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ADJUDICATION NO: 17/A/2014

NAME OF PROGRAMME: THE 5TH ELEMENT
DATE OF BROADCAST: 17.7.2014 AT 19.45
BROADCASTER: 5FM
COMPLAINANT: R KHOURY

COMPLAINT

Inappropriate sexual references at a time when children might be listening.

APPLICABLE RULES

The following Clauses of the BCCSA's Code of Conduct:

- 6 (1) Broadcasting service licensees must not broadcast material which is harmful or disturbing to children at times when a large number of children are likely to be part of the audience.**
- (11) No excessively or grossly offensive language should be used before the watershed period on television or at times when a large number of children are likely to be part of the audience on television or radio.**
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ADJUDICATION

- [1] A complaint was received against 5FM regarding sexually inappropriate material that was broadcast at a time when children might be listening.**

[2] **The complaint reads as follows:**

“I would like to bring to the attention of the BCCSA and the SABC the discussion on 5fm radio station, on 17 July, 19:45. I found this discussion completely inappropriate, especially considering the early hour of the evening, when children may still be listening.

The DJ described how a drunken woman gave oral sex to 24 men in succession at a party. What really upset me was how the DJ was not afraid to describe in graphic detail how "she then put the next penis in her mouth, then moved to the next" and so on.

5fm is one of South Africa's leading radio stations, with a massive listener-ship ranging from children to seniors. Although I do not think this kind of discussion is appropriate at all on national radio, its especially horrific at 19:45. At this time young children are still listening, and if they didn't know what a blow job was before, well they do now.

Has society slipped so much that this is something that can be openly discussed on national radio? I should hope not.

I would like to see action taken against this DJ and his inappropriate discussion.”

[3] **The Broadcaster responded as follows:**

“BCCSA COMPLAINT: ROBYN KHOURY - 5FM - THE 5TH ELEMENT – 17.7.2014 – 19.45
In respect of the above-mentioned complaint, please find our comments as follows.

1. As the BCCSA is aware from earlier responses to complaints against *5FM*, the station is a Contemporary Hit Radio station that presents music, news, information, sport and entertainment suited to a mature audience in the metropolitan areas of South Africa. 5FM is known to be a station that employs talent that is personality driven and often outspoken.
2. 5FM does not actively broadcast to children.
3. The complaint in question alludes to a segment on the show called the 5th Element presented by Dj Warras and Tumi Voster. The show is broadcast on weekday night from 7pm to 10pm, and it specifically targets student based audience. The target audience is familiar with global youth culture and trends and are also aware of international news reports, specifically from internet sites.
4. The team was discussing an incident that took place in Spain at a cocktail bar, and it was widely reported in the international press, including on-line and television. The story was about a young woman who apparently was tricked into believing that she could win a vacation (holiday) if she performed oral sex to about 24 men in the bar. The twist of the story was that the “holiday” was in fact an alcoholic cocktail beverage at the bar.
5. The presenters discussed the incident between themselves and then posed several questions to the audience. The story created much debate in social media spaces as well as television talk shows for a variety of reasons, both locally and abroad.
6. The topic is relevant to a youthful and mature audience. The conversation addressed the dangers of irresponsible drinking and what is deemed as socially and morally acceptable. The team also suggested ways to prevent such occurrences to be accompanied by friends or having a designated driver.

7. The BCCSA has requested that the SABC provides a response in terms of clause 6 dealing with being of harm or disturbing to children.
8. It is clear in listening to the audio that the topic by the team is in poor taste and is not a topic that would be allowed to be repeated in future.
9. The content is in poor taste but when considering if it is harmful to children we do believe it can be argued that it was either harmful to children. Due to the complete absurd nature of the topic we believe the topic would have been dismissed by the average listener of the station.
10. In considering the clause of the Code in relation to watershed, we have taken note of the core concern of the complainant that there might be a need for a very specific warning in instances like this for all listeners, and will consider this in future broadcasts where necessary. We also believe that parents have a duty to advise their children on the contents of a programme.
11. The team is new to the station and we have taken strong measures to advise the team on the choice of topics and considered to take a strong action should a similar case occur.

We submit that there has been no contravention of the Code, as this incident was at premium in poor taste.”

- [4] The Complainant contends that the broadcast of an explicit description of oral sex is inappropriate at a time when children might be listening, i.e. in the early evening (19:45), and, indeed, that such material is essentially inappropriate on radio.
- [5] The Respondent argues that “5FM does not actively broadcast to children”, and that the broad target listenership of this “outspoken” radio station is urban adults (“a mature audience in the metropolitan areas”). Furthermore, the programme in question, which is broadcast on weekday nights from 19:00 to 20:00, is aimed largely at a student listenership familiar with “global youth culture”, and the material, which had already received widespread media attention, was relevant and even helpful to the listenership (a “youthful and mature listenership”), in that it warned of the consequences of irresponsible social behaviour.
- [6] I listened to the clip, the general tone of which was jocular. The two presenters referred to a recent incident at a Spanish holiday resort, which the one described as “debaucherous” – presumably debauched. While they remarked on the advisability of having a “sober friend” at hand in such situations, they went on to say that “flashing is cool – Rihanna does it”. From here, they ramped up the discussion, describing an incident where a woman was tricked into giving oral sex to men,

eventually performing 20–30 “blow jobs” (i.e. fellatio) on 24 men, presumably with the duration of about 20 seconds each. The male presenter saw fit to describe the sex act in graphic detail: they “put their penises in her mouth”. The words were clearly spoken, almost with relish, as he then went on to argue that you cannot “unblow a blow job”, a phrase that clearly pleased him, and which he repeated, with his co-presenter breaking out into coarse laughter. They were evidently enjoying the salaciousness of the situation, a factor that may have had the effect of hooking the attention of listeners. The ensuing discussion consisted of advice to listeners, couched however in similar language to what had gone before: avoid “debaucherising” oneself, like the “slutbag” who had committed the “debaucherous acts”.

[7] The Respondent concedes that the clip is “in poor taste”, but argues that the “absurd” nature of the topic somehow precludes it from causing harm, implying that the “average listener” would have “dismissed” it. However, this entirely misses the point: children need protection, they are not in a position to make a discerning judgement about a programme’s contents. By the time the material had been aired, the damage would already have been done. The Respondent admits as much when the assurance is given that a warning will precede the broadcast of similar material in future (I have not engaged with the following statement, as it is difficult to know what the Respondent is arguing here: “The content is in poor taste but when considering if it is harmful to children we do believe it can be argued that it was either harmful to children.”). It is a matter of concern that the Respondent apparently anticipates that “instances like this” may again occur, and my advice is that they should be strictly avoided. It is one thing to defend material on the basis that it is aimed at adults, but one would be hard put to find a defence for comment that is exploitative and gratuitous, which is what much of the material amounted to, in particular the graphic description of oral sex (i.e. a “blow job”). Indeed, the programme material degenerated into prurience and smut.

[8] While the time of broadcast precludes the possibility that “large numbers of children” would have been in the audience, and since the programme itself is aimed at adults, the broadcaster should nevertheless be reminded in clear terms of its responsibilities, since there is always the possibility that some children at least may

have heard the programme, drawn in, perhaps, by the laughter and animated tone of the presenters. The Respondent claims that there had already been wide media coverage of the incident, implying that it would have lost its shock value. Nevertheless, to young impressionable ears, the content may have been novel and interesting, and may therefore have resulted in harm. By the presenter's own logic – one cannot “unblow a blow job” – a child cannot “unhear” what has been heard. Once heard, the damage or corrupting effect cannot be erased, it is part of the child's life experience.

- [9] Part of the Respondent's defence is the fact that the presenters are novices, however, it is necessary to nip this inappropriate on-air behaviour in the bud. The Respondent has made a pledge to “advise the team” and to take “strong action”, and this is commendable, for it has a responsibility to the public in protecting children from the damaging effects of crass and explicit sexual references. I trust that this pledge will be upheld, and that the station will make every effort to discourage similar programmes from being aired, at least until well after the watershed.

There has been no infringement of the Code, and the complaint is therefore not upheld.

**DR LYNDA GILFILLAN
BCCSA COMMISSIONER**