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CASE NO: 07/2003

DATE OF HEARING: 21 February 2003

BEESKRAAL **COMPLAINANT**

v

SABC (SAfm) **RESPONDENT**

TRIBUNAL: PROF. KOBUS VAN ROOYEN SC (CHAIRPERSON)
MR. RATHA MOKGOATLHENG (DEPUTY CHAIRPERSON)
DR. WILLEM DE KLERK

FOR THE COMPLAINANT: Mr. Anton van Staden (Attorney)

FOR THE SABC: Mrs. Dorothy van Tonder (Manager - Broadcast and Compliance, Policy and Regulatory Affairs)

Unfair interview - presenter making untrue insinuations of conservatism against song group – members of group being present but not correcting presenter – leader of group having been forewarned by other members that the presenter's style would not be accommodating since he is usually ready to exploit interviewees if he is afforded the chance – leader nevertheless accepting offer and appearing live- Code not contravened – leader should have corrected the sniding remarks whilst on air. Beeskraal v SABC: 07/2003

SUMMARY

Beeskraal, a song group, was invited for an interview on the Mark Gillman show. His members forewarned the leader that they might not get a fair interview and that the presenter, who is known to make severely critical or sarcastic remarks about his interviewees and put them on the defence, could exploit the Group. This is a well-known approach of the presenter and the likely listeners of the radio station are well aware of this style. When the Group arrived they were introduced as a "far right-wing punk band" and they were asked about the nature of their clothing, which emerged to be khaki. They were also asked as to why they call themselves "beeskraal" ("cattle corral") and whether they were, accordingly, farmers. To this the leader answered that they were "Boere", which is generally regarded as signifying a more conservative segment of the South African populace, but not necessarily so. The complainant also complained that it was insinuated that they had connections with White fundamentalists who had allegedly caused bombs to explode in Soweto.

The BCCSA held that since the Complainants were well aware of the style of the presenter and nevertheless accepted the offer to be interviewed, they voluntarily took the risk of being subjected to his style. They should have reacted on air to what was said by the presenter, which they did not do and, accordingly, they have themselves to blame for any negative impressions with which the listeners were left. In any case, the likely audience would have understood the interview within the parameters of the kind of "interviews" usually conducted by the presenter. He makes wild allegations and expects his interviewees to react and hit back. This did not happen and the Complainants left the interview feeling disappointed at what had happened.

The BCCSA, however, also stated that this judgment did not mean that the station had a free hand in what it did. Any interview on a matter of public importance would have to be *balanced and fair* in terms of clauses 3 and 7.2. The present interview was, however, not on a matter of public importance or controversy and the Complainant has only itself to blame for having entered the legendary lion's den.

The Complaint is dismissed.

JUDGMENT

JCW van Rooyen

[1] *Beeskraal*, a song group, was invited for an interview on the Mark Gillman show. The leader was forewarned by advisers that they might not get a fair interview and that the group could be exploited by the presenter, who is known to make tongue-in-cheek and critical remarks against his interviewees so as to put them on the

defence. This is a well-known approach of the presenter and the likely listeners of the radio station are well aware of this style. The leader, nevertheless, decided to do the interview since he believed that it would promote the Group's image amongst the 4 million listeners.

[2] When they arrived they were introduced as a " far rightwing punk band" and were asked about the nature of their clothing during performances, which emerged to be khaki. Khaki is the colour and type of clothing often associated with conservative thinking Afrikaans speaking South Africans. They were also asked as to why they called themselves "beeskraal" ("cattle corral") and whether they were, accordingly, farmers. To this the leader answered that they were "Boere", which would be understood by likely listeners of the station as signifying a more conservative segment of the South African populace, who are not necessarily farmers. The Complainant also complained that it was insinuated that they had connections with White fundamentalists who had allegedly caused bombs to explode in Soweto. The presenter also referred to one member of the Group as "dik en ongeskik" (literally meaning that he was fat and without manners) and, according to the Complainant, generally insinuated that the members of the group were illiterate – thereby implying that "Boere" were illiterate and accordingly drawing in a segment of the populace, which calls itself "Boere". It was also insinuated that the Group only played what is called "boeremusiek" (a traditional form of music which is enjoyed by many Afrikaans speaking people, whether conservative or not). No questions were asked about the Group's future plans or its history, the Complainants also stated.

[3] On the whole, the complaint was that the interview had created the wrong impression: they were all but conservative, had performed with Black groups at festivals and that they played *rock* music with traditional instruments. This interview would, so the argument ran, put an end to invitations to festivals where Blacks were in the audience or where Black bands played.

[4] Clause 3 of the Code provides as follows: Comment:- "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.

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.

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."

Clause 7.2 provides as follows:

"Controversial Issues of Public Importance:- In presenting a programme in which controversial issues of public importance are discussed, a broadcasting licensee shall make reasonable efforts to fairly present significant points of view either in the same programme or in a subsequent programme forming part of the same series of programmes presented within a reasonable period of time and in substantially the same time slot.

A person whose views have been criticised in a broadcasting programme on a controversial issue of public importance, shall be given reasonable opportunity by the broadcasting licensee to reply to such criticism, should that person so request."

[5] We have no doubt that the Complainants are sincere in their impression that the interview had "gone wrong" for them. What the leader regarded as an ideal opportunity for the group to reach the 4 million listeners of the radio station, turned into a fiasco for them. We are, however, of the view that the group has itself to blame for what happened. They were on air and had the opportunity to react on air to the comments and negative remarks of the presenter. This they did not do. They were asked about the name of the Group and replied that "Boere" did not mean "farmers' but " Boere" in the sense of Afrikaners. "Boere" would be understood to mean conservatives and combined with the khaki reference, the fat was, proverbially, in the fire. The leader was forewarned that this could happen, but nevertheless proceeded in what he, incorrectly, perceived to be the interests of the Group. He should immediately have corrected the presenter by stating that they had no connection with fundamentalists, or bombings, or conservative leanings and that they were, in fact, an unique Rock group, which performed with Black groups at Rock festivals and were all but conservative in their approach to the new South Africa. Our impression of the Group was that they were modern thinking and used the medium as a promotional gimmick.

[7] Our approach to the interview would have been totally different if matters of public importance were to have been raised in the interview. Then there would have been a duty on the Respondent to ensure balance and the right to reply. We have, however, come to the conclusion that the interview did not deal with such matters. It dealt with a matter of interest in the South African song world and nothing more. Balance was not required and the Complainants have themselves to blame that they had not responded on air while they had the opportunity to do so. This also applied to the insinuation that they had possible connections with the bombings. We, in any case, do not believe that listeners would have taken the reference seriously. It fell back on the theme of Nero playing the fiddle while Rome was burning and would not have been understood in the literal sense of the word. The accent was on the role of bands within the real world – a band playing while it ignored what was going on in the real world. The leader should have rejected this view, but did not do so. In any case, listeners would not have formed a final view on the Group as a result of the broadcast. They know the style of the presenter and would not regard the interview in a serious light. It was also not

intended to be a serious interview: the critical remarks were obviously meant to draw responses, which were, however, not forthcoming. For listeners, this was just one more Gillman interview which poked fun, as usual, at interviewees and should not be taken seriously.

[8] Our view is that the Group made an error in accepting the invitation to the interview. They thought that they would be afforded a solid opportunity to inform about their role in the new democratic South Africa and promote their Group. This view obviously did not accord with the parameters of this kind of programme, where serious interviews are seldom if ever held. Our opinion of the Group is that they are all but conservative and that they are enthusiastic to take part as a song group in a free, open and democratic South Africa. We also do not believe that listeners regarded the interview as a serious interview.

The Complaint is dismissed.

JCW van Rooyen SC
24 March 2003

The other two Commissioners concurred in the above judgment