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CASE NUMBER: 33/2002

DATE OF HEARING: 14 JUNE 2002

STREIT, MIZRACHI & NEL

COMPLAINANTS

VS

SABC

RESPONDENT

**TRIBUNAL: PROF. KOBUS VAN ROOYEN SC (CHAIRPERSON)
REV. DANIE DU TOIT
ADV. ROBIN SEWLAL
MRS. DOLLY MGOQI**

**FOR THE RESPONDENT: MRS DOROTHY VAN TONDER, ACTING
MANAGER: POLICY & REGULATORY AFFAIRS, CORPORATE AFFAIRS,
SABC**

News – balance in reporting - Mid East conflict – absence of by introducing commentary of a child – comment by SABC reporter about an “ongoing massacre” not acceptable because it amounts to comment by a broadcaster which is generally not appropriate for news items since it draws the broadcaster into the debate, whilst news should remain objective from the broadcaster’s point of view. Not unacceptable to refer to Palestinians, since viewers or listeners would understand the words to refer to the persons who support Mr. Arafat.

SUMMARY

Whilst reporting on an exhibition of materials reflecting what was said to amount to a yet unpublished collection of Mid-East conflict photographs, a child was asked to comment on what she had seen. The sobbing child tells about the unfairness of the war since the Arabs only had stones to throw. The reporter also referred to the “ongoing massacre” (of the Palestinians by the Israel forces). The report also referred to the “Palestinians” which, according to the second complainant, amounted to a misnomer from an historical perspective. The BCCSA upheld the complaint insofar as the introduction of the child’s view impacted on the necessity for balanced reporting. The expression of an opinion by the reporter that there is an “ongoing massacre”, also affected balance and was uncalled for, seen from the perspective of a broadcaster, which generally has to remain objective during a newscast.

JUDGMENT

JCW van Rooyen

- [1] Whilst reporting in a SABC news item on an exhibition of yet unpublished materials reflecting the plight of the Palestinians in the Mid-East conflict, a child was asked to comment on what she had seen at the exhibition. The sobbing child commented on the unfairness of the war since the Arabs only had stones to throw. The reporter also referred to the “ongoing massacre” (of the Palestinians by the Israel forces). The report also referred to the “Palestinians” which, according to the second complainant, amounted to a misnomer from an historical perspective.

- [2] First Complainant gave the following reasons for her complaint:

K Streit: “I refer to the Benoni Exhibition re the Middle East item broadcast on the 18 May 2002 in the News Bulletin. Firstly let me express my extreme condemnation at the fact that you felt it necessary to allow what the child said to be part of this news item. I am surprised that you could not see that what the child said has the potential to incite religious hatred. To refer to the “Jews have guns while the Muslims only have stones.” I am sure that you are well aware of the fact that on the CNN program just last week the topic was about the fact that Muslims teach their children from a very young age to hate Jews. The Muslims categorically denied this. Well you can send your tape to CNN because what you broadcast yesterday shows that this is in fact true. The child used in your broadcast was obviously indoctrinated to believe that Jews had guns while Muslims only had stones. She obviously was not told the full story of how two men, namely Sharon and Arafat, have so little consideration for human life that they do very little to sort out their political differences other than to kill innocent people. She was obviously also

not told that not all Israelis are Jews and that not all Palestinians are Muslim. She was also not told that not only Muslims were killed in Israel. I am sure that the Jews would also want her to see the bodies of the Israelis that were scattered all over Israel when the suicide bombers were used by the Palestinians. Your broadcast projected Muslim children as being totally biased against other religions and indoctrinated by others to believe that they are the only people who have suffered in the Middle East. I would appreciate your News depicting adults with adult opinions on such critical issues as the Middle East and not using such young children who have no idea of the true situation. I have not affiliation to either religion, but I found this news item in very bad taste and pure propaganda. You as the news editor should be more sensitive to this kind of so called news. Children's opinions should be left with children's issues and not be brought into religious or political stories which are very controversial."

An excerpt from the second Complainant's complaint reads as follows (the rest of the complaint deals with general complaints as to reporting, which we are not authorized to inquire into without specific details as to time of broadcast and the channel involved):

Y Mizrachi: "I would like to complaint about a report that was broadcast on the SABC3 News at 08:00pm on Sunday evening, 19 May 2002. A report by Donald Chauke from a venue in Johannesburg, he reported on a display of what they called "photographs of Palestinians". The eporter mentioned during his report as I quote: "THE ONGOING MASSACRE IN PALESTAIN..." etc. This is an outrage by any professional and international standards of journalism. The reporter did not bring this as a quote from someone like the organizer, but it was his own wording. Mr Donald Chauke does not have the right and is not in any position to say lies like these. The UN Human Right Commission had conducted its own investigation at Jennin, and clearly indicated that during the fighting 52 people were killed and 21 of them were civilian. (The Palestinian terrorists ALWAYS use their people, mainly women and children as a human shield, ...) Again, he is in no position to report in this way. I would like a full investigation in the matter."

Third complainant: A Nel: "I would like to file a complaint against SABC3 regarding their News Headlines at 20:00 on Saturday, 18 May. The main story of this news broadcast depicted the comments and reaction of a young girl who attended a photo exhibition in Benoni. The exhibition showed anti-Israeli photographs from a Palestinian bias. My complaints are as follows:

The reporting was racially biased. News broadcasts must be impartial.

This is hardly news.

Broadcasts like this can only spark racial tension, which is detrimental to us all – even the Palestinians. Please would you take appropriate action to ensure that this pathetic form of reporting does not happen again."

[3] The SABC responded as follows:

"The news report was on an exhibition, by a pro-Palestinian group, of photographs they claimed has been withheld from the public by the Western-controlled media. It was an open exhibition, attended by the general public among who were members of the Muslim community. There was no age-restriction, which is why some parents chose to take their children along.

Nine-year old Hafeez Asmal was deeply affected by what she saw, and the words she uttered were spontaneous and certainly not solicited or encouraged by our journalist. There is not question of the SABC having “exploited” a child to get this story, nor was the objective to “incite religious hatred”. Obviously any news cameraman/journalist would have homed in on an emotional moment such as this, given the alternative of showing people gazing at photographs. It should also be noted that none of the photographs was shown in a way that any of the detail could be seen.

We are aware that any report or programme on anything relating to the conflict in the Middle East is bound to arouse emotions, even among people who have no direct affinity with those involved in the war. It is our experience that viewers and listeners, who have their own bias in either direction, analyze every word and nuance. As a result, the SABC is accused daily of biased, untruthful, inaccurate broadcasts, and of incitement to religious/racial hatred. It must be noted that these accusations come from both the pro-Palestinian and the pro-Israeli groups. It is also interesting that in this context the SABC is seldom, if ever, accused of a lack of balance. From calls and letters we have had I can say with virtual certainty that this is because most of the complainants on both sides do not want anything broadcast that reflects the other side of the story at all.

We would like to assure the Commission that in accordance with its well-defined editorial code, the SABC will continue to strive for balance over time in all its reporting on this very difficult and emotive situation.”

[4] Insofar as news is concerned, the Broadcasting Code provides as follows in the first three sub-clauses concerning news:

2.1 The electronic media shall be obliged to report news truthfully, accurately and with due impartiality

2.2 News shall be presented in the correct context and in a balanced manner, without any intentional or negligent departure from the facts whether by:

2.2.1 distortion, exaggeration or misrepresentation;

2.2.2 material omission; or

2.2.3 summarization

2.3 Only what may reasonably to true having regard to the source of the news, may be presented as facts, and such fact shall be broadcast fairly with due regard to context and importance. Where a report is not based on facts or is founded on opinion, allegation, rumour or supposition, it shall be presented in such manner as to indicate this clearly.”

[5] By way of introduction it should be stated that our experience of the reporting on the Mid –East crisis has shown that it is extremely difficult to please supporters of the two parties in the conflict. Local emotions as to the reporting have also, understandably, been on edge in certain quarters from both supporting groups. We can categorically state that intentional biased reporting by the SABC on the crisis

has not been found in any of the matters, which have come before us. In judging news items on the crisis, it should also be borne in mind that a Tribunal such as the BCCSA should not take an armchair approach and attempt to judge items, which are often prepared in haste so as to keep the public informed, with clinical precision. Viewers and listeners would have an understanding of this and evaluate the crisis not from one or two news items, but from a range of items, which could range from a few months to a few days.

- [6] The first issue, which we must decide upon, is whether the introduction of the comments of a child affected the balance, which is required in a news item. On the one hand the views of the sobbing child are newsworthy, but place the item on the exhibition at a risk in the sense that it tends to create an imbalance, which should be rectified by countering comment. This is not done by the journalist or by any other person asked for his or her view. It might be argued that it is impossible to cover all views in a news item and, to a certain extent, that is true. However, when a news producer includes the highly emotional views of a child and the view expresses a categorical accusation against the power of the Israeli Forces and the Palestinians “who only have stones”, then an extremely emotional area is addressed by the producer who includes this scene in the item. When such a claim is made, there should at least be a countering item in which a countering view is given. This might be difficult to prepare in the short time before a news item, but then the item on the child should rather be omitted. Ultimately, we believe that the inclusion of the child’s emotional view affected the balance, which is required in news items. News differs from current affairs programmes where likely viewers often have the capacity to weigh the pro and contra arguments against each other and, in any case, come to the conclusion that the views expressed should not be taken at face value. Current affairs programmes would also be lengthier and afford viewers an opportunity to weigh up the alternatives, which would be offered in such a programme. We accordingly hold that the Respondent erred in including the views of the child, without a countering or balancing view.

- [7] Insofar as the reference to a “massacre” by the reporter, we are also of the view that only in exceptional circumstances should a broadcaster or a reporter express a view on a controversial matter in a *news* item. Clause 3 of the Code deals with commentary by a broadcaster. A broadcaster is entitled to a view on a controversial matter, but then there must be sufficient time to include countering views so as to attain fairness in terms of clause 3. Once the reporter states that there is a “massacre”, the SABC expresses a view and so as to make the news balanced, it would have to include a countering view. The nature of news does not allow for these kinds of corrections. There are enough outside views for which countering views must be sought. We do not mean that where there is general consensus the Broadcaster may not express such consensus, but where there is controversy, news presenters and reporters should refrain from expressing views. We have expressed the same opinion in the matter concerning *Rand Water Board v SABC* (17/2002). We accordingly hold that the reporter should not have expressed the view that it is a “massacre.”
- [8] Insofar as there is reference to the Palestinians, we are aware of the historical background, but viewers and listeners would realize that the term denotes the People led by Mr. Arafat in this conflict.
- [9] We expressly hold that there is no evidence of bad faith on the side of the SABC. In fact, we believe that errors of this nature could be made in the hurly-burly of reporting. We accordingly do not hold that there was a lack of impartiality on the side of the SABC. We, however, hold that there was an absence of balance in terms of clause 2.2.
- [10] Insofar as the complaints concern alleged advocacy of racial hatred, we fail to see how the material could amount to incitement to hatred. The views of a child would be judged within the context of what would be expected of a child. It is true that emotions are involved, but the news only reflected what the child felt and viewers would regard the item in this context and not regard it as advocacy of

hatred. There would be, as there was in this case, criticism of the inclusion of this view, but in this case this is not sufficient to found a case of advocacy of hatred based on race. Religion does not come into play in this matter and accordingly the complaint as to the advocacy of hatred based on religion is unfounded.

- [12] We do not regard a sanction as appropriate in this matter. There was no *mala fides* or gross negligence present.

JCW VAN ROOYEN SC
CHAIRPERSON
9 JULY 2002

The other three Commissioners concurred in the above judgment.