CASE NO: 24/2002

Date of HEARING: 17 MAY 2002

Ms C ISAACS  
COMPLAINANT

vs

HIGHVELD STEREO  
RESPONDENT

TRIBUNAL: PROF KOBUS VAN ROOYEN SC (CHAIRPERSON)
PROF SUNETTE LÖTTER
MR ARTHUR MAIMANE

The Complainant put her case personally

For the Respondent: Mr Ravi Naidoo (Station Manager) and Mr Zolile Ntukwana

Harmful to public morals – presenter said to have furthered immorality by giving publicity and support to sex during a first date, which had resulted from a weekly programme by the Respondent. BCCSA holding that one cannot infer from what was said that the presenter had furthered the immoral – he was simply commenting on what had been conveyed to him and there was no serious attempt to condone or praise the activities reported on.

SUMMARY

Presenter said to have furthered immorality by giving publicity and support to sex in a toilette of a restaurant during a first date, which had resulted from a weekly programme by the Respondent. At the report back, the next week, the male partner
reported that this had happened. Presenter reacting in surprised and enthusiastic manner to the news.

_BCCSA holding_ that one cannot infer from what was said that the presenter had furthered the immoral – he was simply commenting on what had been conveyed to him and there was no serious attempt to condone or praise the activities reported on.

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**JUDGMENT**

**JCW van Rooyen**

The Respondent regularly presents a programme “Desperate and Dateless”, where persons are introduced to each other on air. The next week they report back on the success of their having been introduced.

**The Registrar received the following complaint:**
“Being a loyal listener of Highveld Stereo, I need to raise the following objection. I recently switched onto Highveld Stereo, and whilst listening to feedback for “Desperate and Dateless”, Revin John was receiving feedback from a couple whose first date was sponsored by your station. To my utter shock and dismay, I listened to Revin John congratulating the couple on having had sex, in the toilet of the restaurant.

As a 19 year old listener, I was and still am, shocked, disgusted and absolutely disappointed, that a radio station of such good repute, would condone and encourage such immoral behaviour, thus making it right for all other listeners to the programme, to do likewise. Revin John should take responsibility for his position of authority and realise his strong influence over his other listeners and his encouragement of this action, has given others the green light to do the same. Instead of condoning such behaviour, he could use his position of authority to guide his listeners in a more positive and moral manner.

As a representative of your station, he holds a position of utmost importance. He is a role model for his listeners and seems to be abusing his position entrusted to him by lack of purity of intent. In this day and age of aids, rape and lowering of moral standards, wouldn’t it be marvelous if this particular programme could be used as a vehicle for directing listeners in a moral and mature direction.”

At the hearing of the matter Ms Isaacs, who is 19 years old, argued that young people were without hope and destined to be or become drug addicts, criminals and were utterly without moral leadership or guidance. Such guidance should be given by the radio, which should assist in shaping society morally. She indicated that present morality amongst young people allowed for extra-marital sex where there was commitment between the partners. What, however, offended her tremendously was the fact that the presenter congratulated the couple for having had sex in the toilette of the restaurant where they met.

**The Regulatory Affairs Manager of the Respondent, Mr Zolile Ntukwana responded to the complaint as follows:**
“In response to this complaint, we wish to indicate that the nature of the Desperate and Dateless programme is such that there would be discussions on issues related to dating and the suitability of partners who had been dating. A regular listener of the show would expect that, in the feedback show, the couple that won the date sponsored by the station would talk about their experience, as it would have been the first time they met, and actually went out on a date with each other.

On the issue of the particular feedback show on 8th April 2002, it is important to note that the listeners who won the date were giving feedback on their date, and did not have a problem with talking about the activities that they embarked upon on the day of their date. Even though the presenter may have appeared to be relishing the idea of them having had sex on the same day, at no point did he use vulgar and irresponsible language, to the extent that it would be distasteful. Furthermore, the presenter did not celebrate the fact that the sexual intercourse took place in the toilet of the restaurant, but rather, appeared to be impressed with the fact that the couple had sexual intercourse the first time they met and went on a date. The presenter did not express any views, suggesting that everyone else should have sexual intercourse on their first date, but even if he had suggested it, it is difficult to judge such views as immoral.

On the issue of the subject of the complaint, we wish to submit that talk sex is not immoral. In terms of the watershed time principle used when adjudicating complaints against TV broadcasts, we further submit that the subject matter of the complaint took place after the world-wide accepted watershed time of 21h00, therefore, in our view, rendering the complaint inappropriate. We therefore urge the Commission not to consider this complaint as a valid complaint. If the Commission considers the complaint valid, we submit that there was justification on the basis of the watershed time principle.”

We have noted the views of Ms Isaacs with great interest and respect and are grateful for the input which she and her father, who was also present, made to the discussion. We do not, however, believe that it was likely that a substantial number of listeners would have understood the enthusiastic response of the presenter as having furthered offensive or immoral behaviour. The male guest tendered the information and the presenter, clearly off-the-cuff, responded in a jovial and astonished manner and it is unlikely that it was intended to further this kind of behaviour. The presenter was in fact countering the effect of the guest’s strange remark. The remark was so vulgar that it necessitated a comical response from the presenter to remove its vulgarity from the airwaves. The praising should, accordingly, not be understood literally but as a manner in which the listeners could be led away from the vulgarity.

If we are wrong in the above deduction, we in any case believe that the references to the sex were unlikely to have had any influence on morality. People are simply not that vulnerable morally, that the reaction of a presenter would have any influence on them. A human being is not a sponge who simply absorbs all that she or he hears uncritically.

**The complaint is not upheld.**

**JCW VAN ROOYEN SC**

**CHAIRPERSON**

Commissioners Maimane and Lötter agreed with the Chairperson’s judgment.