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ADJUDICATION NO: 25/A /2015

NAME OF BROADCAST : RHYTHM CITY
DATE OF BROADCAST : 20 OCTOBER AT 19:00
BROADCASTER : e.tv
COMPLAINANT : BOTHA

COMPLAINT

The complaint was about a broadcast of “Rhythm City” in which a woman was strangled in the context of extensive verbal abuse. The scene depicted torture in a domestic violence context. The broadcast allegedly violated the code in that it would have been harmful or disturbing to children and it was broadcast when large numbers of children were likely to be in the audience. The audience advisory of PG13 was allegedly entirely inadequate.

APPLICABLE RULE

Clause 6(1) of the Broadcasting Code which states that 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. Clause 7(1) states that programming on television which contains scenes of explicit violence intended for adult audiences must not be broadcast before the watershed period.

ADJUDICATION

[1] The Registrar of the BCCSA received a complaint concerning an episode of Rhythm City which contained scenes of violence.

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

“I was upset and appalled by several violent scenes in tonight's broadcast of "Rhythm City" on etv (the show in question was broadcast starting at 19:00, on Tuesday, 20th October 2015). A female character is strangled and then verbally threatened and abused. The show's time slot

is relatively early and it's very popular; as I understand it, it is marketed to a younger demographic. It concerns me that these scenes were included. I feel that these scenes in particular, but also this story arc in general, promotes violence against women. I hope that the BCC will review the relevant footage.”

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

“Complaints Re: Episode: “Rhythm City”

This letter is in response to a complaint by Ms Liana Botha about the broadcast of an episode of Rhythm City on the 20th of October 2015 at 19h00. According to the complainant the episode contained violence inappropriate for the timeslot.

We have been asked to respond in terms of clauses 3(a) an advisories and 4 (1) violence of the code. Our response is as follows Rhythm City is a PG13 rated drama. It is mainly targeted at a matured audience. The broadcast of the show is preceded by the primetime news at a time when a large number of children is unlikely to be in the audience.

The Character

David Genaro’s world is more about deception, mercilessness and the survival of the fittest. He is a wicked puppet master who has a love and hate relationship with viewers. In Rhythm City Genaro is evil and viewers and his victims know it. In this episode he comes out as someone who does not take kindly to any act of betrayal and regular viewers of the soap are familiar with the character.

The impugned scene

The character Lerato is lured to come and see Genaro and upon arrival at the place she was strangled from behind with a piano wire by Jim Jam. The impugned scene of tussle did not last long and the strangulation was implied. e.tv did not show the graphic wounds sustained by Lerato as a result of strangulation. The whole strangulation was integral to the story and was not accentuated. It only lasted for a seconds.

Contextually speaking, the episode presents an educative narrative about the trajectories of patriarchy.

The complaint further reads. *“I feel that these scenes in particular, but also this story in general, promotes violence against women”* We do not agree with the complainant in that other viewer may see violence in the episode as an attempt to garner sympathy for the victim and conscientise viewers about violence.

In any event section (16) 1 of the constitution guarantees the right to freedom of expression. We submit that the complainant has not demonstrated why e.tv’s right to freedom of expression should be justifiably limited in terms of section 36 (1) of the constitution. The right to freedom of expression also includes the right to offend, shock or disturb.

Whilst the complainant might be offended by the impugned scenes a contravention cannot be found on this account alone. The right to freedom of expression also means a right to offend within reasonable limits. We submit that the violence was within reasonable bounds.

We submit that the violence was justifiably used in the context of the story.

In the result, we submit that there is no contravention of the broadcasting code.”

On 18 December 2015 the broadcaster further responded to the complaint in terms of children and watershed clauses specifically clauses 6.1 and 7.1 on the 18 December 2015 saying:

6.1 Broadcasting service licensees must not broadcast material which is harmful or disturbing to children at time when a large number of children are likely to be part of the audience.

7.1 Programming on television which contains scenes of explicit violence and/or sexual conduct and /or nudity and/or grossly offensive language intended for adult audiences must not be broadcast before the watershed period

At the outset e.tv had in the past argued that the broadcast of Rhythm City which was then at 18h30 is at a time when a large number of children is not likely to be in the audience and this view was accepted by the commission in many occasions. We still hold the same view in this instance suffice it to say we even upgraded the timeslot in that the show is now played at 07h00 and it is preceded by the news bulletin.

Further to our response e.tv submits that the use of language and violence were integral to the story. The strangulation though implied did not linger for long and the victim survived the ordeal. That said, it cannot amount to explicitness.

It must also be borne in mind that the BCCSA has always impressed upon parents and care givers to exercise control over viewing habits of the children under their care. It cannot be responsibility of broadcasters alone. e.tv has consistently put up an advisory in all the episodes to make sure parents and care givers are advised accordingly.

We submit that the episode had a PG13 rating and it neither contained violence nor grossly offensive language.

In the result, we submit that there is no contravention of the broadcasting code.”

[4] I agree that in general the broadcast would fall within the boundary of freedom of expression. There would be no objection to the footage being shown to mature audiences. On the other hand clause 6(1) of the Broadcasting Code specifically states that

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. Clause 7(1) states that programming on television which contains scenes of explicit violence intended for adult audiences must not be broadcast before the watershed period.

[5] The scenes complained about in this case are graphic scenes of women abuse. The acts portrayed are violent and it would not be exaggerating to say that the strangling and the interaction around it amount to scenes of torture in a domestic violence context. The scene is not long but it would be very disturbing for children. Parents do not expect their children to be exposed to such violence under the advisory of PG13.

[6] The complaint in this case bears some similarity with the facts in *Herbst & Du Plessis vs SABC2, Case:04/2015(BCCSA)*. That case dealt with complaints about various episodes of 7de Laan. In that case the violence complained about was more sustained and lasted over a number of episodes. The broadcast which is the subject of the current complaint is just as graphic and explicit and would also be extremely disturbing for children.

- [7] In *Herbst & Du Plessis vs SABC2, Case:04/2015(BCCSA)* which was a decision of the Tribunal, Commissioners van Rooyen and Venter stated the following:

“This complaint emphasised the harm that could be done to children, which may lead to severe emotional stress and anxiety. Although the visual depiction of such material may be central to the credibility of a storyline, it should be dealt with in a sensitive manner that is not too graphic. Broadcasters bear a heavy burden of responsibility in a country such as South Africa, where much emotional trauma is suffered because of acts of violence. This makes it all the more important to take special care with storylines where the details are within the producer’s control, in contrast, for example, to news events, which fall into a different sphere and are judged as real events, and where judgments are more difficult to make in so far as warnings are concerned.”

- [8] The visual advisory of 13 PG was used for the episode of Rhythm City complained about. This advisory was entirely inadequate. Even if parents or caregivers were present in the audience the material would still have been harmful. The finding in *Herbst & Du Plessis vs SABC2, Case:04/2015(BCCSA)* is worth repeating here as it is similarly applicable.

“Whatever the position in households, even if parents or other caregivers had taken note of the advisory, it was insufficient to inform them of what was in store for viewers. It should be borne in mind that PG means that parents or other caregivers are advised to watch a programme with their children. ..Younger children are very impressionable since they do not have established cognitive frameworks that would enable them to interpret violent, psychologically disturbing scenarios such as those introduced in the two programmes..” (paragraph 11-12)

- [9] e.tv transgressed the broadcasting Code by broadcasting the strangling scenes in “Rhythm City” at a time when large numbers of children were likely to be among the audience. According to the broadcaster “Rhythm City” always bears a PG13 visual advisory. The fact that all episodes have this advisory - combined with the fact that PG13 is routinely used for innocuous material by all broadcasters – makes the broadcast more shockingly inappropriate and more unexpected for caregivers. The

advisory is unsuitable for this material and in practice the advisory would have been completely ineffective.

- [10] As to sanction I propose that immediately before the commencement of the “Rhythm City” episode to be broadcast on the **28th December the following onscreen statement plus a voice-over be broadcast:**

“[The Broadcasting Complaints Commission of South Africa has found that the broadcast of the episode of “Rhythm City” on 20 October 2015 in which a female character was strangled and verbally abused violated the Broadcasting Code. The Code states *that 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.* The audience advisory of PG 13 was insufficient for the episode.

If the Broadcaster wishes to file a representation in regard to the above, it may do so on or before **21 December at 12:00.** If nothing is heard from the Broadcaster, the Registrar will confirm that the above directive is the final order of the Commission.

The complaint is accordingly upheld and, subject to what is stated above, the above sanction will apply. A copy of the relevant broadcasts, referred to above, must be sent to the BCCSA Registrar on or before 7th January 2016.

**VICTORIA BRONSTEIN
BCCSA COMMISSIONER**