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**CASE NUMBER: 04/2016**

**DATE OF HEARING: 09 MARCH 2016**  
**JUDGMENT RELEASE DATE: 09 MAY 2016**

**SMITH**

**COMPLAINANT**

**vs**

**SABC1**

**RESPONDENT**

**TRIBUNAL: JUSTICE RATHA MOKGOATLHENG**  
**PROF HENNING VILJOEN (DEPUTY CHAIRPERSON)**  
**PROF VICTORIA BRONSTEIN**

**THE COMPLAINANT:** The Complainant was invited but was unable to attend.

**RESPONDENT:** Mr Fakir Hassen, Manager: Broadcasting Compliance, Regulatory Affairs SABC, accompanied by Mr Nyiko Shibambo: Compliance Officer

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*Racist and Defamatory language on programme – no violation of the Code. Smith vs SABC1, Case No: 04/2016.*

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### **SUMMARY**

The word Boesman was used by a woman speaking in Xitsonga in an interview. The word was translated in the subtitles as Coloured. The SABC was simply trying to convey the meaning that the speaker intended in the subtitles. There was no violation of the code -

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### **JUDGMENT**

**VL BRONSTEIN**

[1] This complaint was considered by the Tribunal on 9 March 2016.

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

“RE: Racist and Defamatory language on programme.

On Wednesday, 27 January 2016, on the programme, Khumbul’ekhaya, aired on SABC 1, one participant, speaking in Xitsonga, (Lungile Bvuhma), referred to coloured people as “Boesman” and the SABC in the English sub-titles made reference in the translation as “coloured person”.

This programme airs between 21H00 and 22H00.

I take offence as a coloured person to be referred to in a manner that is racist, insulting and defamatory. SABC had the means to edit out the racist and defamatory terms used by the young girl as this is a public broadcaster watched by a large majority of citizens of the Republic who are made up of all races.

SABC failed in their duty to edit the discriminatory, racist and offending terms/language before airing such racist terms on a public platform such as television which has a large viewership. Khumbul’ekhaya is also a popular programme that is watched widely.

I expect SABC and the producers of Khumbul’ekhaya to issue a public apology for failing to edit and correct the young girl or any participants in their programmes that the use of offensive, racist and defamatory language is not acceptable.”

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

**“BCCSA COMPLAINT: FREDERICK SMITH - SABC 1 - KHUMBULEKHAYA - 27.01.2016 - 21:00**

In respect of the above-mentioned complaint, please find our comments as follows:  
The direct translation of the word “Boesman” is “Bush Man” which is a legitimate South African tribe in South Africa. It is true however that historically the word was abused and applied in a derogatory manner.

It was not the intention of Lungile Bvuma who was searching for her mother to demean coloured people. In fact she directly quoted her father’s use of the word to describe a person who left with her mother.

The choice to replace the word “Boesman” with the word “Coloured” in the subtitling was an editorial decision to clarify what she meant rather than placing the focus on the historical abuse of the word.

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

[4] **The Complainant replied as follows:**

“Due to work commitments and distance from my place of residence I must regrettably state that I will be unable to attend; however, I am satisfied that this matter has been escalated and is being attended to by the commission. I concur that Ms Bvuma could have learnt the word from her father or from the community in which she live but that does not make it correct.

The fact that the SABC made/took an editorial decision to “clarify” the matter by translating it as referring to coloureds I find very demeaning showing the lack of sensitivity to the matter and the hurt such term creates in Coloured people, Bushman is not a tribe in South Africa; the tribe previously referred to as Bushmen are the **San**. Historically coloured people were derogatorily referred to Boesman/Bushmen, initially by the Afrikaaners and then used by other races.

The SABC cannot boldly state that their translation was used to clarify Ms Bvuma’s meaning. Were I to refer to a black person by using the “K..” word or to an Indian person using the historical derogatory terms and then “CLARIFYING” it by stating that I was referring to Indians would still be offensive to people of that race.

The SABC probably believed that only Black people watch the said program and therefore felt justified in “clarifying” for the benefit of persons who do not ordinarily speak Tsitonga.

I further believe that the SABC is obfuscating and trivializing the matter.

I trust that the tribunal would make an informed judgement considering the historical offensive created by such offensive terms. I am sorry; I have highlighted the sentence that I find is still offensive as they, the SABC, are trivializing what is offensive to me as a Coloured person.

## **EVALUATION**

- [5] The tribunal viewed the program and saw that the word Boesman was translated as Coloured by the SABC. We understand that the word Boesman is an offensive term and that it is inaccurate in every way. Both the term Coloured and the term Boesman are part of the residue of our apartheid state.
- [6] The clip was an authentic clip of a person talking about her life. She spoke in Xitsonga and her use of the word Boesman was simply directed at describing the man who left with her mother. The word was not intended to be used in a demeaning way.
- [7] We recognize that the complainant views the language used in the clip as highly offensive. The history and pedigree of the term Boesman and the word Coloured warrant the complainant’s concern. Habits about what some groups call others continue to shift in South Africa. These shifts only occur after language awareness is built by people like the complainant.
- [8] On the other hand we cannot find that the SABC contravened the code. The SABC translated the word Boesman as Coloured. This was simply an attempt to accurately convey what the speaker was saying to listeners who do not speak Xitsonga. It was not malicious. The word Coloured has a specific meaning in South Africa which it

does not bear anywhere else in the world. It is however a term that South Africans understand. In the context of authentic dialogue we find no violation of the code.

**In the result the complaint is dismissed**

**V BRONSTEIN  
COMMISSIONER**

*The Chairperson Judge Mokgoatheng and Commissioner Viljoen concurred with the judgment of Commissioner Bronstein.*