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ADJUDICATION NO: 21/A /2014

DATE OF BROADCAST: 19 AUGUST 2014 AT 08:44

NAME OF PROGRAMME: HAMMAN TIME

BROADCASTER: SABC – 5FM

COMPLAINANT: C. HAGSPIHL

COMPLAINT

Complaint that the contents of a song by a local band are unsuitable for children, promotes illegal use of drugs, abuse of alcohol and promiscuity.

APPLICABLE RULES

6. Children

- (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.**
- (5) Programming for children must with reasonable care deal with themes that could threaten their sense of security when portraying, for example, domestic conflict, death, crime or the use of drugs or alcohol.**
- (6) Programming for children must with reasonable care deal with themes which could influence children to imitate acts which they see on screen or hear about, such as the use of plastic bags as toys, the use of matches or the use of dangerous household objects as toys.**

ADJUDICATION

[1] A complaint was lodged with the BCCSA against *5FM* concerning the playing of alleged offensive lyrics during the breakfast show on 19 August 2014 at 08h44.

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

"This complaint is with respect to the SABC radio station, Five FM, which is a signatory to the BCCSA code. It concerns a song which I have twice heard myself, and which is listed on the Five FM website as being added to the playlist in the week preceding Jul 13, 2014.

Five FM

Hamman time, which is on from 08h00 – 10h00 on weekdays

Mo Money, by Short Straw feat. Zubs

<http://www.5fm.co.za/sabc/home/5fm/music/details?id=49fde71a-d494-4bf3-905f-19d1ee17e0cd&title=New%20Music!>

I heard it on 08h44 on 19 Aug 2014. The following web address shows it as being added to the Five FM playlist in the week preceding Jul 13, 2014. The lyrics of the chorus are as follows. No "radio version" was played, this is how it came through on Five FM.

Ha ha ha!
Girl, you're so funny
Let's take some drugs, let's spend some money
Ha ha ha!
Let's spend some money!

The offensive and inappropriate lyric literally suggests the personal use of drugs, which the average listener would understand to be illegal/dangerous substances. Moreover, the personal use of drugs is portrayed as acceptable and fun, without any warnings that this could be dangerous or illegal.

The context of the song is promiscuous behaviour (other lyrics are "Take off your top" and "You're getting drunk"), so it is reasonable to infer that the average listener would interpret "Let's take some drugs", not as innuendo, but as literal use of illegal/dangerous substances.

It is the view of the complainant that the above song contravenes section (6) of the BCCSA Free-to-air code of conduct for broadcasting service licensees 2009, particularly subsections 6(1), 6(5) and 6(6), which relate to children and broadcasting at a time when children are likely to be a part of the audience. 6(5) explicitly prescribes reasonable care when portraying "use of drugs" and 6(6) speaks to reasonable care when broadcasting themes which could "influence children to imitate acts".

In light of the above, it is the view of the complainant that Five FM did not exercise reasonable care when broadcasting a song depicting the acceptable personal use of drugs, at a time when children were likely to be a part of the audience."

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

"BCCSA COMPLAINT: CHRISTOPH HAGSPIHL - 5FM - HAMMAN TIME - 19.08.2014 - 08:44

In respect of the above-mentioned complaint, please find our comments as follows.

1. 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. The audio segment alludes to a song by Shortstraw - Mo Money Ft. Zubz Last Letta. Shortstraw is a local band and the song contributes to the local content offering on *5FM*. The song has thus far enjoyed good response to the airplay it has received on *5FM*.
3. The song uses several expressions that deal with youth culture. The song is a narrative and does not promote or glamorise drug use.
4. In the song (through a narrative/story telling), it is clear that the singer is telling a story of a conversation or interaction of two people having a conversation (probably a man and woman). The man is represented by the singer of the song and he is relaying the story of a conversation / interaction he had with the woman. The singer is not encouraging the listener to use drugs; he is relating the interaction to the listener.
5. The topic is relevant to a youthful and mature audience and the target audience would understand the nature and tone of lyrical content.
6. The target market for *5FM* is well educated, aspirational, conscience about lifestyle and form part of the LSM-10 grouping. It is our opinion that the target market would understand the context of the song and would not see it as sanction of glamorisation of an illegal action.
7. In terms of clause 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. It is mostly expected that children are at school around the exact time the segment was played.
8. In terms of clause 6(5), programming for children must with reasonable care deal with themes that could threaten their sense of security. Although *5FM* does not actively cater for children, we do acknowledge that there is a possibility that there are children in the audience at any stage. It is our experience that most children are exposed to *5FM* whilst travelling with their parents during drive time shows in the morning and afternoon.
9. In terms of clause 6(6), programming for children must with reasonable care deal with themes that could influence children to intimate acts. As we have stated above, children are expected to be at school at that time when the segment was played on air and it is for guardians or parents to guide their children who may be present at time the segment was played to take precautionary measures.

We submit that there was no contravention of the Code."

[4] The song lyrics

It's a common misconception that
Your looks will improve
Just like the more you drink, girl
The better you move

But you're getting sassy and
What I've found is that
We better hit the bar
Cos it's final rounds

Now fill up your cup, it's getting empty
You're getting drunk, I'm getting thirsty
Take off your top, it's getting toasty
You're getting drunk, you're feeling frisky

Ha ha ha!
Girl, you're so funny
Let's take some drugs, let's spend some money
Ha ha ha!
Let's spend some money!

Now just lock your arm in my arm
And I'll escort you outside
Just to catch your breath
Before you change your mind
Hold your hand in my hand
As we sit down at this table
I'll laugh at all your jokes
I'll scoff at all your fables

Even though we hardly started
I can tell it's going to be a party
And when it gets loud and rowdy
I bet you're gonna wanna make it about your body
Girl, you know that vibe
Gets in your viens and you just can't help it
Good girls go bad, go wild
Stress on the brain - heat it up, melt it
Let it drip to the floor
I want to see your primal side
Now when you can't skip anymore
That's the cue for one final round

It's nothing personal
I'm just not touching your body
Let's start a war
If you're feeling naughty

- [5] I have listened to the song and have taken note that the complainant feels that Clause 6 of the Broadcasting Code has been breached. Indeed, if one analyses the lyrics of the relevant song literally, it does seem to be the case. Keeping in mind that *5FM*'s programmes are not intended for children and are not especially designed for children, it is nevertheless always possible that young pre-school children could have been in the audience. However, the words of the song are very indistinct and in my opinion young children would in any event not have been able to understand the reference to buying drugs or the sexual innuendos and other word-play (such as *you're getting sassy; it's getting toasty; you're feeling frisky; Let it drip to the floor, I want to see your primal side, etc.*).

[6] *5FM's* target audience is 20-30 year old urban adult listeners and in the decadent social environment they are living today, the use of drugs and getting drunk are unfortunately everyday occurrences. As a breakfast show, *Hamman Time* aims to provide listeners with relevant, youth driven content. It is well-known that the media act as a mirror to reflect what is going on in society and the target audience is thus frequently exposed to this kind of behaviour by way of advertisements, films, videos, etc. Therefore the nature and tone of the lyrics would not be shocking to them. Moreover they have free will to choose the radio stations they want to listen to. The purpose of the Broadcasting Code is not to sanitise the airwaves, but rather to ensure a balance between the rights of broadcasters (freedom of expression) on the one hand and the rights of audiences (freedom of choice, not to be offended, etc.) on the other hand. However, it should also be noted that the Constitutional Court has held that freedom of speech includes the right to air offensive material within reasonable limits. Furthermore, it is understandable that *5FM*, which is a commercial radio station, strives to keep their programmes in line with the preferences and tastes of their audiences.

[7] In my opinion the lyrics of the song did not go beyond the contemporary South African standard of tolerance. It may have sailed close to the wind, but because of the reasons mentioned above, the lyrics lacked the strength to encourage listeners or children to actively buy or use drugs, to get drunk or to be sexually promiscuous.

In my opinion, there is no infringement of any of the abovementioned clauses of the Code and the song cannot be regarded to have exceeded the limits of the broadcaster's freedom of expression. In the result the complaint is not upheld.

**DR LINDA VENTER
COMMISSIONER: BROADCASTING COMPLAINTS COMMISSION**

