



ADJUDICATION NO:34/A/2025

NAME OF PROGRAMME:	FLASHPOINT
DATE AND TIME OF BROADCAST:	12 SEPTEMBER 2025
BROADCASTER:	DSTV CHANNEL 342 (DAYSTAR TELEVISION)
COMPLAINANT:	MR BESTER

COMPLAINT

The Complainant is of the view that Pastor Sheets' utterances expressed during a talk show constituted a contravention of Clause 10.3 of the Code of Conduct. The complainant stated that the utterances were not *bona fide* and that the exemptions provided for in clause 11 of the Code do not apply to the discussion during which the statements were made.

APPLICABLE CLAUSES

ADVOCATING WAR, VIOLENCE OR HATRED

- 10 A subscription broadcasting service licensee may not knowingly broadcast material which, judged within context –
- 10.2 incites imminent violence; or
- 10.3 advocates hatred that is based on race, ethnicity, gender or religion and which constitutes incitement to cause harm.

EXEMPTIONS

- 11 Clauses 9 and 10 do not apply to –
- 11.1 broadcasts of bona fide scientific, documentary, artistic, dramatic, literary or

religious programming material, which, judged within context, is of such nature;

11.2 broadcasts which amount to a bona fide discussion, argument or opinion on a matter pertaining to religion, belief or conscience; or

11.3 broadcasts which amount to a bona fide discussion, argument or opinion on a matter of public interest.

ADJUDICATION

[1] A complaint was lodged with the BCCSA by Mr Bester [*hereinafter referred to as 'the Complainant'*] against DAYSTAR broadcast on Channel 342 of MultiChoice [*hereinafter referred to as 'the Broadcaster'*] regarding a talk show programme called FlashPoint [*hereinafter referred to as 'the programme'*]. On that particular day, the invitees were discussing the Palestine-Israel war from a 'Christian' perspective, and one of the invitees, Pastor Dutch Sheets [*hereinafter referred to as 'Pastor Sheets'*] of Dutch Sheets Ministries, uttered the following words:

'Terrorists are bad ...Killing terrorists is good'.

The impugned programme was broadcast on the 12th of September 2025 and accordingly hosted by Mr Gene Bailey [*hereinafter referred to as 'the host'*].

The Complainant is of the view that the latter utterances cannot be considered as *bona fide* discussions, argument or opinions about religion, belief or conscience. The Complainant further holds the view that the context within which Pastor Sheets uttered these words was overtly intended, at the very least, to normalise violence and hate towards people of a particular nationality, ethnicity and/or religion. The Complainant further holds the view that Pastor Sheets' utterances were intended to incite like-minded people to commit violence against people of different nationality, ethnicity and/or religion – thus in violation of Clause 10 of the Broadcasting Complaints Commission's Code of Conduct [*hereinafter referred to as 'the Code'*].

[2] THE COMPLAINT READS AS FOLLOWS:

"I hereby wish to lodge a complaint at the BCCSA. The details substantiating the complaint are as follows:

1. On Friday, 12 September 2025, DSTV channel 342 (Daystar Television) broadcast a program called "FlashPoint" between 07:00 and 08:00.
2. Flashpoint purports to be a current affairs program in which a panel of church leaders of charismatic conviction in the United States discuss current political events, typically in radicalised undertone.
3. During the broadcast in question, one of the panel members uttered the following words: "Terrorists are bad; killing terrorists is good". The program's entire panel signalled agreement with this statement.
4. I personally watched this content as it was broadcast. I was horrified not only because this was uttered in a public sphere but also because this came from someone who purports to subscribe to the tenets of the Christian faith.
5. The impugned content was not intended to be part of a *bona fide* discussion, argument or opinion pertaining to religion, belief or conscience. In the context within which it was uttered it was overtly intended, at the very least, to normalise violence and hate towards people of a particular nationality, ethnicity and / or religion. In my view the utterance was intended to incite likeminded people to commit violence against people of different nationality, ethnicity and/ or religion.
6. In my view the impugned content amounts to a violation of clause 10 of the BCCSA Code of Conduct for Subscription Broadcasting Service Licensees.

I request the BCCSA to investigate the above incident."

[3] THE BROADCASTER RESPONDED AS FOLLOWS:

"RE: COMPLAINT FROM MR BESTER REGARDING AN EPISODE OF THE PROGRAMME, FLASHPOINT BROADCAST ON DAYSTAR TELEVISION CHANNEL

INTRODUCTION

1. We refer to the complaint from Mr Bester, the complainant, regarding the broadcast of an episode of "Flashpoint" programme on Daystar Television, aired on DSTV Channel 342 ("**the Episode**").
2. The complaint alleges that the Episode contravenes Clause 10 of the Broadcasting Complaints Commission of South Africa's ("**the Commission's**") Code of Conduct for Subscription Broadcasting Service Licensees ("**the Code**") by advocating violence and hatred.
3. We contend that the broadcast of the Episode does not contravene Clause 10.3 of the Code. Furthermore, even if the content were deemed a contravention, it is exempted under Clause 11 of the Code as a *bona fide* discussion on a matter of public interest and is also a religious programme.

ALLEGED CONTRAVENTION OF CLAUSE 10.3

4. The statement at issue, namely, "*Terrorists are bad, killing terrorists is good*" ("**Utterance**"), was made during a panel discussion involving religious leaders during the Episode.
5. While the utterance is undeniably provocative and may offend some viewers, we submit that it does not meet the threshold required to constitute hate speech under Clause 10.3 of the Code or Section 16(2)(c) of the Constitution.
6. Clause 10.3, which mirrors the constitutional exclusion of freedom of expression under Section 16(2)(c) of the Constitution, requires three simultaneous elements for speech to be classified as unprotected hate speech, namely:
 - 6.1 Advocacy of hatred¹;
 - 6.2 Based on one of the listed grounds²; and
 - 6.3 Constituting incitement to cause harm³.
7. While it is arguable whether the utterance constitutes advocacy of hatred (the first element) and incitement to cause harm (the third element), we are of the opinion that the listed grounds (the second element) are absent. Accordingly, the complaint must fail on the second requirement, the listed grounds.

THE TARGET GROUP

8. The target group of the speech is explicitly the "*terrorists*". This is a designation referring to criminal activity or a political classification, neither of which is one of the four protected grounds listed in the Constitution or Clause 10.3 - race, ethnicity, gender, or religion.
9. Contextually, the panellists indicated their stance that an enemy of Israel is not only an enemy of God, but also the panellist's enemy. It follows then that, judged within the context of the

¹ The first element

² The second element

³ The third element

Episode, the hatred expressed is directed against enemies of Israel, not against any race, ethnicity, gender or religion. The term "*terrorist*" in this context is a political designation tied to perceived loyalty to Israel, which does not translate to hatred based on the listed grounds.

10. As criminal or political designations are not listed grounds, the utterance does not contravene Clause 10.3 of the Code, notwithstanding the intensity of the hatred expressed and that it may offend, shock or disturb.

EXEMPTION UNDER CLAUSE 11: EXPOSING VS ADVOCATING

11. Clause 11 of the BCCSA Code provides that the prohibitions on hate speech (Clause 10) do not apply to *bona fide* discussions and opinions on matters of public interest and to religious programming material.
12. We submit that even if the utterance were to be found to meet the requirements of Clause 10.3, the broadcast falls within the exemptions provided in Clauses 11.1, 11.2 and 11.3.
13. Daystar is a religious channel which promotes Christian faith and from time-to-time features programmes that comment on current affairs from Christian faith point of view.
14. 'FlashPoint' is a current affairs and a religious programme featuring church leaders discussing political events and current events, weighing them against Christian prophecy. The programme delivers unique commentary on current events and key issues facing America in a spirit of faith. The host of the programme is joined regularly by special guests from the political arena, as well as government and business officials, and church leaders, who share how prophecy and current events are aligning.
15. The Episode discusses death threats against U.S. Pastor Russell Johnson for his support of Israel; and the Israeli air strike aimed at eliminating senior Hamas leaders who were meeting in a residential complex in Doha, Qatar. The panel considers Hamas as a terrorist organization which has repeatedly ignored President Trump's requests to release the hostages and end the war.
16. Clause 11 explicitly exempts religious programming material and broadcasts that amount to a *bona fide* discussion, argument or opinion on a matter pertaining to religion or a matter of public interest. Discussions on political conflict and world events, even if they include controversial content that "offend, shock or disturb," are afforded significant constitutional latitude.
17. The Broadcaster's intention in broadcasting the Episode was not to advocate the controversial views, but to expose them and facilitate public discussion. In the **SAHRC v SABC** case,⁴ the SAHRC filed a complaint against the SABC for the broadcast of the song '*AmaNdiya*' on the grounds that the broadcast of the song by *Ukhozi FM* amounted to hate speech in terms of the Broadcasting Code. The song, by songwriter Mbongeni Ngema, comments on the relationship between black people and Indians in KwaZulu-Natal. The lyrics state, amongst other things, that black people are being oppressed by Indians, that Indians do not like black people, that there are too many Indians in Durban, and that life under white rule was better than living with Indian people. The Commission held that the song amounts to hate speech as it advocates hatred against Indian people. The Commission further ruled that the song constitutes incitement to cause harm because it could lead Indian people to draw the inference that their safety is at risk, and it harms their dignity, and it is irrelevant whether there is a real likelihood that the song would incite an attack against

⁴ *SAHRC v SABC*, case no 31/2002 (BCCSA) 13 June 2002.

Indian people.

18. Despite ruling that the song constituted hate speech, the Commission concluded that the broadcast did not contravene the Broadcasting Code as the broadcast of the song 'was part of a *bona fide* current affairs programme and informed debate' and was not an attempt to broadcast hate speech.
19. This principle was similarly affirmed in the European Court of Human Rights case of ***Jersild v Denmark***.⁵ In that case, a Danish journalist interviewed three members of the racist group known as the Greenjackets for a television documentary. During the interview, the individuals made offensive and derogatory remarks about immigrants and ethnic minorities in Denmark. Initially, the journalist was convicted under Danish hate speech laws for allegedly aiding in the dissemination of racist speech. However, the European Court overturned the conviction, emphasizing that the documentary, taken as a whole, did not aim to propagate racist ideologies. Instead, it sought to expose, analyse, and explain the views of a marginalized group of youths, individuals shaped by difficult social circumstances, criminal histories, and violent tendencies, on a topic that was already of significant public interest.
20. Therefore, even if the panellists' views were classified as hate speech, the decision to broadcast the Episode meets the Clause 11 standard for a *bona fide* discussion on a matter of public interest, as it exposes, rather than promotes, the views expressed.

CONCLUSION

21. We submit that while it is arguable whether the utterance satisfies the first and third elements of Clause 10, namely, the advocacy of hatred and incitement to cause harm, it definitely does not satisfy the second element, the listed grounds.
22. Therefore, the pivotal issue lies in the second element, namely the connection between that advocacy and incitement on the one hand, and the protected grounds, on the other. Criminality and political views are not protected grounds.
23. Further, while the speech may be offensive, it remains protected under as political expression. Any attempt to restrict it would not meet the stringent constitutional test required to justify limitations on core political speech.
24. However, even if it were to be found that the contextual evidence confirms that the word "terrorist" as used in the Episode was a stand-in for a protected group, then the Episode meets the Clause 11 standard for *bona fide* discussion on matters of public interest as the Episode exposes, rather than promotes, the views expressed in the Episode. In addition, it is a religious programme which is expressly excluded in terms of Clause 11.
25. The complaint must therefore not be upheld."

[4] THE COMPLAINANT REPLIED AS FOLLOWS:

"COMPLAINT REGARDING AN EPISODE OF THE PROGRAM "FLASHPOINT", BROADCAST ON THE DAYSTAR CHANNEL

⁵ The *Jersild* case at para 33.

The response from MultiChoice (*hereafter “the broadcaster”*) dated 28 October 2025 regarding the above complaint has reference. I hereby wish to reply to the Broadcaster’s response as follows.

CONCERNING PARAGRAPHS 1 TO 3

The complaint alleges that the broadcast of the episode contravened Clause 10 of the Commission’s Code of Conduct (*hereafter “the Code of Conduct”*) by advocating war, violence or hatred.

Clause 10 of the Conduct does not consider only material which, judged within context, advocates hatred that is based on race ethnicity, gender or religion and which constitutes incitement to cause harm (*see Clause 10.3*). Clause 10 also considers material which, judged within context, amounts to propaganda for war or incites imminent violence (*see Clauses 10.1 and 10.2*). To consider the factual information underpinning this complaint exclusively against the grounds contemplated in Clause 10.3, thus foregoing consideration of the grounds contemplated in Clauses 10.1 and 10.2, invites improper consideration of the impact of the impugned statement.

CONCERNING PARAGRAPH 4

The impugned statement was made when the host of the program asked Mr. Dutch Sheets (one of the panel members on the program) what his “take” was on Israel’s attack on suspected Hamas leaders in the city of Doha, Qatar. The context of the preceding exchange that led to the question to Mr. Sheets was the fact that Israel’s attack impacted a sovereign country that was not a participant in the aggression between Israel and Hamas, namely Qatar. Furthermore, that Israel’s unexpected action in Qatar had the potential to escalate geopolitical tension in the region which, in turn, could frustrate the United States’ attempts to broker a peaceful resolution of the differences between Israel and Hamas. Lastly, the context was that Israel’s unexpected action in Doha, Qatar, was inopportune and unfortunate. It was against this context in which Mr. Sheets was asked to provide his “take on the whole story”. Mr. Sheets’ response did not address the obvious concern, namely the complexity of a third nation unexpectedly having been thrust into the hostilities between Israel and Hamas. Instead, his response simply introduced the impugned statement that terrorists are bad and that killing terrorists was good. Mr. Sheets’ statement was evidently not uttered in the spirit of *bona fide* dialogue. Not only was the statement *not* challenged by any of the other panel members, but indeed they ratified it. There was no discussion around the impugned statement. It was uttered as a statement of fact. In the context, it was uttered as a means to rationalise and normalise the killing of people who hold a differing viewpoint. Ultimately, by rationalising and normalising the killing of people with differing views, it sets the stage to perpetuate such conduct because viewers are led to believe that it is beneficial.

CONCERNING PARAGRAPHS 5 TO 6

As already pointed out, Clause 10 of the Code of Conduct considers material which, judged within context, amounts to propaganda for war or incites imminent violence. The question at hand is whether the impugned statement, judged within context:-

- [a] amounts propaganda for war;
- [b] incites imminent violence; or
- [c] advocates hatred that is based on race, ethnicity, gender or religion and which constitutes incitement to cause harm.

If it is found that the impugned statement meets the criteria in either a, b or c above, it needs to be established whether the broadcaster knowingly broadcast the material on 12 September 2025.

CONCERNING PARAGRAPH 7

It is submitted, as will be argued later on in this response, that the utterance, within the context in which it was spoken, satisfies the requirements of clauses 10.1, 10.2 and/ or 10.3 of the Code of Conduct.

CONCERNING PARAGRAPHS 8 TO 10

It is disputed that the target group of the speech was “terrorists”. The target group of the speech is primarily viewers of the program “Flashpoint”, and secondarily global audiences where programming of the DayStar Channel is broadcast. In short, the target group is people who are susceptible to a charismatic approach to teaching on Christianity. This is an alarmingly significant demographic, when considering that the impugned statement was meant to normalise and rationalise extremely harmful behaviour. The last thing the global community can afford is one more group of religious radicals who advocate and defend the killing of people who ideologically differ with them. The *subject* of the speech, it is submitted, is “terrorists”. The meaning of the term “terrorist” has been, and continues to be, a hotly debated topic. At the core of this debate sits the adage “one man’s terrorist is another man’s freedom fighter”.

As already indicated, the panel host steered the discussion towards commenting on the sudden escalation of complexity in the war between Israel and Hamas, in that Israel unexpectedly launched attacks on the soil of a non-participating country. The panel member who was asked to comment, Mr. Sheets, did not answer the question that was posed to him, but instead re-directed the discussion towards an ideological point that he wanted to get across, namely that terrorists are bad and that killing terrorists is good. This statement is conspicuous within the context of the discussion because it did *not* address the question that was posed, but instead championed a different cause, namely to normalise and rationalise killing of “terrorists”.

It was not explicitly clarified in the program who the “terrorists” were whose killing Mr. Sheets was speaking of in approving terms. However, we know that Israel is at war with Hamas, that Israel views Hamas as a terrorist organisation, that Hamas has roots in the Palestinian region, that the Palestinians are followers of the Islamic faith and that the United States of America is a close ally and protector of the State of Israel – even more so under the Trump administration. We know that Israel has been focusing military action on the Palestinian region, indiscriminately destroying infrastructure and human life. We also know that the United States of America themselves have been conducting military action against the nation of Iran, a Muslim state and an enemy of Israel. Between the 2 allies they have been conducting military action against Middle Eastern people who are followers of the Muslim faith. When an American radicalised Christian fanatic speaks approvingly of the killing of “terrorists” (particularly when Israel is doing the killing), it seems fair to conclude that this person is talking about the killing of Middle Eastern Palestinian people who are Muslim followers.

Even if one disregards the above strong indicators of approval of harmful action against people of specific ethnic origin and/ or religious conviction, one needs to guard against concluding that the impugned statement does not amount to a contravention of Clause 10 of the Code of Conduct simply because it does not satisfy all the requirements of Clause 10.3. The fact of the matter remains that the statement must be measured against *all* the grounds under Clause 10. Put differently, Clause 10.3 is not the only clause under which a Broadcaster can contravene the prohibition against material advocating war, violence or hatred. One may concede the point that “terrorists” are bad, but this still does not justify the suggestion that killing them is good.

CONCERNING PARAGRAPHS 11 TO 16

The notion that the broadcast in question falls within the exemptions under Clause 11 of the Code of Conduct is untenable, as will be shown below. The exemptions under Clause 11 of the Code of Conduct all go accompanied with the proviso that the broadcast must meet specific requirements of *bona fides*. **The term *bona fide* refers to a personal attitude of honest intent, good faith, sincerity and the absence of intent to mislead, cheat or defraud.** The question is whether the broadcast of the specific episode of “FlashPoint” met the requirement of *bona fides*.

As indicated above, the panel host directed a question towards a panellist, Mr. Sheets, to comment on Israel's unexpected military action in a country that, to date, had no interest in the disagreement between Israel and Hamas. It is noteworthy that Mr. Sheets did not answer the question, but, instead, chose to address a different topic, namely the merits of killing terrorists. To add insult to injury, Mr. Sheets' response represented a position that, by all standards of reasonability, amounts to immorality. If it really was required of Mr. Sheets to comment on the merits of killing terrorists (which he was not) one could have expected a *bona fide* response to be that terrorism was bad, but that people had rather settle their differences with open and honest dialogue. Mr. Sheets' response rationalised and normalised deadly violence towards people of different conviction, and the rest of the panel solidified this position by voicing agreement with Mr. Sheets. There never was any honest intention of investigating and interrogating this position. The discussion was plainly aimed at conveying to viewers that the killing of terrorists was a normal and beneficial response. By normalising and rationalising it, viewers are misled into thinking that the killing of terrorists is a beneficial and worthwhile undertaking. This intent can hardly be described as *bona fide*. As a matter of fact, this intent is as *mala fide* as it could get without actually killing terrorists oneself.

The Broadcaster's reference in paragraph 14 regarding participants in the program showing how “prophecy and current events are aligning” deserves specific response. At no point in history has “prophecy” ever aligned with current events. People can, at best, make calculated predictions of future events based on available evidence. The way in which current events unfold shows whether those calculated predictions were reasonable or not. Any other correlation between what has been predicted and how current events unfold is nothing more than coincidental. Prophecy has never been, nor ever will it be, a scientifically sound or reliable method to understand reality and current events. Prophecy is a nebulous idea that exists in the minds of people who are unwilling / unable to rationally explain the reality of the world in which we live. The mere fact that competing religions are founded on competing prophecies should be sufficient substantiation of the fact that not everybody's prophecies can be right, and that there is a good likelihood that everybody's prophecies are wrong. To purport that one can speak authoritatively about the course of current events in light of prophecy is offensive and dishonest. This in itself speaks volumes about the intentions of the panel of “FlashPoint” and the program itself.

Apart from the above, the notion advanced in paragraph 17 that the Broadcaster's intention with the broadcast was to expose controversial views and to facilitate public discussion is rejected with contempt. If there was any intention on the Broadcaster's part to facilitate public discussion regarding the controversial view expressed in the broadcast, I submit that one could then reasonably have expected that this intention would clearly have been communicated to viewers. By way of example, a warning before, during and after the broadcast could have been displayed to alert viewers to the fact that the broadcast contained a controversial viewpoint and that viewers were invited to raise their own opinions on the merits of that particular viewpoint. To the best of my knowledge no such warning was ever provided prior to, during or after the broadcast. In fact, I was left with the distinct impression that this particular broadcast was not subject to any form of prior quality control and that it thus made it onto air without responsible filtering. It would be interesting to know whether, given the benefit of hindsight, the Broadcaster would have chosen to air this particular Episode. If I was

to venture a guess, I'd say that the Broadcaster would probably have chosen not to air this Episode at all, rather than appearing as though they did not do any quality control on the program prior to broadcasting it.

CONCERNING PARAGRAPHS 18 TO 20

The gist of the Broadcaster's argument in this part of the submission seems to be that, even though the impugned statement could be seen as hate speech, the Broadcaster's broadcast thereof should be protected because:-

- [a] it was part of a *bona fide* current affairs program; or
- [b] it did not aim to propagate hateful ideologies.

If the Broadcaster's argument is correctly understood as summarised above, the practical implication thereof seems to be that there seldom will be a situation where the Broadcaster will attract accountability for broadcasting hate speech. After all, as long as the Broadcaster can show that the broadcast amounted to a *bona fide* discussion, argument or opinion, it can avoid accountability under the Code of Conduct.

It is doubted that the Code of Conduct was intended to create a safe haven for a Broadcaster within which it can broadcast hate speech with impunity, as long as it can show *bona fides*. It is expected that the Code of Conduct was put in place to protect consumers against, among other things, hate speech and to call Broadcasters to accountability for the content of their broadcasts. The fact of the matter is that not every panel discussion is done with *bona fides*; not every documentary is produced with *bona fides*. Somewhere along the line an evaluation needs to be done in order to determine whether a particular panel discussion or documentary will meet the Code of Conduct's standard of *bona fides*. The only party who stands between the evaluation and the broadcast is the Broadcaster itself. The Broadcaster is under a moral and regulatory obligation to ensure that the broadcast it intends to make does indeed satisfy the standard of *bona fides*. The very least that can be expected of a Broadcaster is that it would apply its mind and conduct proper quality control on material it intends to broadcast, before finally deciding that the material indeed will satisfy the standard of *bona fides*. It has already been submitted above that the particular episode of "FlashPoint" involved material that was produced in bad faith and with intent of misleading viewers into thinking that the killing of terrorists was indeed a beneficial undertaking. Accordingly, in the present case it seems evident that the Broadcaster neglected its duty of prior quality control, alternatively the Broadcaster is lamentably tone deaf when it comes to performing an evaluation of the underlying intention of the programs it intends to broadcast.

CONCERNING PARAGRAPHS 21 TO 25

The impugned statement indeed satisfies the requirements set out in Clause 10 of the Code of Conduct. The impugned statement was made in bad faith and with intent to mislead viewers into thinking that killing can be normalised and rationalised. The Broadcaster failed to apply due care in evaluating beforehand whether the broadcast statement measured up to the standard of *bona fides*. The broadcast cannot be viewed as protected hate speech because the Broadcaster failed in its duty to perform prior quality control. The Broadcaster should therefore not be afforded any protection under Clause 11 of the Code of Conduct."

EVALUATION

- [5] Having read the submissions, the parties hold differing views regarding the identity of Hamas and/or Palestine within the tone of the Complainant's submissions, including the relevance thereof to the issue that needs to be adjudicated.
- [6] The Broadcaster refers to the description used by the panellists during the impugned programme of 'Hamas' as a terrorist group, and therefore, the provisions of Clauses 10.2 and 10.3 are not applicable. If Clause 10.3 is not applicable, the utterances are also excluded from the protection given by Clause 11.1, as this Clause relates to discussions by religious groups or political organisations holding *bona fide* discussions concerning matters of public interest. As much as the impugned programme was indeed discussing a matter of public interest, the fact remains that Hamas is primarily characterised as a terrorist group, while according to its origins, it is not only a political organisation but also a religious movement described as:

'A militant Palestinian nationalist and Islamist movement in the West Bank and Gaza Strip that is dedicated to the establishment of an independent Islamic state in historical Palestine. Founded in 1987, Hamas opposed the secular approach of the Palestine Liberation Organization (PLO) to the Israeli-Palestinian conflict, rejected attempts to cede any part of Palestine, and embraced the use of violence, including acts of terrorism, as a means to achieve its goals. [It is further implicated to the] Israel-Hamas War of the October 7 assault on Israel from the Gaza Strip by Hamas and the Palestinian Islamic Jihad (PIJ) that resulted in more than 1,200 deaths, primarily Israeli citizens, making it the deadliest day for Israel since its independence'⁶.

⁶ <https://www.britannica.com/topic/Hamas>

The adaptation of this line of approach is interesting as it contradicts the Broadcaster's reference to definition and understanding of the objective of the impugned programme, as set out in paragraphs [13] and [14] of its submissions.

- [7] On the other hand the Complainant considers Hamas and or Palestine as an Islamic group – a religious group - based in Gaza, under attack since October 2023 by the Israeli army. For the Complainant, Hamas is a revolutionary movement aimed at fighting the oppressive Israel. Be that as it may, the focal point of this adjudication should essentially be the utterances made by Pastor Sheets: *'Terrorists are bad... Killing terrorists is good'*

[8] **THE REALITY OF GEOPOLITICAL INFLUENCE ON THE ISSUES:**

It is imperative to note that while each party to this dispute accordingly justifies their points of view based on their political standpoint with regard to the Israeli Palestinian war, the adjudicator must determine whether the impugned content infringes the applicable Code.

[9] **THE ROLE OF THE BCCSA:**

Broadcasters exercise their right to freedom of expression within the prescripts of the Code of Conduct as guided by constitutional values. Broadcasters also exercise their editorial independence as it sees fit. However, it is important to note that the BCCSA's jurisdiction is geographically limited to South Africa. The broad effect of various geo global views can therefore not be taken into consideration as the complaint has to be adjudicated within the context of the applicable Code.

[10] **APPLICABLE CLAUSE OF THE CODE**

Clause 10.2 and 10.3 of the Code of Conduct respectively caution Broadcasters against broadcasting material which incites imminent violence or advocates hatred

that is based on race, ethnicity, gender or religion and which constitutes incitement to cause harm. According to the provisions of Clause 11 of the Code of Conduct, Clause 10.3 will not apply to *bona fide* broadcasts which amount to a *bona fide* discussion, argument or opinion on a matter about religion, belief or conscience; or broadcasts which amount to a bona fide discussion, argument or opinion on a matter of public interest. The expression of an opinion by a religious leader that may constitute an infringement of Clause 10 does not transform the essence of the discussion on a matter of public interest into a religious debate. In current times, influential people can easily influence their followers positively or negatively. As much as the panel is affiliated with Christianity, the utterances which were made in the impugned programme cannot be held to be *bona fide*. The Bill of Rights is very clear when it comes to the exercise of rights, that no particular right can be exercised at the expense of another. We are all expected to operate within certain limitations as per the provisions of the Bill of Rights. The impugned programme **definitely** failed on the *bona fide* requirement, as it not only incites violence or harm, but it went on further and justified the killing of other human beings, such that the exclusions of Clause 11 cannot be invoked.

Thus, the Broadcaster is held to have contravened the provisions of Clause 10 of the Code of Conduct, and the complaint is thus upheld.

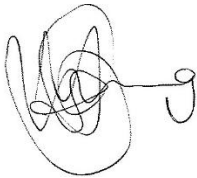
[11] THE BROADCASTER AND COMPLAINANT WERE REQUESTED TO MAKE SUBMISSIONS REGARDING THE SANCTION.

Having noted both the aggravating and the mitigating submissions the BCCSA would first like to accordingly deal with:

[a] The highlighted distinction between ‘Broadcaster or Respondent versus ‘the panellist’ – as brought about by the Broadcaster’s submissions. While it is trite to note the distinction between the two as a matter of technicality and perhaps the detail of which is relevant to the internal relations of the Broadcaster,

however, for the purposes of this adjudication, The Flashpoint is a programme that was broadcast on one of the respondent's channels. The Flashpoint operates through the United States based broadcaster, Daystar TV. For Daystar TV to broadcast its material within the South African borders, it had to enter into a broadcast agreement with Multichoice as a South Africa Broadcaster under the regulation of the BCCSA. Thus, the relevant party for the purposes of the BCCSA and its jurisdiction is the Broadcaster, in this instance MultiChoice.

- [12] Be that as it may, and in the further upholding of the complaint a fine of R30 000 is imposed against the Broadcaster seeing that the impugned programme **does** not only incite violence or harm, but it went on further and justified the killing of other human beings, such that the exclusions of Clause 11 cannot be invoked.



ADV BOITUMELO LINCHE-TLHAKUNG
COMMISSIONER: BROADCASTING COMPLAINTS COMMISSION