BROADCASTING COMPLAINTS COMMISSION OF SOUTH AFRICA

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Case no: 07/2002

Date of Hearing: 14 February 2002

P Johnson **Complainant**

v

94.7 Highveld Stereo **Respondent**

TRIBUNAL: **Prof Kobus van Rooyen SC (Chairman)**
Mr Ratha Mokgoatlheng (Alternate Chairperson)
Prof Willem de Klerk
Prof Henning Viljoen

Complainant not present

For the Respondent: **Mr R Naidoo, Station Manager**
Mr Z Ntukwana, Regulatory Affairs Manager

Racism - racially derogatory language - Chinese person referred to as "Chink" - name objectively seen as likely to harm race relations - not acceptable in South African context - BCCSA Code contravened. Johnson v 94.7Highveld Stereo. Case No: 07/2002.

SUMMARY

Reference to a Chinese person as a "Chink" in Jeremy Mansfield Show. Although Tribunal finding that use of the word not intended to be derogatory of Chinese people, seen in the South African context, the word is likely to be harmful to race relations in our country and therefore constitutes a contravention of the Code. Complaint upheld.

JUDGMENT

Prof Henning Viljoen

On Monday 5 November 2001 at about 8:45 Jeremy Mansfield on Radio Highveld in his Rude Awakening show, referred to Jet Li, a Chinese actor who plays in the film "Kiss of the Dragon" as some "Chink". The Complainant, who did not appear before the Tribunal but wrote several e-mails of complaint to the radio station and the BCCSA, stated that he was "…totally insulted". He accused Jeremy Mansfield of "…making cheap racial slurs at a minority". He also likened the reference complained of to calling black people "kaffirs" and Indian people "coolies".

The word complained of is described thus in the Concise Oxford Dictionary:

> "Chink n. (sl., derog.) a Chinese. [abbr.]"

The abbreviation "derog.", which of course means "derogatory", is qualified in the introduction of the Dictionary as "used only contemptuously".

We have been assured, during argument, by the representatives of 94.7 Highveld Stereo that the presenter did not intend to use the word contemptuously. As a matter of fact, they assured us, Mr Mansfield did not even know that the word itself is derogatory. The Tribunal has to accept this.

In South Africa we have a history of poor relations between the different racial groups. Derogatory names for people of the different race groups abound. Words like "hotnot", "kaffir", "rooinek", "boer", "coolie" come to mind as names that have for decades been used to bring people of the different races in South Africa into contempt. The problem with these kinds of words is that it does not always depend on the intention of the author whether they are derogatory or not. If a so-called coloured person would refer to himself as a "hotnot" in a light hearted way, there would be some irony in the use of the word, but no offence. However, should a person of any of the other races use the same word to refer to a so-called coloured person, the word itself would be regarded as offensive, regardless of the intention with which it was used by the author.

The question to be decided by the Tribunal is whether, objectively seen, the word is derogatory of the Chinese people. The question could be answered by referring to a comparable case where the US Secretary of State Colin Powell was referred to in a radio broadcast as a "house nigger". See *Hart v Radio 702, case no 48/2001*. In that case this Tribunal found that the use of derogatory language like "kaffer", "meid", "outa", and "nigger" (and we think "chink" should be included in this list) amounts to a step back into the past, as far as South African history is concerned. These words are bound to cause severe emotional pain. It amounts to a form of advocacy of hatred based on race and should be outlawed. The Chinese community, being part of South African society, would surely regard reference to one of them in this manner as offensive.

Although we should not be over-sensitive to the use of names in referring to racial groups, we should keep in mind the pain that was caused in the past by the use of these words. As a tribunal, referred to in section 39 of the Constitution, it is our duty to help build a democratic South Africa that is non-racialist and non-sexist. We have

to interpret the Broadcasting Code in the spirit of the Constitution of our country, including the Bill of Rights. It is therefore our duty to protect freedom of speech, but simultaneously to find a balance between this right and the rights to human dignity and equality.

We accept in favour of the presenter that he did not intend to offend when he used the word “Chink”. We also take note of the fact that no Chinese people complained about the use of the word. This is not relevant in this situation as we are dealing here with a principle. Even if no Chinese person listened to this particular programme, other people of other racial groups heard the word and the impression is likely to be created that it is in order to use this word. We regard it our duty to bring to a close the practice of using words in the broadcasting media that might cause pain to people of different racial groups in South Africa. We therefore find that there was a contravention of the Code of the BCCSA by Mr Mansfield when he used the word “Chink” in referring to a Chinese actor, despite lack of malice on his part. We reprimand the Respondent for this contravention.

Prof Henning Viljoen
BCCSA Commissioner

The other members of the Tribunal concurred.