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Case Number: 61/2005

Date of Hearing: 24 OCTOBER 2005

N HAWKEY

COMPLAINANT

vs

ELECTRONIC MEDIA NETWORK

RESPONDENT

**TRIBUNAL: Prof Kobus van Rooyen SC (Chairperson)
Mr Ratha Mokgoatheng
Ms Refiloe-Mokoena-Msiza
Dr Linda Venter**

For the Complainant: The Complainant in person.

For the Respondent: Mr Sibusiso Ndebele, Programme Acceptance Manager, Mr Bobby Heaney, Executive Producer, LOL and Ms Eileen Sandrock, Commissioning Editor.

Prank perpetrated on a willing participant – prank unlikely to offend a likely informed viewer of the programme as such viewer is progressively appraised of the content of the prank. Complaint is dismissed. N Hawkey vs M-Net, Case No: 61/2005.

SUMMARY

Complaint that a prank perpetrated on a willing participant in the programme “Laugh out Loud” was inhuman and distressing. Held that the likely informed viewer of the programme would be aware that the prank is a send off intended to

take the mickey out of the participants – the pranks perpetrated in the programme are hoaxes and are staged. Complaint is dismissed.

JUDGMENT

RATHA MOKGOATLHENG (Deputy Chairperson)

[1] The Complainant has lodged a complaint regarding the programme “*Laugh out Loud*” which was broadcast on the 21st September 2005 at 19:30. This broadcast involved a scene where a participant, a former Miss South Africa, Cindy Nel is through stratagem effected by hidden cameras and colluding actors, led to believe that a friend of hers, after being kidnapped, is blown up in the car in which he is held hostage, the explosion purportedly leading to the apparent death of her friend. Of course, all this is a hoax intended to take the mickey out of Miss Cindy Nel. The Complainant states that he found this staged scene offensive and emotionally disturbing.

[2] The Respondent states that the prank perpetrated on Miss Nel was harmless, well executed, controlled and in good taste. The Complainant’s concerns are that as a viewer, he was not forewarned about the content of the prank, even though realistically it was a hoax. He states that he and his wife found the stunt inhuman and disturbing in that the “victim” Cindy Nel was actually distressed because she truly believed that her friend was kidnapped and killed in an exploding motor vehicle whilst held captive and hostage in the boot of that vehicle.

[3] The applicable rule is contained in clause 14

Violence - Licensees shall not broadcast any material which judged within context:-

- (i) contains gratuitous violence in any form i.e. violence which does not play an integral role in developing the plot, character or theme of the material as a whole.
 - (ii) sanctions, promotes or glamorizes violence.
- [4] The programme “*Laugh out Loud*” is a programme featuring celebrities, caught on camera, being fooled by elaborately constructed and executed hoaxes and pranks. The programme is a comedy but in essence depends on the gullibility and gregariousness of the participant to be fooled or “to be had”. The programme complained of was the umpteenth one, and the informed viewer of M-Net is likely to know and appreciate that “Laugh out Loud” is a skit perpetrated on celebrities.
- [5] The question concerning the Tribunal was how far and elaborate can the presenters go without invading the personality rights and dignity of the unwary participant. The broadcaster assured the Tribunal that the pranks are well rehearsed, the target is carefully identified, and that psychological counselors are at hand to assess the emotional aspects likely to affect the participants.
- [6] The purported victim, Cindy Nel, obviously knew what the programme was about and appeared to be a willing participant who was aware that she was an actress in a perverse skit. The only time Cindy Nel expressed a modicum of concern was during the finality of the prank, when her friend apparently appeared to be blown to pieces by an exploding rolling motor vehicle in whose boot she purportedly thought her friend was imprisoned.
- [7] The friend by slight of displacement had withdrawn from the boot before the motor vehicle rolled. For the uninformed and uninitiated it is conceivable that they could find the programme distressing, but a reasonable adult viewer of the programme is unlikely to find the programme inhuman and shocking, as the viewer would know that it is all make-believe intended as entertainment.

[8] In this impugned episode Cindy Nel was a willing participant who was au fait with the format of the skit. The viewer is privy to the plot of the prank by secret camera depicting images of what the prank entails. This information is unbeknown to the participant. This safeguard, in our view, ensures that the viewer is not placed in a speculative position regarding the realism or otherwise of the prank.

[9] As a result, we find that the Respondent did not contravene the rule on violence: The violence depicted was not gratuitous because it played an integral role in developing the plot or theme of the material. Secondly, the programme did not sanction, promote or glamorize violence.

The Complaint is dismissed.

**RATHA MOKGOATLHENG
DEPUTY CHAIRPERSON**

The Chairperson and co-opted members Mokoena-Msiza and Venter concurred.