



P.O.Box 412365 • Craighall • Tel (011) 326 3130 • Fax (011) 326 3198 • email: bccsa@nabsa.co.za
Block No 8 • Burnside Island Office Park • 410 Jan Smuts Avenue • Craighall Park • 2196 • www.bccsa.co.za

ADJUDICATION NO: 09/A/2017

NAME OF PROGRAMME: METRO FM #MMA 2016
DATE OF BROADCAST: 25TH FEBURARY 2017 AT 20:00
BROADCASTER: SABC 1
COMPLAINANT: RAPULAA

COMPLAINT

THE USAGE OF PROFANE LANGUAGE BY VARIOUS ARTISTS – RICKY RICK, GEMINI MAJOR, MISS PRU, CASPER NYOVEST AND DJ SPEEDSTA DURING THE #MMA BROADCASTED ON THE 25TH OF FEBRUARY 2017 BY SABC 1.

APPLICABLE RULES

- 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;**
- 6(11) NO EXCESSIVELY OR GROSSLY OFFENSIVE LANGUAGE SHOULD BE USED BEFORE THE WATERSHED PERIOD ON TELEVISION OR AT TIMES WHEN A LARGE NUMBER OF CHILDREN ARE LIKELY TO BE PART OF THE AUDIENCE ON TELEVISION OR RADIO; AND**
- 7(3) SOME PROGRAMMES BROADCAST OUTSIDE THE WATERSHED PERIOD MAY NOT BE SUITABLE FOR VERY YOUNG CHILDREN. LICENSEES MUST PROVIDE SUFFICIENT INFORMATION, IN TERMS**

OF REGULAR SCHEDULING PATTERNS OR AUDIENCE ADVISORIES, TO ASSIST PARENTS AND DE FACTO OR LEGAL GUARDIANS TO MAKE APPROPRIATE VIEWING CHOICES.

ADJUDICATION

[1] A complaint was lodged with the BCCSA against the SABC 1 by Mr. Leon Rapulaa regarding utilization of profane language by Ricky Rick, Gemini Major, Miss Pru, Casper Nyovest and DJ Speedsta during the #MMA aired on the 25th February and at 20:00.

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

"...I here write this email, complaining about the vulgar words SPOKEN at #MMA awards on Saturday. The words spoken by Ricky Rick when he took his award were so embarrassing. Besides that, performances by Gemini Major (RAGGA RAGGA), Miss Pru, (AMENI) and DJ Speedsta (MAYO) also includes vulgar words. As a viewer at home, with my family, i had to switch to another channel for a little while. As Christians, it is embarrassing to hear people insulting, or speaking informal offensive words in public. I would appreciate it if you take action against this.

Please accept my apology. The date of the #MMA awards was on Saturday, 25th February 2017.

Ricky Rick said "The SHIT i hear on radio is..."

A performance by Ricky rick himself includes words such as "NIGGER" which are repeated over and over during his performance.

MIs Pru's performance (AMENI) there are words such as "I do not fuck with her anymore" these words were said by Emtee during the performance and when the song was played when MIS PRU Won the award for the BEST COLLABORATION.

Performance by Gemini Major (RAGGA RAGGA) includes words such as " Young NIGGER, RAGGA RAGGA FAMILY TREE UP THIS MOTHER FUCKER" these words were said by Casper Nyovest and Gemini Major."

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

"BCCSA COMPLAINT: G.L RAPULA – SABC 1 – METRO MUSIC AWARDS – 25.02.2017 – 20:00

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

1. We agree with the complainant that unsavoury words were used during the Metro FM Music Awards.
2. On the lyrics of the song performed on stage by Gemini Major, the music director had cleaned out the tracks of profane language before handing the music for usage at the awards. The music list was provided to him by Metro FM, which

consists of songs that have high rotation and are relevant to the listeners of the station.

3. Artists were briefed during rehearsals not to replace the original words in some sections of their songs because they were tantamount to profanity. While artists did adhere to the request during rehearsals, it was not the case during the actual performances that were part of the live broadcast.
4. On the second point, "profane language used in acceptance speeches", was not rehearsed and the artist spoke based on emotions at the time of winning the award.
5. The SABC is disappointed with the behavior expressed by the artists specifically because they had been briefed prior to the live broadcast and there was no indication that there would be a diversion.
6. The SABC will explore the possibility of a 5minute delayed broadcast to aligning itself with international norms to ensure stricter control. The delay will allow the SABC to edit out unwanted and unwarranted actions.

We sincerely apologise to the complainant for the inconvenience caused, however it should be note that the conduct as expressed by the artists was beyond our control."

[4] The Complainant replied as follows:

"Please accept my apology for late reply. In respect of the above- SABC comment, unfortunately I am not satisfied with their comment.

Perhaps the music director had cleaned out the tracks of profane language before handing the music for usage at the awards. But that confuses me because everyone who was a viewer by that moment could hear the "PROFANE LANGUAGE" during the performance.

Even though, When MIS PRU won the BESTS COLLABORATION AWARD, her song, AMENI, was played during broadcast. Of course there was a use of profane language, on the lyrics of the song while there was no one performing. Words Such as "I DO NOT FUCK WITH HER ANYMORE" these are lyrics of the song by Miss PRU, performed by EMTEE.

This simply gives me a clue that the SABC is lying. I apologize for saying this, but it is in regard of their comment when they say, "The music list was provided to him by Metro FM, which consists of songs that have high rotation and are relevant to the listeners of the station." despite, was it not better for Ricky Rick to be also be briefed during rehearsals not to use profane language?"

[5] The Broadcaster responded as follows:

"Every TV show is scripted, what we mean with our response is that the artists were warned about the profanities, they were given scripts without profanities which they chose to ignore during the live show.

At that stage there was nothing anyone could do and no editing can be done live on air. We admit this is unacceptable and our response demonstrated the effort the production team took to offer a "clean" show. Unfortunately what took place is part of the risks we face with live shows."

EVALUATION

- [6] Live television broadcast entails a television production broadcast in real-time, as events happen, and in the present. The advent of the internet and social media outlets, which resulted in numerous "spoilers" in the early 2000s prompted global broadcasters to begin broadcasting the awards, in particular, live globally as of 2009. The Respondent also followed suit within the African continent.
- [7] Even though an element of real-time brings the much needed excitement to the end viewer, it is not without risks; and naturally can spark many legal disputes ranging from privacy violations or copyright infringement, into the unexpected utilization of profane language.
- [8] On the other hand, it is a known fact that the artists whose behaviour is in question are rap artists. It also a known fact that rap artists naturally use profane language whenever they communicate or sing.
- [9] To curb against the usage of profane language, the producers of the #MMA conceded that:
- 9.1 Their musical director cleaned out the tracks of profane language before handing the music for usage at the awards;
 - 9.2 Artists were briefed during rehearsals not to replace the original words in some sections of their songs because they were tantamount to profanity; and
 - 9.3 The "profane language used in acceptance speeches", was therefore not rehearsed and the artists spoke based on emotions at the time of winning the award.
- [10] After all facts were considered, the question that stands out in this regard is whether the respondents' precautionary measures in aiming for a clean award broadcast programme was good enough to deter the artists from utilizing profane

language. After watching the #MMA, the following was noted with the reasonable understanding of the meaning of live broadcast, the complainant's concerns and the Respondent's response:

- 10.1 It is common cause that awards ceremonies naturally entail wild entertainment; thus the actions of all the artists including the attendants at the awards are somehow bound to follow suit;
- 10.2 Had it not been the highlighted artists it could have been someone else involved in some inappropriate activity; e.g. Ms. Pearl Modiadie's singing "mofe" [meaning 'have sex with him'] during the ceremony presentations with Mr. Amon Mokoena. Unlike the artists, Pearl is a Metro FM presenter, thus one would naturally expect her not to behave that way, however she gets to portray her wild side because of the awards mood;
- 10.3 Ms. Pru's collaboration song with Casper Nyovest, EMTEE, and AMENI indeed contained profane language; the point which the Respondent has conceded;
- 10.4 Ricky Rick's acceptance speech portrayed an artist's activism against the blockages around what he termed 'real creativity and talent' within the industry for an ordinary child with no money or connections. There was indeed a huge portrayal of emotions regarding the unfair treatment within the music industry and radio at large, and all these led to his utilization of profane language; however he was blocked from continuing. This is later vindicated at his interview with Somizi and Khanyi Mbau at the AUDI mat;
- 10.5 With all that said, I did not see any audience advisories sign on the screen, before or during the awards broadcast. By virtue of the fact that the Respondent could anticipate the usage of profane language; and their understanding of the nature of live broadcast risks, one would have

thought that they would put up an advisory sign to enhance their protection measures - however they did not; and

10.6 The time within which the awards were aired was before the watershed period that is 21:00 on a Saturday; meaning most kids would have stayed to watch, seeing that it was a weekend broadcast. This did not portray an element of care and concern to the broader viewership, in particular, children;

10.7 In light of all these factors I am compelled to state that the Respondent failed to exercise the necessary caution and care in assessing the risk of broadcasting live music awards, thus contravening code of conduct clauses 6 (1), (11) and 7(3) respectively.

[11] In South Africa, the law is very protective of the rights of children; and regulators like the BCCSA are entrusted with the implementation of the latter protection within their area of operations.

The complainants and broadcaster are given an opportunity to submit arguments to the Registrar in regard to sanction **on or before the 30th March 2017.**

[12] **The Complainant's submission reads as follows:**

“Based on the sanctions, the appropriate one to be imposed is No. 14.5 - Impose a fine not exceeding R80,000 on any respondent adjudged to have infringed the Code, whereupon the fine so imposed shall be a debt due to the BCCSA and recoverable as such. The maximum amount of the fine may be increased by resolution taken at an AGM or SGM”

[13] **The Broadcaster's submission read as follows:**

“BCCSA COMPLAINT: G.L RAPULA - SABC 1 - MMA - 25.02.2017 - 20:00

In respect of the above-mentioned complaint, we submit the following comments in mitigation of sanction:

1. In our endeavour to broadcast compelling and relevant content for our audiences, SABC 1 would like to reaffirm its commitment to the protection of our young audiences whilst ensuring adherence to rulings and guidelines of the BCCSA.

2. The Metro FM Music Awards in its 16th edition brought an excitement amongst music lovers across the country. This was witnessed by the media coverage prior and after this historic event.
3. The SABC would like to reiterate its earlier submission that all things possible had been done to avoid vulgar lyrics being used by artists on stage. Clearly the whole purpose was defeated by the artists who chose to ignore the instructions from the music director on the day in question. For that we sincerely apologise.
4. The SABC is currently exploring options on how to better manage these kinds of events with an intention of minimising incidents of a similar nature in the future.
5. Given the above initiatives on our part, we submit ourselves to the jurisdiction of the BCCSA in determining an appropriate sanction, of which, in our humble view, a reprimand will be appropriate.

[14] **In light of the above arguments, one would have thought that the Respondent would take the opportunity to address the BCCSA on strict implementation of viewing restriction measures in protection of children in the future. The Respondent has missed this opportunity.**

The complaint is therefore upheld and a fine of R10 000 is imposed, payable on or before the 30th of April 2017.

**ADV BOITUMELO TLHAKUNG
BCCSA COMMISSIONER**