



P.O.Box 412365 • Craighall • Tel (011) 326 3130 • Fax (011) 326 3198 • email: bccsa@nabsa.co.za
Block No 8 • Burnside Island Office Park • 410 Jan Smuts Avenue • Craighall Park • 2196 • www.bccsa.co.za

CASE NUMBER: 16/2016

DATE OF HEARING: 20 OCTOBER 2016
JUDGMENT RELEASE DATE: 28 NOVEMBER 2016

MLENGA

COMPLAINANT

vs

eNCA

RESPONDENT

TRIBUNAL: PROF HP VILJOEN (ACTING CHAIRPERSON)
PROF V BRONSTEIN
DR T MMUSINYANE

THE COMPLAINANT: The Complainant was invited but did not attend the Tribunal hearing

FOR THE RESPONDENT: Mr Morapedi Pilane: Assistant Compliance Executive accompanied by Mapi Mahlangu: eNCA News Director and Ragani Achary: Head of News Assignments.

Complaint against the interpretation of a Broadcast whereby the complainant is of the view that a wrong interpretation of what was said by one of the people by the Broadcaster is likely not to convey with certainty the plight of those communities. Broadcaster argued that while the interpretation may not have been clear and accurate as argued, it did not affect the integrity and context of the whole story, which was to highlight the plight of those communities in regard to basic services, including water - No contravention was found - Mlenga vs eNCA, Case No:16/2016(BCCSA)

SUMMARY

The complaint concerns the alleged misleading through a translation of a Zulu language expression to the English language by the Broadcaster, thereby not likely to convey the

proper message of the plight of community members. The applicable clause 11 of the Code determines that news must be truthful, accurate and reported in a fair manner and also that news must be presented in a correct context without intentional or negligent departure from the facts. Tribunal found that the translation did not compromise the integrity and context of the story which aimed at highlighting the plight of the remote community to access basic services. As a result no contravention was found and the complaint was not upheld.

JUDGMENT

DR T MMUSINYANE

[1] The Complainant was not present at the Tribunal hearing. This is not a rare occurrence. Many complainants are far from the venue where the Tribunal sits and/or cannot find the time to attend. Although we always welcome the attendance of complainants because that helps us to assess the facts before us, in practice we often have to deal with this situation that only the Broadcaster is present at the hearing. Whether the complainant is present or not at a hearing, we have always approached complaints before us objectively and impartially and according to the requirements of administrative justice as required by section 33 of the Constitution of the country.

[2] **The complaint reads as follows:**

“I am concerned of the message that ENCA's interpreter interpreted the message of 1 of the people in an insert where the government handed over boats to the people of a kzn community. The man in the insert said the children in the school get thirsty but, what ENCA wrote was that there is no water. I feel it is misleading and is contervaying the wrong message to viewers of what is happening in that area of kzn.”

[3] **The Broadcaster responded as follows:**

“Complaints re: eNCA“News”

This letter is in response to complaint by C Mlenga about the broadcast of the news story on the September 10 at 8h00. According to the complainant the translation on screen was misleading.

We submit that while the translation might have not been as direct and literal as the complainant would have wanted, the translation did not change the essential meaning of what the subject was saying, nor did it alter what the story was about, namely, the plight of an isolated community with limited access to essential services, including water. eNCA does not believe the integrity of the story was compromised in any way by the manner in which the translation was done.

It is noteworthy that this story was a follow-up and that the intervention by Government reported in this story was precisely because eNCA had previously reported on the challenges faced by this community. The Deputy Minister is, in fact, heard congratulating eNCA for its coverage of the community issues, during the course of this news item. We believe this speaks to the fact that eNCA in no way aimed to mislead or distort facts when reporting on the community, as alleged by the complainant.

We respectfully submit that the story was presented in the correct context without any intention to mislead the viewers.

In the result we submit that the complaint has no merit and should be dismissed.”

[4] **The Complainant replied as follows:**

“I feel that eNCA is undermining the fact that it is I who is complaining and not the deputy minister. Her being happy with happy with the story doesnt mean that I am happy with the translation. I feel that the eNCA’s response is not of my liking for the mere fact that it is not taking my concerns seriously. It seems that the eNCA forgets that the minister is also representing me a member of the public.

The man in that story said the children go thirsty meaning there is water in the area but it is not brought to them. The eNCA then said the is no water as a hole.. I watched the insert and it is I who has a problem with it and not the minister. That is why I say that eNCA is undermining me cause of the ministers happiness of the story.”

EVALUATION

[5] It has been said that the news clip complained of was a second coverage of an initial story where the Broadcaster highlighted the day to day challenges of those people residing on the said remote side of the KZN province. Therefore the context and the integrity of the story is the main part within which the whole story must be viewed and understood.

[6] Clause 11 of the applicable Code states:

(1) Broadcasting service licensees must report news truthfully, accurately and fairly.

(2) News must be presented in the correct context and in a fair manner, without intentional or negligent departure from the facts, whether by:

(a) Distortion, exaggeration or misrepresentation.

(b) Material omissions; or

(c) Summarisation.

[7] The question now arises whether the Broadcaster’s Zulu to English translation of one of the resident’s statement in the mentioned news clip was reported truthfully,

accurately and fairly and also if in context it was translated in a fair manner without intentional or negligent departure from the facts presented.

- [8] While the Deputy Minister was reported to have returned to the said community in response to their plight, it is evident that a further platform was created where residents were afforded another opportunity to inform the Deputy Minister of their struggle with some of the basic services. During the said engagement, one resident highlighted the plight of having no drinking water, and its associated thirst and hunger.
- [9] The Broadcaster admitted not to have any trained language practitioner/interpreter and rely on their Crew at times for translation. Effort was made to ensure, to a certain extent, that translation of what was said was conveyed in English. The broadcaster submitted “that while the translation might have not been as direct and literal as the complainant would have wanted, the translation did not change the essential meaning of what the subject was saying, nor did it alter what the story was about, namely, the plight of an isolated community with limited access to essential services, including water. eNCA does not believe the integrity of the story was compromised in any way by the manner in which the translation was done.”
- [10] We therefore need to understand that our languages have many dialects.¹ Some words used are likely not to be viewed or interpreted in the same way by others. However what must be noted is that the translation provided by the Broadcaster did not affect the integrity of the main story line/facts. The context within which the translation is made, did not compromise the story intended to be reported. Hence the Broadcaster cannot be found to have contravened the applicable Code.
- [11] It is not disputed that the News Broadcast was accurate and reported truthfully and in a fair manner in as far as the plight of the remote communities' access to basic services including water is concerned. These are matters which government seems to have noticed and is attending to.

¹ Sharwood B *Machine translation of under-resourced languages* 2013 (Unpublished Honours Thesis) University of Cape Town at 1, 8 and 13. Ntuli ID *Zulu literature in the global book market: the English translation of Inkensela YaseMgungundlovu* (Unpublished Masters Thesis) University of Witwatersrand, at 7, 16

[12] Therefore the news, according to the translation, was reported in the correct context and in a fair manner and there was never intentional or negligent departure from the facts on the part of the Broadcaster based on how they presented the news item and clause 11 was not contravened when reporting the said news item.

The complaint is accordingly not upheld.



**DR T MMUSINYANE
COMMISSIONER**

Commissioner Bronstein and Acting Chairperson Viljoen concurred with the judgment of the Commissioner