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ADJUDICATION NO: 30/A/2019

NAME OF PROGRAMME: PHAT JOE AND THE FAMILY SHOW
DATE AND TIME OF BROADCAST: 28 JUNE AT 6:35
BROADCASTER: SABC RADIO 2000
COMPLAINANT: MATABANE & TSHIVHASE

COMPLAINT

The complaint herein is that the Broadcaster, on the morning of 28 June 2019, at 6:35, broadcast material that constituted advocacy of hatred and was disturbing to children.

APPLICABLE CLAUSES

The following clauses of the Free-to-air Code of Conduct for Service Licensees are applicable herein:

Clause 4.2 “Broadcasting service licensees must not broadcast material which, judged within context, amounts to:

- (a) propaganda for war;**
- (b) incitement of imminent violence; or**
- (c) the advocacy of hatred that is based on race, ethnicity, religion or gender and that constitutes incitement to cause harm.**

Clause 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.

ADJUDICATION

[1] A complaint was lodged with the BCCSA against SABC's Radio 2000, (*hereinafter referred to as 'Respondent'*). The Complainant contends that the presenter of the show, namely, Phat Joe, made derogatory remarks against Black foreigners, particularly Zimbabweans, which remarks promote violence against and advocate for hatred of foreigners. The Complainant contends further that the word (*hereinafter referred to as 'Grigamba'*), which was used by the Presenter, is very offensive and highly degrading for a Black foreigner and that the use of the word will encourage or perpetuate acts of xenophobia.

[2] **The complaints read as follows:**

Matabane: "I would like to lodge a formal complaint against Phat Joe with regards to the comments he made on his show on Radio 2000 Phat Joe and the family on 28 June 2019. During one of the show's segments called Vuka Nathi, Phat Joe called a lady who is apparently pregnant. This pregnant lady's partner's name is Executive Henk. Phat Joe asked the lady whether her partner was from Zimbabwe, to which the lady answered "no". Phat Joe then said, "wa yaka ke legrigamba".

Legrigamba is a vile and very offensive and highly degrading word for a black foreigner. I find his comments very offensive as they might be interpreted as promoting xenophobia by calling foreigners with derogatory names. We cannot promote hatred against our African brothers and sisters. Please investigate this matter and take appropriate action."

Tshivhase: During his morning show on Friday the 28th, June, 2019, Phat Joe in a call with a listener he called the husband's listener a girigamba. The husband had asked for his pregnant wife to be given a wake up call by the show's presenters. While Phat Joe was having a conversation with the wife, asking where her husband was from, he jokingly said the husband was a GIRIGAMBA.

Considering how xenophobic South Africa has become in recent years, i find it very disturbing to find or still hear someone of his stature name calling people because of may be assuming that their foreigners. In Kagiso, during the 90's any non Tswana speaking person, especially VaTsonga and Vhavenda were called Magirigamba. To this day i still find this term very disturbing and very much insulting. Phat Joe may have said that jokingly, but i still find it disturbing that he could openly be xenophobic on Public radio just like that.

The term Girigamba is a term used to degrade foreign nationals and has also been used to degrade fellow South africans such as Vatsonga and the Vhavenda. So this term is a derogatory term and therefore i find it appalling that it can be used in a national broadcaster.

The name of the broadcasting station is Radio 2000, And the name of the Broadcaster is "Phat Joe", Majota Madlakayise Isaac Khambule. The time during which he made that derogatory

remark was something pass 6 or to 7. I cannot be very approximate as i was listening to the show while driving in the morning

[3] The Broadcaster responded as follows:

“BCCSA COMPLAINT: ESEU MATABANE - RADIO 2000 - PHAT JOE AND THE FAMILY - 28.06.2018 - 06:30

In respect of the above-mentioned complaint, we submit an electronic copy of the segment. Please find our comments as follows:

1. As an SABC radio station and public broadcaster, Radio 2000, under no circumstances will intentionally present content to harm its audience.
2. Whilst we unreservedly agree that the word “grigamba” is derogatory and should not have been used on air, it is imperative to note that in some communities, the same word is casually used, giving an impression that it is acceptable. This can be confirmed in our submission to the BCCSA in the *Mdlala vs SABC* case.
3. The SABC does not in any way endorse the use of that word to refer to foreigners.
4. South Africa is a diverse country and foreigners living in South Africa also tune into our stations daily. It is our responsibility as a public broadcaster to respect every single person in the country.

We submit that the intention was never to cause any harm, perpetuate stereotype or incite violence and hatred hence we sincerely apologize for the inconvenience caused.”

[4] The Complainants replied as follows:

Matabane: “Thanks for getting back to me. I have received the SABC's comments and the previous case (Madlala vs SABC) which was dealt with. The SABC says in its comments and I quote, "Whilst we unreservedly agree that the word “grigamba” is derogatory and should not have been used on air, **it is imperative to note that in some communities, the same word is casually used, giving an impression that it is acceptable**". The SABC goes on to say, " We submit that the intention was never to cause any harm, perpetuate stereotype or incite violence and hatred hence we sincerely apologize for the inconvenience caused".

I would like to categorically state that I do not accept the SABC's half-hearted apology. The fact that previously one of the SABC's radio presenter once said the same derogatory word on air and they failed to deal with it then, it's the reason we are here again with Phat Joe saying "grigamba" on air so freely because according to the SABC "in some communities, the same word is casually used, giving an impression that it is acceptable". I don't know which communities the SABC is referring to where derogatory words like "grigamba" are acceptable. If a white person was to "casually" refer to a black South African as "kaffir" live on air like Phat Joe did, would the SABC still say the same? If not, then why should I accept this absurd apology? Fact is the word "grigamba" is very offensive and it should never be uttered on air, in private or anywhere. But unfortunately, we cannot regulate what people say in their private spaces. However, Phat Joe can be muted, and he should be muted.

We cannot carry on like this. We have millions of South Africans who are married to foreign nationals and have kids and it makes it rather uncomfortable for such families when the likes of Phat Joe blurt out words like "grigamba" on air. Furthermore, there are kids who go to school who listen to this show who might get an impression that it's okay to call their fellow learners who hail from different countries with names such as "grigamba". After all Phat Joe is a well-known radio presenter and as such, he has so much influence. So many people are more likely to emulate what he says owing to his influence. My humble proposal is for Phat Joe to apologize UNRESERVEDLY live on air and for punitive measures to be taken against him. Furthermore, the SABC needs to educate its presenters that it is NOT acceptable to call our foreign brothers and sisters "grigamba" to prevent the same thing from happening AGAIN."

[5] The SABC commented as follows:

"I think the complainant is missing the point.

What we are saying is that there are people in South Africa who do not know that grigamba is a derogatory word and think it is a colloquial to refer to foreigners. The other word we can give as an example is "macula." Its origin could be derogatory and offensive but over time in some communities it is used not to offend but as a colloquial reference to Indians.

The fact that the complainant knows how offensive is the word grigamba is , which we undeniably accept, does not mean every single person in South Africa knows its negative connotations. There is absolutely no need for a debate on this matter. We have accepted that it is wrong, it was not supposed to have been used and we think that is enough."

EVALUATION

[6] Since the dawn of democracy in South Africa, the government and other institutions such as South African Institute of Race Relations have been hard at work to promote reconciliation and social cohesion. The government and these institutions have always sought to promote unity among citizens after the citizens were divided along racial and ethnic lines by the old repressive apartheid government. In one of his speeches after his inauguration, Nelson Mandela encouraged South African Citizens to love one another and to avoid using derogatory names such as "Kaffir" as he believed that the use of such words will defeat reconciliation and social cohesion. He then advised that such words should not form part of our vocabulary any more. In one of his articles, Thando Thangela, an expert in criminal and civil law, encourages us to avoid using words like "Koolies" as he believes that the use of such words will impede reconciliation and social cohesion. In 2011, at the gathering of the Economic Freedom Fighters in Thembelihle, the leader of the

said party, Julius Malema, used the word “Koolies”, while addressing the party supporters, as a result whereof the leader of the minority Front, Amichand Rajbansi, registered a complaint, on social platforms, against Julius for using the word, as Amichand contended that the word “Koolie” is derogatory and offensive to the Indian community.

[7] Prior to 1994, foreigners in South Africa were experiencing acts of discrimination and violence and, contrary to expectations, these acts of violence increased after 1994, which led to xenophobic attacks between 2009 and 2013, which saw approximately 100 people being killed. A view is held that these attacks were attributable to; *inter alia*, fear and hatred of foreigners. It therefore follows that a large segment of the society will always be offended if injurious remarks are made against foreigners or derogatory names are used to refer to foreigners. Having said this, I wish to state that the Complainant’s contention that the Respondent, on the morning in question, broadcast offensive and invidious material is genuine and has basis, however, the question that needs to be answered here is whether the Respondent, by broadcasting the material, contravened the Broadcasting Code, more particularly clause 4.2 (c) and 6.1 thereof.

[8] It has been previously held by the BCCSA adjudications and judgments, that freedom of expression is one of the fundamental Constitutional Human Rights and that same cannot be unfairly curtailed. Presenters, like any other citizen, do have the right to freedom of expression and they cannot be deprived of this right, unless the exercise thereof violates other people’s rights, particularly the right to human dignity and respect. The word “*Grigamba*”, which is the cause of the complaint herein, is commonly used in South Africa to refer to Black foreigners, especially foreigners from African countries and we cannot blur the fact that the word carries negative connotations. This word is used interchangeably with the word “*Makwerekwere*” and the meaning thereof remains the same, i.e. black foreigners. It is generally believed that the two words are unacceptable and offensive and they are used to denigrate and discriminate against Black foreigners. The Respondent, in his reply to the complaint, states:

“Whilst we unreservedly agree that the word “grigamba” is derogatory and should not have been used on air, **it is imperative to note that in some communities, the same word is casually used, giving an impression that it is acceptable.**”

The Respondent goes further to state that:

“The fact that the complainant knows how offensive is the word grigamba is, which we undeniably accept, does not mean every single person in South Africa knows its negative connotations. There is absolutely no need for a debate on this matter. We have accepted that it is wrong, it was not supposed to have been used and we think that is enough.”

Offensive words, irrespective of the general usage thereof, remain unacceptable and impermissible and are therefore, on the face of them, hurtful. To substantiate this point, I wish to refer to the unreported case of Johan Rutger *Herselman v Khayaletu Eric Geleba, Eastern Cape Division of the High Court*¹, wherein judge Dawood held that:

“The word baboon on the face of it can be hurtful or harmful or incite harm or promote or propagate hatred.”

I accordingly find that the use of the word “*Grigamba*” by the Respondent is offensive and hurtful and that it can incite harm or propagate hatred of foreigners. By using the word “*Grigamba*” on air, I find that the Respondent has contravened Clause 4.2 (c) of the Code.

[9] In paragraph 6 of this adjudication, I made reference to xenophobic attacks in South Africa between 2009 and 2013 and stated that it is believed that these attacks were attributable to, among other things, fear and hatred of foreigners. It is in that spirit that people, more particularly broadcasters, should guard against the use of derogatory words when they develop radio content. Phat Joe is, in the books of many listeners, a seasoned and influential on-air personality and I find that he should have known that the word “*Grigamba*”, just like the word “*baboon*”, is derogatory and hurtful and is therefore offensive.

¹ Case No: 231/2009

[10] In both its response and reply, the Respondent acknowledges that the word should not have been utilised to which an apology regarding the usage of the word on air was rendered. It therefore can be deduced that the Respondent conceded that the word “*Grigamba*” is derogatory and I find that the Respondent should have further acknowledged that the use of the word had the potential to incite harm and propagate hatred of foreigners. I am, however, perplexed by the fact that, in its response and reply, the Respondent made an attempt to justify its conduct regarding the morning in question. The Respondent contended that the intention was never to cause any harm or incite violence, however, failed to explain its intention of having used the word on air. I therefore find that the intended result with the use of the word was reckless and that the Respondent could have foreseen that the using of such word could be offensive. I therefore, find that the word was used in a derogatory sense, that it perpetuated hatred of foreigners and that it would incite harm.

[11] In his reply to the Respondent’s response, the Complainant contended that the material was broadcast at the time when a large number of children were likely to be part of the audience. In the case of *Makwa v SABC Metro FM*², Ms. Fakude held that:

“The average school start time for children in South Africa is 7:30 am and the broadcast was between 6:30am and 7am. This is a time when a large number of children are likely to be part of the audience as they are on their way to school and are likely to be listening to the radio in their various modes of transport.”

Since the material was broadcast at 6:35, I find that a large number of children were part of the audience and accordingly find that clause 6.1 was contravened.

In the result, I find that the Respondent contravened clause 4.2 of the Code, particularly 4.2 (c) as well as 6.1, thus the complaint is upheld and the Respondent is reprimanded.

² Adjudication No: 23/ 2019

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D.J. MAABANE
COMMISSIONER: BROADCASTING COMPLAINTS COMMISSION