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CASE NUMBER: 05/2006

DATE OF HEARING: 18 JANUARY 2006

MR JEREMIAH PHILLIPS **COMPLAINANT**

vs

P4 RADIO **RESPONDENT**

TRIBUNAL: **Prof Kobus van Rooyen SC (Chairperson)**
Dr Lynda Gilfillan (Co-opted)
Ms Zenobia Africa (Co-Opted)
Ms Kate McCallum (Co-Opted)

Complainant: The Complainant did not attend

For the Respondent: Mr Gavin Meiring, Station Manager , P4 Radio.

Breakfast show host referred to Idols contestant as "apple-picker" – said remark allegedly caused "uproar in the community" – effect of remark aggravated by presenter's accompanying laughter – remark amounts to negative stereotyping – effect reinforced by fellow show host – entire effect adversely affects attempts at nation-building, according to Complainant, who requests public apology from presenter - Tribunal finding that Clause 38 not infringed – not a "serious affront" – dignity of contestant not impaired – contestant in any case entered public domain, becoming an object of "public interest"- this factor overriding concerns of privacy and dignity - remarks by hosts on subsequent programmes amount to a public apology – remarks judged as imprudent - no contravention of Code found and complaint not upheld – J Phillips v P4 Radio, case no05/2006.

SUMMARY

A breakfast show host referred to an Idols contestant as an "apple-picker", a remark that the Complainant alleges caused an "uproar in the community". The effect of the remark was allegedly aggravated by the presenter's accompanying laughter, and the entire effect was one of negative stereotyping that in turn negatively affects nation-building efforts. The Complainant requested a public apology from the presenter. The Tribunal found that the said remarks do not constitute a serious affront to the contestant's dignity. In any case, the contestant, by entering the competition, entered the public domain, inevitably subjecting herself to "public interest", which factor mitigates possible infringement of privacy or dignity. No infringement of Clause 38 occurred. Moreover, remarks by hosts on subsequent programmes amount to a public apology. Therefore, the host's remarks are judged as imprudent. No contravention of Code found and complaint not upheld.

JUDGMENT

Dr Lynda Gilfillan

[1] This matter concerns a complaint lodged with the BCCSA by Mr Jeremiah Phillips of Phillips Business Solutions. He was aggrieved by a broadcast in September on the Breakfast Show of Radio P4.

[2] The Breakfast Show hosts, Aden Thomas and Julian Naidoo, discussed one of the Idols 2005 contestants, Karin Kortje, who comes from Grabouw – which happens to be an apple-growing area. Julian Naidoo called Ms Kortje an "apple picker" who "doesn't do it" for him, laughing as he did so. Co-host Aden Thomas supported him in his view that Ms Kortje did not stand a chance of winning the contest. Both hosts implied that she is not attractive enough to win, lacking what it takes to make up the "package" that constitutes a winning contestant.

[3] The Complainant based his complaint on clause 38 of the Code of Conduct. This clause deals specifically with privacy and the dignity of individuals. Clause 38 reads:

> *Insofar as both news and comment are concerned, broadcasting licensees shall exercise exceptional care and consideration in matters involving the private lives, private concerns and dignity of individuals, bearing in mind that the rights to*

privacy and dignity may be overridden by a legitimate public interest..

[4] The Complainant's argument, as far as clause 38 is concerned, is that the broadcast was an affront to the dignity of an individual. The remarks made by the presenters, together with their attitudes, amount to negative stereotyping of a certain group of people, i.e. "apple-pickers", that is, people from Grabouw who come from "humble backgrounds" and who are not especially good-looking.

[5] The Tribunal disagrees that the remark amounted to a serious affront of the individual's dignity. Also, the contestant, by entering a widely-televised competition, had entered the public domain, and thus become an object of public interest. This has made her vulnerable to negative comments by broadcasters and the like.

[6] The Respondent explained that the breakfast talk show host broadcasting to an adult audience, which is 90% coloured, with the majority of the listeners being women. The kind of material broadcast is adult, though never one-sided, even where an "angle" may be taken. The purpose of the host's remarks is usually to provoke a reaction.

[7] The Respondent pointed out that while no official apology had been made, subsequent programmes had provided balance, in that positive opinions had been expressed regarding the contestant's talents and attributes.

In the result we find that there was no contravention of clause 38 of the Code and the complaint is therefore not upheld.

Dr Lynda Gilfillan

Chairperson van Rooyen and co-opted members Africa and McCallum concurred.