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CASE NUMBER: 05/1995

DATE OF HEARING: 3 February 1995

GAMES AFRICA

COMPLAINANT

vs

SABC

RESPONDENT

TRIBUNAL: **PROF K VAN ROOYEN SC**
 MRS H STARK
 MNR C VAN DER MERWE
 ADV M LEPHADI
 REV DSR DU TOIT
 MR E LININGTON

OPSOMMING

‘n Klagte teen ‘n program van Isabel Jones rakende loterye, is in die guns van Games Africa beslis. Die program het nie onderskei tussen loterye met ‘n goeie record en ‘n lottery wat ineengestort het nie. Ithuba, wat ‘n goeie record het, is in die proses onbillik behandel. Gevolglik beslis die Kommissie dat die saak in die reine gestel moet word in a opvolgende program. Die aangeleentheid is in ‘n gemoedelike gesprek tussen Games Africa en die SAUK geskik en hulle sal in die verband ‘n verslag van die skikking by die UKKSA indien.

JUDGMENT

One of the programmes under the heading “Fair Deal” produced by Isabel Jones dealt with the problems surrounding lotteries. The programme dealt with the failed Laduma lottery operation. It also warned that lotteries should be properly controlled and not be allowed to operate without the necessary authority. However, Games Africa, complained about this programme since, according to its view, it had made no effort to discriminate between such lotteries and the Viva and Ithuba lotteries which Games Africa operates. It was contended that these lotteries are run with full permission and proper authority from Government and according to the strictest regulations and security systems. Their has, according to this argument, never been a single occasion of fraud or non-payment of winning claims on the Viva or Ithuba games. To date more than R200 million has been paid to winners by Games Africa.

The complaint was that Ms Jones displayed visuals of Ithuba and Viva tickets throughout her programme, whilst referring negatively to the failed Laduma lottery. According to the complainant, this created a negative impression with viewers, which is damaging to the credibility, support and sale of their tickets and therefore also detrimental to the welfare trust. Ms Jones, at no stage, according to this argument, attempted to contact the complainants to give her any information about the operation or lottery product.

Clause 3 of the Code of the Broadcasting Complaints Commission provides as follows:

- 3.1 The electronic media shall be entitled to comment upon or criticise any actions or events of public importance provided such comments or criticisms are fairly and honestly made.
- 3.2 Comment shall be presented in such manner that it appears clearly that it is comment, and shall be made on facts truly stated or fairly indicated and referred to.
- 3.3 Comment shall be an honest expression of opinion, without malice or dishonest motives, and shall take fair and balanced account of all available facts which are material to the matter commented upon.

The Commission came to the conclusion that the complaint was justified. The impression which the programme created was that all lotteries are subject to suspicion. This is too sweeping an approach and affects the balance, which such a programme should strive to attain.

Ms Koornheef, Deputy Managing Director: Sales and Marketing of Games Africa and Mr Malan Otto, head of internal complaints at the SABC, reached an amicable settlement of the matter. It was agreed that it was too late to broadcast a correction of the said programme. However, time would be given to Games Africa at a later stage and the untainted record of their operation would then be brought to the fore.

The Commission requested the parties to forward a copy of the settlement and its outcome to it as soon as it became relevant.

The complaint is upheld (Mr Linington dissenting)

**JCW VAN ROOYEN SC
CHAIRPERSON**