



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

## **CHAIRPERSON'S REPORT OCTOBER 2018 to OCTOBER 2019**

### **A. THE YEAR THAT WAS**

#### **1.**

It is always a privilege to report on the activities of the BCCSA for the previous year. I am under the impression of the speed with which this year has gone by. As always there is much to be grateful for and my philosophy is to rather count all our blessings that we received than to dwell on the untoward things that have happened. It is now 3 years since the present commissioners started their term and I am happy to report that they have all done their part to make this year a successful one, *inter alia* through the writing of adjudications and also writing judgments for the Tribunal and the Appeal Tribunal and for other assistance, for which I thank them all. After the 3 years I see us all as part of a well-functioning team. At the end of this report there is a list of all the cases which we considered and decided.

#### **2.**

In the year under review we have had some very interesting cases. In a democracy like ours, one must always be aware, not only of the threats to freedom of expression, but also of the threat which this freedom might pose to the rights of others, like the rights to dignity and privacy. A case in point is, *Makau vs Multichoice*, Case 04/2019. This complaint was about a TV programme aimed at exposing people who do not fulfil their social responsibilities, like fathers not paying maintenance for their children and husbands (or wives) being unfaithful to their partners. During the broadcast, one can

see how the TV crew and reporter intrude into the private space of the complainant (his garden) where a wedding reception was taking place. This intrusion eventually resulted in a free for all, with the TV crew being chased down the street. The interesting aspect about this complaint is that it was about a promo where the programme had not yet been broadcast. However, the complainant was clearly identifiable on the promo. This was clearly an assault on the complainant's dignity and privacy. Our challenge at the Tribunal hearing was that this complaint had to be adjudicated in terms of clause 28.4 of the Subscription Broadcasting Code. However, this clause limits the protection of privacy and dignity in broadcasts to news and comment, which this promo was not. By comparison, clause 15 of the Free-to-Air Code does not have such a limitation. Through legal interpretation, we found that the limitation in clause 28.4 boils down to discrimination and that it could not have been the intention of the drafters of the Subscription Broadcasting Code to discriminate against complainants just because their rights have been violated by a broadcaster who falls under the Subscription Broadcasting Code.

With the apparent increase in popularity of these socially responsible programmes, maybe under American influence, we might experience an increase in this type of complaint. Hopefully the broadcasters responsible for this type of programme will train their employees to be more sensitive to the rights of the so-called guilty party and not just rely on what they hear from the "innocent" party. In the case discussed above, there were court records available to prove that the "guilty" party was not in arrears with maintenance as alleged by the "innocent" party.

Another important point that came to the fore in the Makau case, is the meaning of "public interest" or "public importance". In many complaints that we have received, not only this year but in many years, we have had to consider the meaning of these concepts, especially in the context of clauses 28.2 and 28.3 of the Subscription Code and clauses 12 and 13 of the Free-to-Air Code. In this regard we quoted the following from a court judgement of the House of Lords in the UK by Baroness Hale of Richmond in the case of *Jameel v Wall Street Journal Europe Sprl*<sup>1</sup> where she states:

---

<sup>1</sup> [2007] 1 AC 359.

*The public only have a right to be told if two conditions are fulfilled. First, there must be a real public interest in communicating and receiving the information. This is, as we all know, very different from saying that it is information which interests the public – the most vapid tittle-tattle about the activities of footballers' wives and girlfriends interests large sections of the public but no-one could claim any real public interest in our being told all about it.*<sup>2</sup>

That was a case in which damages were claimed for defamation. The second condition, mentioned by Baroness Hale, is not applicable to this point.

Another case that also dealt with public interest is the one of *Pastor Lukau & Alleluia Ministries International v SABC1*, Case 09/2019. Here the Tribunal had to decide whether the right of the complainant to reply to criticism levelled against him was violated. It was found that he was himself to blame for his failure to reply. But the point here is that if his privacy, dignity and reputation had been violated, whether these rights of the complainant could be overridden by a legitimate public interest. The Tribunal found that the complainant, by making his act (of resurrection of a person) known to the world through social media, has acquired the status of a public figure and that the public has a legitimate interest in this particular event, also because of the widespread media interest. We have in various cases in the past, decided that public figures deserve less protection of their dignity, privacy and reputation from public scrutiny than people without a public image. This is also the approach of the courts, especially in libel cases. With the exponential increase in popularity of social media, the dividing line between public and private might become vague. We might have to deal with this phenomenon in future.

We have also had to deal with cases in which the balance in a programme of controversial issues of public importance was complained about. An example is the case of *Greyling v 702*, Case 21/2018 in which the presenter in a discussion of a controversial issue of public importance became emotional, interrupted the caller in a phone-in programme continuously and ended the call without affording the caller the opportunity to explain his statement. It is understandable that it is sometimes necessary for presenters of such programmes to cut garrulous callers off because of

---

<sup>2</sup> At 147.

time constraints. However, if presenters interrupt callers because they do not agree with their viewpoints, we think that such presenters are not fulfilling their mandate of allowing a variety of opinions to be broadcasted. If their power to allow or disallow different viewpoints on air is abused for subjective reasons, we think that listeners have the right to lodge complaints with the BCCSA. This is not to say that presenters may not have opinions of their own and express them on air.

Talking of time constraints, we have also experienced this year, like in the past, that some complainants become so taken up with their own ideas, whether it is about politics, religion, health, etc. that they cannot stop writing about it. Pity the Registrar, commissioner or members of a Tribunal who have to work through these treatises of 10 to 20 pages. In almost all these complaints, the complainant could have made his/her point in 1 or 2 pages.

Oh, and as I am writing this review, news has come through of more than 500 complaints against a programme that was broadcast a few days ago. This is clearly an orchestrated complaint and we have in the past expressed ourselves against such abuse of the system in no uncertain terms. I have been informed by the Registrar that it is clear that only one or two complainants actually heard the programme and the rest are reacting to incitement on social media to inundate the BCCSA with complaints. What a waste of time of the Registrar and commissioners who have to deal with these complaints! This again emphasises the need we have identified before that the public should be better educated about the workings of the BCCSA.

These are but a few of the challenges with which we were faced during the year under review.

## **B. ACTIVITIES BY COMMISSIONERS**

### **Prof Sunette Lötter, Deputy Chairperson of the BCCSA:**

- Attended the 2018 International Day for Universal Access to Information Celebration presented by the Information Regulator of South Africa in collaboration with the Human Rights Commission on 28 September 2018;
- Conducted an interview with Unisa Radio on 17 October 2018 regarding the BCCSA.

**Mr Brian Makeketa, Deputy Chairperson of the BCCSA:**

- Invited to attend a meeting with Eastern Cape Local Government Communicators on the Code;
- Attended The South African National Editors' Forum (SANEF) AGM: I reported on the BCCSA's cases;
- Made a presentation on the Code of Conduct at the BCCSA's office to the Department of Media Studies at University of Venda;
- University of Pretoria lecture on Nadine Gordimer lecture delivered by the writer, human rights activist and member of the Swedish Academy, Per Wästberg - Encounters with Nadine Gordimer and Other African Writers;
- `University of Pretoria: Principal's Concert, Magical History;
- Attended the South African National Editors' Forum (SANEF) Black Wednesday Fundraising Gala Dinner.

**Adv Boitumelo Tlhakung, Commissioner of the BCCSA:**

- Wits FM interview: the main line of questioning was around whether there is intention to regulate the social media by the BCCSA.
- Motsweding FM interview on the BCCSA: The administrative processes that needs to be sensitised to the general public; tribunal and adjudication process; our role in protecting the country around reckless broadcast of material; How serious is the BCCSA with the responsibility of enforcing of the Code of Conduct in protecting the children's right within the broadcasting environment;
- Attended the Step It Up for Gender Equality conference within the South African Media hosted by the UN Women - particularly the Germany Embassy in South Africa. The core aim of the conference was to create a partnership which will be able to advance women's empowerment with and through the media platforms. The question for the BCCSA was - How determined are we in advancing women's empowerment through the Code the Conduct as our current tool.

## **C. NUMBER OF COMPLAINTS RECEIVED**

A list of the number of complaints received and the number of complaints referred to adjudication and to tribunals is attached.

For the period 1 November 2018 to 31 October 2019 the BCCSA received a total of **2254** complaints. Although this period does not correspond with the period mentioned in the heading to this report, for practical reasons our statistics have been compiled from 1 November 2018 to 31 October 2019 of this year.

Of the total of **2254** complaints, **825** were not accepted because of their vagueness and lack of detail, despite requests to substantiate the complaint in order to fall within the Code. In each case the Registrar would write a polite decision, motivating why the complaint could not be accepted.

**1122** of the complaints could not be accepted because they did not comply with our rules of procedure for various reasons, for instance because they fell under one or more of the following: advertisements, MultiChoice subscription fees and decoder problems, SABC TV licence, consumer matters, printed media, News24, Internet and social media, cinema movies, dignity of another person (not being the complainant), broadcasters not being signatories of the BCCSA Code of Conduct, requests for dismissal of presenters, scheduling changes, cell phone providers, human rights matters, complaints lodged after the 30-day period required in our Procedure, orchestrated campaign, etc.

The Registrar dealt with **162** complaints pursuant to her mandated authority.

Our statistics indicate that in **36** complaints the complainants accepted the relevant Broadcaster's response/apology and the matter was considered closed.

In the period 1 November 2018 to 31 October 2019, **95** complaints were adjudicated by BCCSA Commissioners. **20** of these complaints were upheld.

In the period 1 November 2018 to 31 October 2019 **14** complaints were referred to a BCCSA Tribunal for a ruling **7** of these complaints were upheld.

## **D. CONTRAVENTIONS OF THE CODE OF CONDUCT**

### **PROTECTION OF PRIVACY AND DIGNITY**

*Case No: 03/2019, Sibisi vs Multichoice* - Appeal against Adjudication Number 74/A/2018. The Commissioner dismissed the complaint and found that the Broadcaster did not contravene the Code. Tribunal finding a contravention of Clauses

28.3.1, 28.3.2 and 28.4 of the Subscription Code. **The Broadcaster is found to have contravened the Code. The appeal is accordingly upheld. The sanction is a reprimand. The Appellant may accede to the Broadcaster's offer to broadcast his version.**

**Case No: 04/2019, Makau vs Multichoice** - Complaint about the alleged infringement of the privacy and dignity of Complainant by the flighting of a promo in which Complainant is identified – scope of application of clause 28.4 of Code for Subscription Broadcasting Service Licensees is extended by legal interpretation to all broadcasts in which privacy and dignity of individuals are being violated – **contravention of Code found and complaint upheld.**

**Adjudication No: 73/A/2018, Schoeman Oosthuizen Attorneys obo The Ferreira Family vs Algoa FM** - Complaint that allegedly one-sided news item portrayed incorrect statements about, and damaged the reputation, of a farming company in the Eastern Cape. **The complaint was upheld.**

**Adjudication No: 68/A/2018, Du Toit, Vermeulen and Wentzel vs SABC2** - Complaints that an episode of 7de Laan allegedly impaired the dignity of cancer sufferers. Also that subsequent episodes portrayed violence that could be harmful to children, broadcast in family-time before the watershed when a large number of children could form part of the audience. **The complaint was upheld.**

**Adjudication No: 15/A/2019, Gumede vs M-Net** - Complaint about the investigative programme, Carte Blanche broadcast on M-Net regarding procurement corruption allegations against Brand SA including the former CEO, Mr. Kingsley Makhubela's failure to disclose his relationship with the Sports Industry Group chairperson, Mr. Sgwili Gumede. The complainant is aggrieved by the broadcaster's failure to specify his capacity when signing the procurement contract between Brand SA and Sports Industry Group, thus infringing his privacy and dignity. **The complaint is accordingly upheld.**

**Adjudication No: 24/A/2019, Butler vs Heart FM** - Complaint about the alleged infringement of the privacy and dignity of Complainant. **The complaint was upheld.**

**Adjudication No: 26/A/2019, Philips vs M-Net, Carte Blanche** - A complaint was lodged with the BCCSA against Carte Blanche for its broadcast of the 24<sup>th</sup> of March 2019 at 19:00. Phillips SA believes that the broadcast in question had a negative context and thus showing visuals of the Complainant's brand name placed the Complainant's image in disrepute. **The complaint is accordingly upheld.**

**Adjudication No: 38/A/2019, Seger, Mehtar and Another vs Hot 91.9FM** - Complaint about a skit on HOT 91.9 FM Radio Station with regards to the use of the word "moffie". The Complainant considered the comment to be offensive. Clause 15(1) of the Code contravened. **Complaint was upheld.**

**Adjudication No: 41/A/2019, Coates and De Beer vs Hot 91.9 FM** - Complaint that the Broadcaster aired uninformed remarks about individuals afflicted by cleft lip and palate. **The complaint was upheld.**

**NEWS/COMMENT AND PRESENTING OPPOSING POINTS OF VIEW IN DISCUSSIONS OF CONTROVERSIAL ISSUES OF PUBLIC IMPORTANCE**

**Case No: 21/2018, Greyling vs Radio 702** - Complaint that when a caller phoned in to express his view about the land question (currently an issue of public importance), the presenter reacted very emotional, interrupted the caller continuously and ended the call without affording him the opportunity to explain his statement. The call was cut after a few minutes, but the presenter continued to discuss and insult the caller for an hour afterwards without giving him a right of reply. Tribunal held that the Complainant should have been afforded an opportunity to defend himself, that the show lacked balance and that the remarks of the presenter impaired the dignity of the complainant. **The complaint was upheld - An apology was broadcast.**

**Case No: 01/2019, Chemvulo vs SABC2** - This is a complaint that the Broadcaster contravened the clauses of the Code of Conduct relating to balance in a programme where controversial issues of public importance are discussed, relating to comment and to dignity in a programme called “Leihlo La Sechaba”. The Complainant averred that insufficient particulars of allegations against it were supplied as to make it rationally impossible to respond and the Complainant refused to appear on camera until sufficient particulars were supplied. When informed that the programme will be broadcast, Complainant applied for an interdict to stop the broadcast but failed. When the programme which lasted about 23 minutes was flighted, it appeared that only about 38 seconds of it were devoted to 3 shots of a letter by Complainant’s attorneys. The Tribunal found that the Broadcaster did not fairly present opposing points of view. The Broadcaster also did not express an honest opinion when it allowed the employees of the company to make false claims about an employer’s duties in terms of labour law. The Tribunal found that the Broadcaster impaired the dignity of the Complainant by broadcasting allegations of sexual harassment without allowing the Complainant the opportunity to respond to the allegations. The Broadcaster was found to have contravened Clauses 12(2), 13 and 15(1) of the Code. **The Broadcaster was reprimanded and ordered to broadcast a right to reply programme.**

**Case No: 10/2019, First Finance Company Limited vs SABC3** - Broadcaster failed to provide right to reply. Clause (12) (1) & (2) and 13(1) & (2) of the Code contravened. **The complaint was upheld. Application for leave to Appeal pending.**

**Case No: 12/2019, Keswa vs Multichoice Newzroom Afrika Channel 405** - Complaint that news broadcast contained inaccurate information regarding the process followed in the securing and confirmation of the handing over of an RDP house to an elderly lady – complainant argued that story was not presented in correct context, was not verified or rectified after relevant information came to light and was unfairly presented as an escalating confrontation between the elderly lady and the complainant (Government representative) – complainant argued that her dignity was impaired as she was filmed without her consent - Broadcaster argued that a right of reply was repeatedly offered (which was not the subject of the complaint or requested) and also disputed receiving the correct information before the broadcast – **Tribunal upheld complaint - found contravention of clauses 28.1.1, 28.1.2, 28.1.5 and 28.4.**



**Adjudication No: 53/A/2018, Bester vs eNCA** - The complaint concerns the eNCA presenter's broadcast that "Trump claims president Ramaphosa is racist", in response to President Trump's tweet. **The complaint was upheld and the Broadcaster was reprimanded.**

**Adjudication No: 25/A/2019, Transpaco vs eNCA** - Complaint that an interview broadcast during a news programme contained incorrect and untruthful information that was not verified before (or after) the broadcast and which caused harm to the complainant. **The complaint was upheld.**

**Adjudication No: 36/A/2019, Churr vs SABC Channel 404** - Complaint that research statistics quoted by news presenter was not only outdated and irrelevant in the South African context, but more importantly, that no such recent research statistics for the South African context exists. Also, that the programme was biased, slanted in favour of a gun-free South Africa and was unbalanced to the extent that it came across as propaganda. **The complaint was upheld.**

**Adjudication No: 43/A/2019, Stigting Vir Gelykheid Voor Die Reg, Voorsitter: Botha vs SABC2** - Klagte dat program kommentaar bevat het wat nie op korrekte feite gebaseer of regverdig aangehaal is nie. Verder, dat dit ongebalanseerd was en dat eensydige kommentaar oor 'n saak van nasionale belang uitgesaai is sonder om 'n opponerende standpunt in dieselfde program of 'n opvolgprogram te stel. **The complaint was upheld. An Application for leave to Appeal by the SABC is currently pending.**

#### **HATE SPEECH/UNLAWFUL CONDUCT/ COMPETITIONS**

**Adjudication No: 54/A/2018, Van Heerden vs YFM** - Complaint that radio station promoted illegal online gambling to audience members who could be younger than 18 years old. **The complaint was upheld. Fine of R10 000 issued.**

**Adjudication No: 13/A/2019, Scheepers vs 702** - The complaints are about allegations of persistent unbalanced broadcasts that are unfavourable to white people by Primedia, SABC 702 and Cape Talk and the presenter Eusebius McKaiser observed over a long period of time and Eusebius McKaiser's failure to make known the full cost of a telephone call or a SMS to the public audience invited to call in to participate in on-air discussions. **The complaints against hate speech were dismissed. However, broadcaster not informing listeners the costs of calls and SMS, accordingly complaint upheld and the broadcaster is reprimanded.**

**Adjudication No: 20/A/2019, Strydom and Taylor vs eNCA** - First complaint concerns an allegedly untrue statement and comment by the news anchor that was not based on facts truly stated or fairly indicated and referred to. Second complaint concerns alleged hate speech based on race regarding the same comment by anchor. **The complaints were upheld and the Broadcaster was ordered to broadcast a correction. An application for Leave to Appeal was lodged (See Case 14/2019)**

**Adjudication No: 30/A/2019, Matabane vs Radio 2000** - The complaint herein is that the Broadcaster, on the morning of 28 June 2019, at 6:35, broadcast material that

constituted advocacy of hatred and was disturbing to children. **The complaint was upheld.**

### PROTECTION OF CHILDREN

*Case No: 18/2018, East Coast Radio vs Maskell* - Appeal against *Adjudication Number: 29/A/2018* by a Commissioner of the BCCSA in which it was found that breakfast show programme contravened Code for Free-to-Air Broadcasting Licensees - Commissioner finding that a large number of children was part of the audience when adult material was broadcast – no proof of this fact - Tribunal finding that due to the nature of the Radio station and judging the context of the programme, children are not the target audience – watershed not applicable and privacy of the presenters not at issue – **Appeal allowed**

*Adjudication No: 29/A/2018, Maskell vs East Coast Radio* - East Coast Radio has been accused by a listener of glamourizing the use of marijuana and promoting sexual promiscuity on a show at a time when listenership of school-going children are perceived to be high. **The complaint was upheld.**

*Adjudication No: 007/A/2019, De Wet vs M-Net* - Complaint that the Broadcaster showed an image of a simulated penis and that the age advisory of 13SL is too low for the broadcast. **After considering all the facts before me, I find that there was a contravention of the Code. The complaint is accordingly upheld. The sanction is a reprimand.**

### LANGUAGE

*Adjudication No: 23/A/2019, Mokwa vs SABC Metro FM* - Complaint that the broadcaster aired inappropriate language which was offensive to listeners and not suitable for children. **The complaint was upheld.**

*Adjudication No: 58/A/2018, Wentzel vs SABC2* - Complaint that harmful and disturbing material was broadcast in a soap opera at a time when large numbers of young children are expected to form part of the audience. **The complaint was upheld and the broadcaster was reprimanded.**

## **E. APPEALS HEARD BY THE COMMISSION**

*Case No: 13/2019, SABC2 vs Vamvakos* - The documentary was not unbalanced and one sided as found in the *Adjudication of SABC2 vs Vamvakos, Case No: 13/2019*. **The appeal was upheld.**

*Case No: 14/2019, eNCA vs Jooste and Taylor* - The Appellant was granted leave to appeal against the finding of the Commissioner under *Adjudication Number: 20/A/2019*. The initial complaint was based on a news broadcast that was aired on the 17<sup>th</sup> of April 2019 at 19:30. The broadcast consisted of an interview between the Appellant and the Respondent where the Respondent was asked to address some concerns regarding alleged racism. There were allegedly perceptions that the

Respondent is racist and that the Respondent's unique communal structure, where only Afrikaner people or those who identify themselves as Afrikaner can live. The interview was colloquial, and the Respondent appeared to have been able to put forward its version. The dispute however arose when the news reader, after the interview, made remarks where he insisted that the Respondent is racist, and that Black people are only allowed in the Afrikaner community as domestics. After considering all submissions from the Appellant and the **Respondent, the Appeal Tribunal has found that the Commissioner was justified in her findings and the Appeal is not upheld. Two applications for Leave to Appeal were lodged and they were both not upheld.**

## **F. STAFF MATTERS**

I want to thank Deyana Julius, our secretary, and Kyle Erentzen who is responsible for all the technical aspects of our work, for their commitment and the diligent way in which they do their work.

Also, thanks to Rebecca Nzama, the office assistant, for her hard work and loyalty during the year.

Shouneez Martin, our Registrar, has been with the BCCSA for over 25 years now and, as I said in my previous report, much of the success and smooth operations of the BCCSA can be attributed to her. She seems to become more and more indispensable!

One of the objects of labour legislation in South Africa is to create peace in the workplace. I think the BCCSA, as far as its staff is concerned, is a shining example of this.

## **G. THE COMMISSIONERS**

The 11 commissioners have all done their share and have been a great help to me. I want to thank my deputy, Mr Brian Makeketa who assisted me and took over the chair in Tribunal hearings while I had to deal with some health problem. Prof Sunette Lotter, my other deputy who had retired as professor from UNISA earlier this year, has taken leave from the BCCSA since the beginning of the year to pursue her new passion of becoming a member of the Bar. She will soon take up her duties at the

BCCSA again. I realise that the work of the BCCSA is mainly a team effort and I am grateful for the good spirit in which we all do our work.

## **H. FINANCES**

As always, we are thankful for the financial support rendered by the National Association of Broadcasters (NABSA). This support is given in terms of the agreement which created the BCCSA. We reiterate how regretful it is that the NAB found it necessary to start court litigation against the BCCSA as mentioned above. No one knows better than the NAB how diligently we work with the money they give us. Now we have to find money to pay for legal representation in the High Court. What a pity.

Despite what I say above, the finances of the BCCSA are in a healthy state, thanks to the responsible and transparent way in which everyone is going about, especially the Registrar and her staff, the chairperson and members of the Finance Committee. It seems that the appointment of our own accountant, Equate Accounting, was a wise move. Last year I said in my report that we hope that we will form a good working relationship with their team. This has indeed become true. We also thank them for their commitment to keep good record of our finances.

## **I. CERTIFICATE OF COMPLIANCE TO ICASA.**

In ICASA's recognition of the BCCSA it is required that the Regulator be informed annually whether broadcasters have complied with the BCCSA's orders. It may be stated with confidence that all the broadcasters that are subject to the jurisdiction of the BCCSA, as a consequence of their membership of NABSA or the Association of Christian Broadcasters – both of which have consented to the jurisdiction of the BCCSA – have given effect to all rulings of the BCCSA and have abided by the procedures applied by the BCCSA. Where they were directed to pay a fine, they did so within the stipulated time, and where a correction or the summary of a decision had

to be broadcast, this was done. A list of these broadcasters is attached. Between 27 000 to 31 000 BCCSA advertisements are broadcast each year.

Finally, a word of thanks to each and everyone, including the broadcasters who respect our judgments and for working together to make the BCCSA a respected institution in our country.



**PROF HENNING VILJOEN**  
**BCCSA CHAIRPERSON**  
31 October 2019

---

### **BCCSA COMMISSIONERS**

- **Prof Henning Viljoen (BCCSA Chairperson)**
- **Dr Mohamed Alli Chicktay**
- **Prof Bonke Clayton Dumisa**
- **Ms Nokubonga Fakude**
- **Mr Dzuguda Rufus Kharidzha**
- **Prof Sunette Lötter (BCCSA Deputy Chairperson)**
- **Adv Johannes Dibatsela Maabane**
- **Mr Brian Makeketa (Deputy Chairperson)**

- Mr Edwin Naidu
- Mr Tshidi Seane
- Adv Boitumelo Tlhakung
- Dr Linda Venter

## **BCCSA SIGNATORIES**

47 Broadcasters fall under the jurisdiction of the BCCSA.

### **TELEVISION BROADCASTERS**

- e-tv
- M-Net
- Multichoice
- SABC1
- SABC2
- SABC3
- Faith Terrestrial
- StarSat

### **RADIO BROADCASTERS**

#### **COMMERCIAL RADIO**

- Algoa FM
- 567 (Cape Talk)
- 702 (Talk Radio)
- 947 (Highveld)
- Capricorn FM
- Classic FM
- East Coast Radio
- Gagasi 99.5FM
- Heart 104.9 FM
- Jacaranda 94.2 FM
- Kaya FM
- KFM 94.5
- LM Radio
- OFM
- Power FM
- Rise
- Smile 90.4 FM
- VUMA
- YFM
- **SABC RADIO BROADCASTERS:**
  - Radio Sunshine
  - Ligwalagwala FM

- **Munghana Lonene FM**
- **Radio Metro**
- **Ukhozi FM**
- **CKI Stereo**
- **Good Hope FM**
- **Radio 2000**
- **Motsweding FM**
- **PhalaPhala FM**
- **RadioSonderGrens**
- **SAFM**
- **5FM Radio**
- **Lotus**
- **Thobela FM**
- **Ikwekwezi FM**
- **Lesedi FM**
- **Umhlobo Wenene FM**

### **COMMUNITY RADIO**

- **Bay FM (CBFM)**
- **Bok Radio**
- **Chai FM**
- **Fine Music Radio**
- **Hot 91.9 FM**
- **Kovsie FM**
- **MFM**
- **Megazone Bollywood**
- **Mix FM**
- **Radio Islam**
- **Radio Pretoria**
- **Radio Puk**
- **Radio Rosestad**
- **Radio Today**
- **Rhodes Music Radio**
- **Transworld Radio**
- **Tuks FM**
- **Tshwane University of Technology (Top Stereo)**
- **University of Johannesburg UJFM (UJFM Radio)**
- **Voice of Wits**

### **ASSOCIATION OF CHRISTIAN MEDIA**

- **Abusekho Ubunzima Radio Station**
- **Bojanala FM**
- **Cape Pulpit**
- **CCFM**
- **Gateway Radio**
- **Good News Community Radio**
- **Groot FM**
- **Highway Radio**
- **Hope FM**

- **Impact Radio**
- **Izwilethemba – Voice of Hope**
- **Link FM**
- **PEFM**
- **Radio Alpha**
- **Radio Khwezi**
- **Kingfisher FM**
- **Radio Namakwaland**
- **Radio Pulpit**
- **Radio Tygerberg**
- **Radio Varitas**
- **Rainbow FM**

**LIST OF CASES (COMPLAINTS) WHICH WERE NOT UPHELD FOR THE PERIOD IN QUESTION**

**PRESENTING OPPOSING POINTS OF VIEW IN DISCUSSIONS OF CONTROVERSIAL ISSUES OF PUBLIC IMPORTANCE**

*Adjudication No: 72/A/2018 - LA LECHE LEAGUE SOUTH AFRICA (LLSA) vs M-Net* - Complaint that the broadcaster broadcast misleading information regarding breastfeeding. Further that the broadcast negates breastfeeding. **The complaint was not upheld.**

**PROTECTION OF PRIVACY AND DIGNITY**

*Adjudication No: 73/A/2018 - Schoeman Oosthuizen Attorneys obo The Ferreira Family vs Algoa FM* - Complaint that allegedly one-sided news item portrayed incorrect statements about, and damaged the reputation, of a farming company in the Eastern Cape. **The complaint was not upheld.**

*Adjudication No: 74/A/2018 - Sibisi vs Multichoice Channel 157* - The complaint is about the non-consensual broadcast of No Excuse: *Pay PapGeld* episode which resulted in the infringing of the Complainant's privacy. **The complaint was not upheld.**

*Adjudication No: 001/A/2019, Koen vs SABC News* - Complaint about a news clip that allegedly invaded the privacy of a child who was filmed when leaving school and getting into a car in the street in front of the school. **The complaint was not upheld.**

*Adjudication No: 003/A/2019, Giyose Incorporated Attorneys obo Masasa Mbangeni* - Complaint that the broadcaster aired defamatory remarks about the Complainant. **The complaint was not upheld.**

*Adjudication No: 005/A/2019, Mathiba vs Multichoice* - Complaint about a promo for an episode of a programme called *Rea Tsotella*, that was broadcast by Moja Love on DSTV Channel 157 and which allegedly violated the Complainant's privacy and dignity. **The complaint was not upheld.**



**Adjudication No: 009/A/2019, Isaacs vs SAFM** - Complaint that news reports were allegedly untrue, incorrect, unfair and boiled down to defamation. The Complainant's dignity and reputation were allegedly infringed by mentioning his name with the name of a notorious rapist. **The complaint was not upheld.**

**Adjudication No: 017/A/2019, Monaiwa vs Multichoice - DSTV's Channel 157, Rea Tsotella** Complaint that the Broadcaster unduly influenced the complainant into taking part in the broadcast. Further that the Complainant's reputation was tarnished by the broadcast and the Complainant was not given the right to reply. **The complaint was not upheld.**

**Adjudication No: 31/A/2019, Nkosi vs KayaFM** - Complaint that the Broadcaster aired derogatory remarks against domestic workers. **The complaint was not upheld.**

**Adjudication No: 33/A/2019, Majola vs Power FM** - Complaint that the Broadcaster aired a remark that impaired the Complainant's dignity. **The complaint was not upheld.**

### **NEWS/ COMMENT AND PRESENTING OPPOSING POINTS OF VIEW IN DISCUSSIONS OF CONTROVERSIAL ISSUES OF PUBLIC IMPORTANCE**

**Case No: 02/2019, Plank and Kwape Attorneys vs SABC2** - Complaint that the Broadcaster violated Clauses 12(1), 12(2) and 13(2) of the Code of Conduct in a programme called "Speak Out". The Complainants complained that the programme was not factual in that payments were made by Mrs Mkhize to Lancer Trading 1022 CC t/a Mobile Trailer Solutions and not Alan Plank. Both Complainants argued further that they were not given right of reply in violation of Clause 13(2) - Tribunal found that the broadcast was of public importance and expressed Ms. Mkhize's opinion on the facts - tribunal found further that both Complainants were given a reasonable right of reply - **thus not in violation of section 13(2) of the Code.**

**Case No: 05/2019 - Le Roux vs SAFM - Application for leave to appeal dismissed** against **Adjudication No: 006/A/2019 - Le Roux vs SAFM** - That during a discussion programme, the presenter referred to white people as demons. **The complaint was not upheld.**

**Case No: 06/2019, Modiba vs M-Net/Carte Blanche** - Complaint: that Broadcaster misled the viewers by showing the wrong type of waste bin and the wrong areas where the bins should have been – that allegations were not based on fact – that Broadcaster did not fairly present opposing points of view – that Broadcaster did not exercise exceptional care in matter involving private lives and dignity of Complainant and his wife - Complainant found to have not addressed the substance of the allegations in broadcast. **No contravention of Code found.**

**Case 07/2019, Plank, Kwape, Murphy Kwape Maritz Attorneys vs SABC2** - Application for leave to appeal against finding in Plank, Kwape, from *Murphy Kwape Maritz Attorneys vs SABC2, Case 02/2019* – grounds on which application for leave to appeal considered – Chairperson finding that matter was one of public importance, that comments by Broadcaster were opinions based on facts, and that Applicants had sufficient opportunity to fairly present their case - **Leave to appeal not granted.**

**Case No: 08/2019, Plank, Kwape, Murphy Kwape Maritz Attorneys vs SABC2** - This is an application for leave to appeal against the finding in Plank, Kwape, from *Murphy Kwape*

*Maritz Attorneys vs SABC2, Case 02/2019.* In terms of the rules of procedure of the BCCSA, this application would normally be decided by the Chairperson of the BCCSA. However, given the fact that the Chairperson of the BCCSA sat through this case in the first instance on the 06 February 2019 and again dealt with the leave of appeal on 22 April 2019, in pursuit of the principles of procedural fairness and objectivity, this appeal matter was handed over to the Deputy Chairperson for adjudication. The grounds on which the application for leave to appeal were based were considered. The Deputy Chairperson found that the matter was one of public importance, that comments by the Broadcaster were opinions based on facts, and that the Applicants had sufficient opportunity to fairly present their case. **Leave to appeal was not granted.**

*Case No: 09/2019, Lukau and Alleluia Ministries vs SABC 2,* Controversial issue of public interest – Tribunal finding that the Respondent did make reasonable efforts to afford the Complainant the right to reply – Tribunal finding that the Complainant failed to cease the opportunity to reply more than three times - Tribunal finding that the Complainant's right to privacy, dignity and reputation being that of a public figure overridden by the legitimate public interest - **The Respondent found not to have contravened the Code of Conduct.**

*Case No: 14/2019, eNCA vs Strydom and Taylor* The finding under Adjudication No: 20/A/2019 is confirmed. **The appeal is not upheld.**

*Case No: 15/2019, City of Cape Town vs M-Net Carte Blanche* - The complaint is about the secretion of raw sewage into the Kuils River by the Complainant's Zandvliet Water Treatment Works; which has resulted in a health hazard for the Sandvlei Community – **No contravention of the Code found.**

*Case No: 16/2019, Silverton Radiators vs eNCA* - Complaint that programme on unfair labour practices and an employee's struggle to obtain compensation for an injury sustained on duty, was one-sided and unbalanced and that comments were not honest expressions of opinion or made on facts truly stated or fairly indicated and referred to - that content was deliberately manipulated and distorted by presenting false information and by omitting available documentation to achieve a particular outcome - that true cause of the former employee's injury was not researched properly and not presented, resulting in impairment of reputation of Complainant and his company - Tribunal concluded that Broadcaster made reasonable efforts to fairly present Complainant's side of the story, mainly by inviting him several times to state his side of the story on-air and when he refused, by confronting him in an effort to obtain an interview with him - Tribunal held that opinions were not broadcast as absolute fact or truth, but as genuinely held opinions on sincerely perceived facts that were fairly indicated and referred to - held that the legitimate public interest of story overrides Complainant's right regarding reputation. **No contravention of Code was found and complaint was not upheld.**

*Adjudication No: 004/A/2019, Fairbanks vs SABC News* - Complaint that news reports were biased, incorrect, not updated and that the news anchor turned the incident into a racial issue. **The complaint was not upheld.**

*Adjudication No: 014/A/2019, Mashigo and Maswanganye vs SABC* - **Pending Court Judgment.**

**Adjudication No: 20/A/2019, Strydom and Taylor vs eNCA** - First complaint concerns an allegedly untrue statement and comment by the news anchor that was not based on facts truly stated or fairly indicated and referred to. Second complaint concerns alleged hate speech based on race regarding the same comment by anchor. **The complaint was upheld.**

**Adjudication No: 27/A/2019, Congress of the People (COPE) vs 702** - A complaint was lodged with the BCCSA against Radio 702/Clement. **The complaint was not upheld.**

**Adjudication No: 28/A/2019, Mann obo The Unlimited vs 567** - The complaint is that Complainant was not given a "right to reply". **The complaint was not upheld.**

**Adjudication No: 32/A/2019, Scheepers vs 702** - This matter concerns discussion about the "Red Ants" security company on the Eusebius McKaiser show which was alleged by Mr Scheepers to have been one-sided. **The complaint was not upheld.**

**Adjudication No: 34/A/2019, Tshingana vs eNCA** - The complaint relates to the notion that a news programme interview did not broadcast the content of what the Complainant had hoped for. Further the Complainant holds the view that his responses were also cut out; and is thus of the opinion that the Broadcaster's reporting was biased and unfair; and that the Complainant's name have accordingly been tarnished. **The complaint was not upheld.**

**Adjudication No: 42/A/2019, Mrasi vs Radio Islam** - The complaint is that the Broadcaster's news reader allegedly reported that the Public Protector is "facing impeachment" charges, which the Complainant claims is untrue. **The complaint was not upheld**

**Adjudication No: 45/A/2019, Vethe vs Ntamu vs SABC, Ukhozi FM** - Complaint that the Broadcaster aired offensive material that was degrading to South African PhD holders. **The complaint was not upheld.**

**Adjudication No: 46/A/2019, Barnard vs eNCA** - A complaint was lodged with the BCCSA by Mr. Barnard against eNCA's presenter Mr. S. Ramkissoo for the party pooper comment he made when broadcasting on the Royal visit of the Duke and Duchess of Sussex. **The complaint was not upheld.**

**Adjudication No: 48/A/2019, Alexander vs eNCA** - The Complainant accuses the broadcaster, eNCA, of having breached Clause 28 of the Code by allegedly stating, as a fact, that Anthropogenic Global Warming is affecting the climate. **The complaint was not upheld.**

### **HATE SPEECH/UNLAWFUL CONDUCT**

**Adjudication No: 006/A/2019, Le Roux vs SAFM** - That during a discussion programme, the presenter referred to white people as demons. **The complaint was not upheld.**

**Adjudication No: 008/A/2019, Nofemela vs eNCA - Adjudication No: 09/A/2019- Nofemela vs eNCA** - Use of a struggle song during a segment of the news broadcast by eNCA on 5<sup>th</sup> February 2019 referring to "boers" as "dogs". **The complaint was not upheld.**

**Adjudication No: 010/A/2019, Sibusiso vs SABC, Ikwewezi FM** - Complaint that a discussion on a cultural practice during funerals where unmarried, older women are regarded

as being of the same status as young girls amounts to unfair discrimination. **The complaint was not upheld.**

*Adjudication No: 11/A/2019, Oliphant vs SABC1* - Complaint that broadcast violent material could incite violent behaviour within communities. **The complaint was not upheld.**

*Adjudication No: 12/A/2019, Mokhaza, Fowles and Motsepe vs 702 and 567-* The Complainants in this matter have been offended by the material which was broadcast by the Respondent on the morning of 26 February 2019. The Complainants contended that the Respondent, on the morning in question, attacked the foundations of Christianity and that their belief was questioned by the on-air personality, namely, Eusebius McKaiser. The Complainants further contended that the presenter's comments on that morning were exasperating and offensive and that they constituted blasphemy or hate speech. **The complaint was not upheld.**

*Adjudication No: 16/A/2019, Hannaford vs etv* - Complaint that prank contained scenes that made a mockery of the Christian faith. **The complaint was not upheld.**

*Adjudication No: 18/A/2019, Ulrich Attorneys vs Jacaranda FM* - The Complainant alleged that the broadcast sanctioned, promoted or glamourized violence or unlawful conduct. **The complaint was not upheld.**

*Adjudication No: 21/A/2019, Vamvakos vs SABC 2* - Complaint that a documentary allegedly contained factually and historically incorrect anti-white racist propaganda with no opportunity given for opposing points of view. **The complaint was upheld after an appeal was lodged a Tribunal of the BCCSA set aside the Adjudicator's decision.**

*Adjudication No: 22/A/2019, Damon vs KFM* - Complainant that the broadcaster broadcast material that amounts to hate speech. **The complaint was not upheld.**

*Adjudication No: 29/A/2019, Douglas vs SABC2* - Klagte dat 'n insetsel in 'n program Godslasterlik van aard was en dat daar 'n bespotting van die Christelike godsdiens gemaak is. **Die klagte was nie gehandhaaf nie.**

*Adjudication No: 35/A/2019, Meyer vs 702-* Complaint that the broadcaster aired offensive language that amounts to hate speech and the advocacy of hatred based on race. **The complaint was not upheld.**

*Adjudication No: 37/A/2019, Abioye vs Power FM* - Broadcaster's comments incited xenophobia and amounted to hate speech. **The complaint was not upheld.**

*Adjudication No: 44/A/2019, Ntamu vs SABC, Motsweding FM* - Complaint that the broadcaster aired offensive material which was incorrect because the attacks referred to in the broadcast were not xenophobic attacks but rather criminal acts, which were also perpetuated by foreign nationals. **The complaint was not upheld.**

*Adjudication No: 47/A/2019, Maepa vs SABC Metro FM* - Complaint that the song that was aired by the broadcaster amounted to the incitement of hate and violence against women. **The complaint was not upheld.**

*Adjudication No: 49/A/2019, Heidemann vs Hot 91.9 FM* - Complaint that a joke told by the presenter of a morning show on radio was sexist and degrading to women. **The complaint was not upheld.**

### **PROTECTION OF CHILDREN**

**Adjudication No: 002/A/2019, Jassiem vs etv etoonz** - Complaint that the broadcaster broadcast material that is harmful to children. **The complaint was not upheld**

### **LANGUAGE**

*Adjudication No: 19/A/2019, Booyens vs KFM* - Complaint that radio station broadcast a programme wherein the presenter allegedly made innuendos regarding the construction of unsuitable and offending words via the use of acronyms. **The complaint was not upheld.**

*Adjudication No: 39/A/2019, Wills vs Hot 91.9 FM* - Complaint about exposing children to the use of the inappropriate spelled out word P.O.E.S in a comedy feature of a great radio station. **The complaint was not upheld.**

*Adjudication No: 40 /2019, Gavin vs Algoa FM* - The complaint is about the use of an offensive word, namely “asshole” during the radio broadcast at a time when children were likely to be part of the audience. **The complaint was not upheld.**

---