**
- **Radio Pretoria**
- **Radio Puk**
- **Radio Pulpit**
- **Radio Pulpit Cape Town**
- **Radio Rosestad**
- **Radio Today**
- **Rhodes Music Radio**
- **Rippel 90.5fm**
- **Transworld Radio**
- **Tuks FM**
- **Tshwane University of Technology (Top Stereo)**
- **University of Johannesburg UJFM (UJFM Radio)**
- **Voice of Wits**

ASSOCIATION OF CHRISTIAN MEDIA

- **CCFM**
 - **East Rand Stereo 93.9**
 - **Good News Community Radio**
 - **Highway Radio**
 - **Impact Radio**
 - **Link FM**
 - **Radio Alpha**
 - **Radio Khwezi**
 - **Radio Kingfisher**
 - **Radio Namakwaland**
 - **Rippel 90.5 FM**
 - **Radio Tygerberg**
 - **Rainbow FM 90.7**
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