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**CASE NUMBER: 24/2005**

**DATE OF HEARING: 29 MARCH 2005**

**DR DT MCKINLEY**

**COMPLAINANT**

**vs**

**SABC NEWS**

**RESPONDENT**

**TRIBUNAL:** Prof Kobus van Rooyen SC (Chairperson)  
Prof Ravi Nayagar (Viewer/Listener Representative)  
Dr Linda Venter (Co-Opted)

**Complainant:** Mr Simon Delaney for the complainant, accompanied by the Complainant.

**Respondent:** Mr Fakir Hassen, Manager Broadcast and Compliance, Policy and Regulatory Affairs of the SABC.

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*News – omission to provide sufficient information as to critical position taken by person interviewed on the issue of pre-paid water meters. DT McKinley vs SABC News, Case No: 24/2005.*

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### **SUMMARY**

A complaint was received in regard to a news item on SABC news, which dealt with pre-paid water in a 1,30 minute insert. The Tribunal is of the view that the item did not make a sufficient connection between “some who disagree” and Ms Makotsoane, who was interviewed. It was not in dispute that Ms Makotsoane is against the pre-paid meter system. In fact Ms Makotsoane is an active member of the APF/PCR who has been at the forefront of resisting pre-paid water meters in her community. The item does not sufficiently show Ms Makotsoane to be dissatisfied with the system. The Tribunal is of the

opinion that the item accordingly gave a picture of the situation, which did not fully represent the views on the matter. The Tribunal does not believe that the SABC was not bona fide in presenting this picture. It was important to Johannesburg Water that the success of the scheme be conveyed to the public. However, the matter was not sufficiently balanced. Ms Makotsaner should have been introduced as one of the persons who disagree with the system. The Tribunal is of the view that this amounted to a contravention of clause 34.2 of the Code.

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## JUDGMENT

### JCW VAN ROOYEN (Chairperson)

[1] A complaint was received in regard to a news item on SABC news, which dealt with pre-paid water in a ½ minute insert.

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

“Date of Broadcast: Monday 24<sup>th</sup> January, Time of Broadcast: 19h05, Channel of broadcast: South African Broadcasting Corporation (SABC) Channel 3, Name of programme: SABC (Channel 3) Main Nightly News.

Summary of complaint: Background to the broadcast: On the morning of Monday 24<sup>th</sup> January SABC News reporter, Piet Rampedi phoned Dr Dale McKinley (spokesperson for the Anti-Privatisation Forum – APF) to request an interview – for the SABC3 News broadcast that evening – related to the ongoing controversy around Johannesburg Water’s (JW) installation of pre-paid water meters in Soweto. Dr McKinley acceded to the request on the understanding that this would constitute part of the ‘other side’ of the pre-paid meter controversy (Mr Rampedi had already indicated that he would be interviewing the spokesperson of JW). An interview took place later in the morning, during which Dr McKinley provided various critiques of JW’s pre-paid meter roll-out in Soweto as well as counters to several publicised charges against the APF’s campaign of active opposition to pre-paid water meters. After the interview, Mr Rampedi requested to be provided with contacts of APF members residents in Soweto who were being negatively affected by JW’s installation programme, which Dr McKinley did.

Mr Rampedi then proceeded to make contact with one of those APF members, Mr Jabu Molobela, and met him in downtown Johannesburg. However, rather than conduct an interview, Mr Rampedi persuaded Mr Molobela to accompany him to

the main offices of JW where Mr Rampedi subsequently conducted an interview (in Mr Molobela's presence) with JW's spokesperson, Mr Jameel Chand. During that interview, Mr Chand admitted that there was ongoing community resistance to the installation of pre-paid water meters.

Mr Rampedi then asked Mr Molobela if he could take him to conduct an interview with a resident of the Phiri section of Soweto (where JW has already installed pre-paid water meters) who opposed pre-paid meters. Mr Molobela took Mr Rampedi to the house of a Mrs Malekutu, a member of the Phiri Concerned Residents (PCR – an affiliate of the APF) who had consistently refused the installation by JW while she was not at home. Unfortunately, Mrs Malekutu was not at her house and so Mr Molobela then took Mr Rampedi to the house of Ms Jennifer Makotsoane. Ms Makotsoane is an active APF member and leader in the PCR's community resistance to JW's pre-paid meter programme, who had nevertheless been forced to accept the installation of a pre-paid meter on her property at the risk of being totally cut-off from any water supply (a practice of JW that has had widespread application in Phiri).

Mr Rampedi then requested (off camera) for Ms Makotsoane to produce previous invoices from JW (i.e prior to the installation of the pre-paid meter) so as to ascertain the degree to which the pre-paid meter had affected water consumption and cost, which she did. Ms Makotsoane proceeded to tell Mr Rampedi that the 'free' allocation of 6000 litres per month/per household (dispensed by the pre-paid meter prior to cut-off supply – renewable upon purchase of subsequent water 'credit' through the offices of JW) was not nearly enough to meet the basic needs/demands of her household (which included a sick father who has since died). Once the on-camera interview began, Ms Makotsoane explained how she was 'conserving' water was simply because she was not working and had little money to buy extra water 'credits' after the initial use of the 'free' 6000 litres dispensed by the pre-paid meter). Ms Makotsoane stated on camera, verbatim, that "pre-paid is making me to suffer" and was even asked by Mr Rampedi to repeat this in Sotho. Mr Rampedi then filmed Mr Makotsoane outside her home washing clothes at the tap and hanging up laundry. Mr Rampedi then proceeded (twice) to speak to the camera – clearly meant as an introduction to the interview – in which he re-stated JW's claims that the millions of litres of water 'saved' in Soweto were indication that people were now not "wasting water" as a result of JW's pre-paid meter programme, but that "Jennifer Makotsoane sees it differently".

The broadcast: At approximately 19h05 on the SABC2 Main Nightly News programme, the news presenter introduced the story by stating that Johannesburg Water's programme of installation of pre-paid water meters (tied to the upgrade of water infrastructure) in Soweto has resulted in a huge reduction in water usage and wastage, although there are some who 'disagree'. This was followed by the broadcast of the interview with Mr Jammel Chand, showing Mr Chand repeating

all of JW's positive claims about the pre-paid meter programme but leaving out Mr Chand's admittance of ongoing community resistance to the programme.

The broadcast then shifted to Ms Mokotsoane's house, showing Ms Makotsoane outside her home washing and hanging up clothes and then showing brief, edited clips of her talking about how she had to conserve water. These clips left the clear impression that Ms Makotsoane was satisfied with her pre-paid meter and thus with JW's programme. None of the rest of the interview that Mr Rampedi had done with Ms Makotsoane was broadcast, nor was Mr Rampedi's recorded 'introductory' remarks about Ms Makotsoane "seeing things differently" from JW.

At no point during the broadcast was there any statement identifying Ms Makotsoane as an active members of the APF/PCR who has been at the forefront of resisting pre-paid water meters in her community. There was no attempt to contextualize the situation in Phiri or to acknowledge past and ongoing community resistance to JW's programme. The entire interview with Dr McKinley was excised from the broadcast, thus allowing no response/counter to the claims made by Mr Chand from JW on the broadcast or to give content to the initial remarks of the news presenter concerning those who 'disagree'. As a result, the entire broadcast came across as a virtually unqualified endorsement of JW's pre-paid meter programme and presented a picture of Soweto/Phiri in which there was no meaningful or organized community resistance.

Violation of the BCCSA Code: As such, the broadcast is guilty of distortion, misrepresentation as well as material omission. Additionally, the broadcast does not represent a truthful, accurate and fair reporting of the facts, nor is presented in such a manner as to indicate clearly that the report is based on opinion. The broadcast is accordingly in violation of Articles 34.1, 34.2, 34.3, 34.4 and 34.5 of the Code of the BCCSA, of which the SABC is a signatory.

Besides the negative consequences of this for fair, accurate and truthful reportage/broadcasting, the life of Ms Makotsoane has been placed in grave danger as a result. The day after the broadcast, several neighbours and Phiri residents approached Ms Makotsoane and accused her of being a 'sell out' to the struggle against JW and the pre-paid water meters, with one resident telling her that, "what we do with *impimpis* is burn them".

The APF furthermore requests that this complaint be considered at an open hearing, at which it reserves the right to make oral submissions."

[3] **The SABC's response was:**

“Within the context and limitations of a TV news bulletin item (1.30 mins) we submit that our report is a fair reflection on the issue. It would appear that the real gripe of the complainant is that we did not feature him in the piece.

1. Simply because there is some resistance to a project, does not necessarily mean that the project is bad, as is being claimed by the complainant.
2. The overall response to the installation of water meters has been a success. That is what the story conveyed.
3. As for endangering the life of an interviewee, I do not think that it is fair to hold the SABC responsible for that. I would suggest that the complainant questions the members of his organization (who made the "alleged" threat).

The piece is in our view fair and balanced, and we do not believe that there has been any contravention of the Code.

- [4] **Clause 34 of the Broadcasting Code deals with the requirements for news. The first four paragraphs provide as follows:**

- 34.1 Licensees shall be obliged to report news truthfully, accurately and fairly.
- 34.2 News shall be presented in the correct context and in a fair manner, without intentional or negligent departure from the facts, whether by:-
  - (a) Distortion, exaggeration or misrepresentation.
  - (b) Material omissions; or
  - (c) Summarisation
- 34.3 Only that which may reasonably be true, having due regard to the source of the news, may be presented as fact, and such fact shall be broadcast fairly with due regard to context and importance. Where a report is not based on fact or is founded on opinion, supposition, rumours or allegations, it shall be presented in such manner as to indicate clearly that such is the case.
- 34.4 Where there is reason to doubt the correctness of the report and it is practicable to verify the correctness thereof, it shall be verified. Where such verification is not practicable, that fact shall be mentioned in the report.

- [5] The South African Public has the Constitutional right to information and the Respondent has the right to inform the public. News is a medium which conveys facts within a short span of time and is not expected to cover all viewpoints. Nevertheless, it must, within this context be as fair and balanced as possible. The issue of pre-paid water is a matter of public importance. Dr McKinley, who testified before the Tribunal, informed us that there was substantial criticism of

this procedure: it was not only discriminatory towards the poor but, given the fact that the domestic use of water is at a low percentage within the broader picture of consumption, the saving of water was not the true aim but simply a measure to ensure that water accounts be paid. The Tribunal did not get the impression from him that he was aggrieved that the interview with him was not broadcast. He was, however, clearly concerned about the fact that the only reference to the hectic debate on the matter was a short reference to “some who disagree”. According to him, the item amounted to propaganda for the pre-paid meter project of Johannesburg Water, and nothing else.

[6] The Tribunal is of the view that the item did not make a sufficient connection between “some who disagree” and Ms Makotsoane, who was interviewed. It was not in dispute that Ms Makotsoane is against the pre-paid meter system. In fact Ms Makotsoane is an active member of the APF/PCR who has been at the forefront of resisting pre-paid water meters in her community. The item does not sufficiently show Ms Makotsoane to be dissatisfied with the system. The Tribunal is of the opinion that the item accordingly gave a picture of the situation, which did not fully represent the views on the matter. The Tribunal does not believe that the SABC was not bona fide in presenting this picture. It was important to Johannesburg Water that the success of the scheme be conveyed to the public. However, the matter was not sufficiently balanced. Ms Makotsoane should have been introduced as one of the persons who disagree with the system. The Tribunal is of the view that this amounted to a contravention of clause 34.2 of the Code.

[7] The SABC is reprimanded for the contravention. We do not believe that a rectification of the item would serve a practical purpose. This decision will, however, be taken into consideration when the matter of pre - paid water is discussed again on a news item or in a news commentary insert on the subject.

**The complaint is upheld in terms of clause 34.1.**

**JCW VAN ROOYEN SC  
CHAIRPERSON**

*Commissioners Nayagar and Venter concurred*