



ADJUDICATION NO: 32/A/2026

NAME OF PROGRAMME: THE DJ FRESH BREAKFAST SHOW
DATE AND TIME OF BROADCAST: 6 AUGUST BETWEEN 7:00 TO 7:45
BROADCASTER: KAYA FM
COMPLAINANTS: MPHUTHI

COMPLAINT

The complaint concerns the use of the word "moer" in the morning when a large number of children forms part of the audience.

APPLICABLE CLAUSES

FREE-TO-AIR CODE

CLAUSE 6 – HARMFUL TO CHILDREN

- (1) Broadcasting service licensees must not broadcast material which is harmful or disturbing to children at times when a large number of children are likely to be part of the audience.
 - (11) No excessively or grossly offensive language should be used before the watershed period on television or at times when a large number of children are likely to be part of the audience on television or radio.
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ADJUDICATION

- [1] A complaint was received by the Registrar against Kaya FM. The complaint concerns the use of the word "moer" by on-air personality DJ Fresh (Thato Sikwane) during a live broadcast of *The DJ Fresh Breakfast* on Kaya FM 95.9. The word was uttered during an interview with a 12- or 13-year-old guest, Olebile Sefolo, who was being recognized for his achievements as a champion practical shooter.

The complainant contends that while the presenter's underlying message, that firearm competence carries responsibility and does not license misuse, was positive and responsible, the choice of the word "moer" in a sentence addressed directly to a child guest ("*...that doesn't give you the right to go around and moer everyone*") constitutes vulgar slang connoting violent assault.

The complainant argues that broadcasting this language during a peak weekday breakfast timeslot (07:00–07:45), shortly after a child-participation segment ("Breakfast Buddies"), violates Clauses 6(1) and 6(11) of the Free-to-Air Code of Conduct regarding material harmful to children and excessively offensive language used when children are likely to be in the audience.

- [2] **The complaints read as follows:**

"COMPLAINT TO THE BROADCASTING COMPLAINTS COMMISSION OF SOUTH AFRICA (BCCSA)

Complaint against:	Kaya FM 95.9
Programme:	The DJ Fresh Breakfast/Kaya Breakfast
Presenter:	DJ Fresh (Thato Sikwane)
Date of Broadcast:	06/08/2026
Approximate Time:	Between 07:05 and 07:45

RE: COMPLAINT REGARDING THE USE OF OFFENSIVE LANGUAGE DURING A MORNING BROADCAST IN THE PRESENCE OF A CHILD GUEST

1. Nature and Basis of the Complaint

I lodge this complaint against Kaya FM 95.9 in respect of a broadcast of The DJ Fresh Breakfast, aired between approximately 07:05 and 07:45 on the date recorded above.

The complaint concerns the presenter's use of the word "moer" during a live on-air interview with a 12- or 13-year-old guest, Mr Olebile Sefolo, who was being interviewed about his achievements as a champion practical shooter.

This is a Code-compliance complaint, not a complaint of personal taste. I do not take issue with the presenter's underlying message that skill with a firearm does not entitle a person to use it irresponsibly, which was a responsible and welcome point to make to a young audience.

My complaint is confined to the specific word chosen to make that point, in the specific circumstances in which it was broadcast, and whether that choice is reconcilable with the broadcaster's obligations under clauses 6(1) and 6(11) of the BCCSA Free-to-Air Code of Conduct for Broadcasting Service Licensees (2009) ("the Code").

2. The Broadcast

During the interview, the presenter sought to illustrate that competence with a firearm carries responsibility. He drew an analogy to a martial arts black belt and said, in words to the following effect:

"...that doesn't give you the right to go around and moer everyone."

This was said directly to the child guest, on air, during a segment in which the child was an active participant rather than a passive subject of discussion.

3. The Word Itself: Objective Evidence of Its Character

Rather than ask the Commission to accept on my say-so that "moer" is offensive, I set out the objective lexicographic record.

The Collins English Dictionary labels the verb "moer" explicitly as South African "vulgar, slang", and defines it as meaning to attack a person or thing violently.

The Dictionary of South African English — the standard scholarly reference for South African usage — records the verb form of "moer" as "not in polite use", and its citation history shows the word used consistently in contexts of assault, violence and anger rather than as neutral vocabulary.

This is not a marginal or contested classification. Two independent, authoritative lexicographic sources — one a mainstream commercial dictionary, the other the leading academic dictionary of South African English — both place "moer" outside the register of polite or neutral broadcast speech and inside the register of vulgar slang. That is the objective foundation for this complaint; it does not rest on my personal sensibility.

4. The Applicable Provisions of the Code

I confine this complaint to the two provisions of clause 6 of the Code that are, on their own wording, actually engaged by these facts. I do not rely on clause 6(9) (which concerns frightening special effects in children's programming) or clause 6(10) (which, on its plain wording, applies only to "programmes specially designed for children" — a category The DJ Fresh Breakfast does not fall into). Relying on provisions that do not apply on their face

would weaken rather than strengthen this complaint, and I have accordingly narrowed it to the provisions that do.

4.1 Clause 6(1)

“Broadcasting service licensees must not broadcast material which is harmful or disturbing to children at times when a large number of children are likely to be part of the audience.”

4.2 Clause 6(11)

“No excessively or grossly offensive language should be used before the watershed period on television or at times when a large number of children are likely to be part of the audience on television or radio.”

Clause 6(11) is squarely on point: it is the one provision in the Code that expressly regulates offensive language on radio, at any time of day, by reference to the likely presence of children in the audience rather than by reference to a fixed watershed (radio has none under the Code). It is this clause, correctly identified, that carries the weight of this complaint.

5. The Legal Threshold, and Why It Is Met

I accept, and wish to be explicit about, the threshold the Code actually sets. Clause 6(11) does not prohibit all offensive language; it prohibits language that is “excessively or grossly offensive” in the relevant circumstances. A single vulgar word will not automatically cross that line, and the Commission is rightly reluctant to act as a language editor over every colloquialism that finds its way onto air.

I submit, however, that the threshold is met here for a combination of reasons specific to this broadcast, not because of the word in isolation:

The word denotes violent assault. “Moer” is not a mild vulgarism like a religious expletive; its lexical meaning is to beat or attack someone. Used in a sentence about not attacking people, the word's violent connotation is not incidental — it is the operative meaning being invoked, in front of a child, on a topic (firearms and violence) where language choices carry particular weight.

1. It was addressed to a child, not merely broadcast in a child's general vicinity. This distinguishes the case from an overheard aside or a word used between adult co-presenters. The presenter chose this specific word while speaking directly to a 12- or 13-year-old guest, on air, as part of a lesson he was actively trying to impart to that child and to the listening audience of children.
2. The immediately preceding segment establishes that the broadcaster knew children were tuned in. “Breakfast Buddies”, in which children submit voice notes and participate on air, aired only minutes earlier in the same programme. A broadcaster cannot run a child-participation segment and then treat the same timeslot, minutes later, as though no children remain in the audience. Clause 6(11) asks whether a large number of children are “likely to be part of the audience” — it does not require proof that every specific child stayed tuned in, and the broadcaster's own editorial choices in the same half-hour are strong evidence going to likelihood.
3. There is no watershed protection available on radio. Because clause 6(11) applies to radio “at times when a large number of children are likely to be part of the audience” rather than by reference to a clock-based watershed, the relevant question is squarely

about audience composition during a peak weekday breakfast slot before school — precisely the period this provision was designed to capture.

6. *Anticipated Response on Audience Composition, and Reply*

I anticipate that Kaya FM may point to its licensed target demographic (commuting adults, LSM professionals) and argue that the programme is not, on its audience research, principally a children's programme. I accept that this may well be true as a matter of overall demographics, and I do not ask the Commission to find otherwise.

That response, however, answers a different question from the one clause 6(11) asks. The clause does not require that children form the primary or majority audience — only that a large number of children are “likely to be part of the audience” at the relevant time. A drive-time or breakfast show can be adult-targeted in its overall demographic and still have a large number of children among its listeners before school, in cars, in kitchens and on the way to school with parents. The presence of an active, on-air children's participation segment minutes before the incident is, on the facts of this broadcast, direct evidence that this was such an occasion, whatever the station's average demographic profile may show over a full broadcast week.

7. *Editorial Necessity and Context*

I acknowledge, fairly, that context can reduce the offensiveness of a word: this was not abuse directed at the child, it was not shouted in anger, and it was used only once, to make a responsible point. Those factors matter and I do not dismiss them.

But context cuts both ways, and editorial necessity remains relevant to the assessment. The presenter's own sentence supplies the test: he could have conveyed exactly the same message — that competence does not license misuse — using any of several equally natural, equally punchy South African English alternatives (“go around and hurt everyone”, “attack everyone”, “beat people up”). None of these carries a lower communicative cost than “moer”; none would have required the presenter to sacrifice clarity, humour or authenticity of voice. Where a broadcaster addressing a child on air had a range of equally effective, non-vulgar alternatives available and did not need the specific word actually used to make the point, that absence of necessity is a legitimate factor the Commission may weigh in assessing whether the language crossed the line the Code draws, particularly where — as here — the word's core meaning is itself an act of violence.

8. *Vulgarity, Not Profanity — and Why That Still Matters*

For completeness, I do not contend that “moer” is blasphemous or that it belongs in the same register as the most severe forms of profanity. It is properly classified, on the lexicographic evidence above, as vulgar colloquial slang connoting violence. Clause 6(11) does not confine itself to profanity or blasphemy; it captures “excessively or grossly offensive language” in the broader sense, which is why the vulgarity/profanity distinction, while relevant to degree, is not a basis to place this word outside the clause altogether.

9. *Relevant BCCSA Precedent*

This is not the first time the Commission has had to consider language of this kind, broadcast on radio by this same presenter. In *Mokwa v Metro FM* (BCCSA Adjudication No. 23a/2019), a complaint concerning DJ Fresh's on-air use of the word “arse” and an invented term understood by some listeners as a Nguni vulgarism was upheld. The Commission found the language to be vulgar and distasteful and reprimanded both the presenter and the

broadcaster, notwithstanding a finding that the presenter had not intended to offend and had acted out of momentary emotion rather than design.

That precedent is directly instructive here for two reasons. First, it confirms that the Commission does not require proof of malicious intent, of a word being “directed at” a specific person as an insult, or of repeated use, before language broadcast on radio can be found to breach the Code — a single instance of vulgar language, honestly and non-maliciously used, was sufficient in that matter. Second, the word at issue in this complaint is, if anything, a stronger case for a finding against the broadcaster than “arse”: “moer” was used with its core, violent meaning intact and in play (an incitement not to assault people), addressed directly to a child, immediately following a segment that had actively invited children onto the air. The absence of ill intent did not save the broadcast in the 2019 matter, and I submit it should not be determinative here either.

10. Response to the Broadcaster's Likely Defence

In fairness to Kaya FM, I set out below the defense I expect the broadcaster to raise, together with my response to each point.

Likely defence	Response
“Moer” is common, everyday South African colloquial speech.	Frequency of use does not equal appropriateness for the relevant timeslot. Two independent dictionaries classify it as vulgar/impolite notwithstanding its common use — common and polite are not the same thing.
The word was not directed at the child as an insult.	Accepted, and this complaint does not allege otherwise. But clause 6(11) is not confined to insults; it covers excessively or grossly offensive language generally, and the 2019 Metro FM precedent confirms this.
It was a single, isolated use.	Accepted as a mitigating factor relevant to sanction, not as a basis to find no breach. The 2019 precedent involved language of comparable brevity and still resulted in a finding against the broadcaster.
The programme's target demographic is adults.	The average demographic does not negate the likelihood of a large number of children being part of the audience at this specific moment, particularly given the preceding children's segment. Clause 6(11) asks about likelihood at the relevant time, not the station's average listener profile.
The word was used to discourage violence, not promote it.	Accepted as relevant context that reduces — but does not eliminate — the offensiveness of the word, given that equally effective non-vulgar alternatives were available at no cost to the message.

11. Why the Child Interview Specifically Raises the Broadcaster's Duty

The presence of a child guest is not incidental colour in this complaint; it bears directly on the application of clause 6(1). That clause turns on whether material is harmful or disturbing to children at times when children are likely to be listening. A broadcaster interviewing a child,

live, about a serious subject (firearm safety) is on notice, in the clearest possible terms available to it, that its language choices in that segment will be heard by, and are being modelled for, a child audience — both the child in the studio and children listening at home. This is a materially higher-notice situation than a general adult interview during which a child might happen to be listening, and I submit the Commission should weigh it accordingly.

12. Summary of Grounds

I submit that the following factors, taken together, establish that the broadcast fell foul of clauses 6(1) and 6(11) of the Code:

- The word used denotes an act of violence and is classified by independent dictionaries as vulgar slang not in polite use.
- It was addressed directly to a 12- or 13-year-old child guest, on air, during a breakfast timeslot.
- The immediately preceding “Breakfast Buddies” segment is direct, contemporaneous evidence that a large number of children were likely part of the audience at the relevant time.
- Numerous equally effective, non-vulgar alternatives were available and would not have diminished the presenter's message.
- The BCCSA has previously found, in *Mokwa v Metro FM* (Adjudication No. 23a/2019) involving this same presenter, that a single non-malicious use of vulgar language on radio breached the Code.

I submit that no single factor above would necessarily be sufficient on its own, but that their combination is, and that this distinguishes the present complaint from a case of a broadcaster being penalised for one throwaway colloquialism in the ordinary run of adult conversation.

13. Relief Sought

I respectfully ask the Commission to investigate this matter and, should it find that the broadcast contravened clauses 6(1) and/or 6(11) of the Code, to consider the following as appropriate and proportionate remedies, in keeping with the approach taken in the 2019 Metro FM matter:

4. A finding that the broadcast contravened the Code;
5. A formal reprimand of Kaya FM and the presenter;
6. An on-air acknowledgment or clarification, broadcast during the same programme and timeslot, at the Commission's discretion; and
7. A direction that Kaya FM provide, or refresh, editorial guidance to its presenters on language use during programming where children are likely to form part of the audience.

I remain willing to provide any further information, including the exact broadcast date and audio or transcript excerpts, that would assist the Commission's investigation.”

[3] The Broadcaster responded as follows:

“Kaya 959 acknowledges receipt of the complaint relating to the broadcast of The DJ Fresh Breakfast on 6 August 2026, specifically the use of the word “moer” during an interview with young guest, Olebile Sefolo.

Having reviewed the complaint, the relevant broadcast and the context in which the statement was made, Kaya 959 respectfully submits that there was no breach of the applicable Code.

We do not dispute that the word “moer” is colloquial South African language and may, depending on context, be considered vulgar or impolite. However, the assessment of language under the Code cannot reasonably be made by isolating a single word from the sentence, conversation and editorial context in which it was used.

1. The context and intention of the statement

The complainant correctly acknowledges that the presenter's underlying message was responsible and appropriate: that being highly skilled with a firearm does not give an individual licence to behave irresponsibly or use that ability to harm others.

This was precisely the point the presenter was making.

The presenter was speaking to a young person who had demonstrated an exceptional level of skill in practical shooting. His intervention was intended to emphasise that exceptional ability must be accompanied by exceptional discipline, restraint and responsibility.

The reference to not being entitled to “go around and moer everyone” was therefore not an insult directed at Olebile, nor was it encouragement of violence. Quite the opposite: it was used in the context of discouraging violence and emphasising responsible conduct.

The word was used colloquially to illustrate the seriousness of the responsibility that accompanies the young guest's talent.

2. The word was not directed at the child as abuse

Importantly, the presenter did not call the child a “moer”, nor did he threaten, demean, belittle, or verbally abuse him.

The construction of the sentence was hypothetical and general:

“...that doesn't give you the right to go around and moer everyone.”

The subject of the statement was not the child himself, but the hypothetical misuse of ability against other people.

The complainant itself concedes that the word was not directed at the child as an insult and that the presenter was not shouting at the child or acting in anger.

That distinction is material.

3. The editorial context is important

The exchange was an informal breakfast-radio conversation, rather than a programme designed for children. The interview was conversational in nature and the presenter was engaging directly with the guest in a manner consistent with the show's established editorial style.

The fact that a child was the guest does not, in itself, transform an adult-targeted breakfast programme into children's programming or mean that every colloquial expression used during an otherwise appropriate conversation becomes a Code violation.

There was also no gratuitous or repeated use of offensive language. The word was used once, within a broader discussion about responsibility, discipline and the appropriate use of firearm-related skills.

4. The language threshold in the Code

Kaya 959 notes that clause 6(11), as cited in the complaint, does not prohibit every instance of vulgar, colloquial or impolite language. The relevant threshold is whether language is “excessively or grossly offensive” in the circumstances.

In our submission, a single colloquial expression, used once, without abusive intent, without directing the expression at the child and in the course of making a message discouraging violence, does not meet that threshold.

The complainant places significant emphasis on dictionary classifications of the word. While those classifications may assist in understanding the word, they cannot determine the Code assessment by themselves.

Broadcast language must be considered contextually. The same word may carry materially different levels of offensiveness depending on how, why and to whom it is used.

Here, its function was illustrative rather than abusive.

5. The message was one of discipline and responsibility.

Kaya 959 considers it important not to lose sight of the substance of the exchange. The presenter was not glorifying violence. He was telling a talented young person, in effect, that talent comes with responsibility.

The analogy being drawn was that possessing a high level of skill or competence does not give one permission to misuse that skill against others.

That is a positive and responsible message, particularly in a conversation involving a young person and the subject of firearms.

The word used was part of the presenter's conversational style and was not the message itself.

6. No harm or encouragement of harmful conduct

There is also no basis to suggest that the broadcast encouraged the child or the audience to engage in violent conduct.

The meaning conveyed was the opposite.

The presenter expressly used the term in a construction that condemned the idea of going around attacking people. The overall editorial message was therefore one of restraint, discipline and responsible behaviour.

Kaya 959 respectfully submits that it would be disproportionate to characterise this isolated colloquial expression, in that context, as harmful or grossly offensive material.

7. Conclusion

Kaya 959 takes its broadcasting responsibilities seriously and recognises the importance of appropriate language, particularly where young people participate in programming.

Having nevertheless considered the complaint, the broadcast and the context of the exchange, the station is satisfied that the presenter did not abuse or demean the young guest, did not promote violence and did not use the word in a manner that was excessively or grossly offensive.

The statement was a colloquial expression used to reinforce a responsible message: exceptional talent must be matched by discipline, maturity and responsibility.

Accordingly, Kaya 959 respectfully submits that the complaint should not be upheld and that no finding of fault should be made against the station or the presenter.

We trust that the Commission will consider the broadcast in its full context and not solely on the basis of the isolated word complained of.”

[4] The complainant replied as follows:

“Thank you for forwarding Kaya 959's response and for affording me the opportunity to provide reasons in response. I have considered the broadcaster's submission, together with the applicable provisions of the BCCSA Code and relevant BCCSA adjudications.

For clarity, I do not dispute that the presenter's broader message was responsible. My complaint has never been that he encouraged violence or that he intended to insult the young guest. The issue is whether the particular language chosen, in the particular circumstances in which it was broadcast, complied with the Code.

I therefore respectfully submit the following for the Commission's consideration:

1. THE ISSUE BEFORE THE COMMISSION

- 1.1 Kaya's response repeatedly emphasises that the presenter did not call the child a “moer”, did not threaten him, did not demean him and did not intend to encourage violence.
- 1.2 I accept all of those points insofar as they accurately describe the presenter's intention. However, they do not dispose of the complaint under clause 6(11).
- 1.3 Clause 6(11) is concerned with whether “excessively or grossly offensive language” was used at a time when large numbers of children were likely to be part of the radio audience. It does not, on its wording, require the language to constitute a personal insult, to be directed at the child, or to be accompanied by an intention to offend.
- 1.4 My complaint therefore does not depend upon establishing that DJ Fresh verbally abused Olebile. The issue is the objective character of the language used, the circumstances in which it was used, the likely child audience and the context in which the word was deliberately selected.

2. THE RESPONSIBLE MESSAGE DOES NOT ANSWER THE LANGUAGE QUESTION

- 2.1 I expressly acknowledged in my original complaint that the presenter's underlying message was responsible: possessing exceptional firearm skills does not entitle a person to misuse those skills against others.
- 2.2 Kaya therefore does not identify a disagreement with me on the substance of the message. The disagreement concerns the means by which that message was communicated.

- 2.3 Respectfully, the fact that the message was responsible does not necessarily mean that every word selected to communicate that message was permissible under clause 6(11).
- 2.4 Context is undoubtedly relevant. The BCCSA has itself stressed that language must be assessed in context. In *Schalkwyk v SABC RSG*, Adjudication 22/A/2022, the Commissioner explained that the Code does not prohibit mere crudeness and that the assessment must be made objectively, having regard to the context and the reasonable, broadminded listener.
- 2.5 However, *Schalkwyk* does not establish that a responsible underlying message immunises vulgar language from scrutiny. It demonstrates precisely why the whole factual context must be considered.

3. THE WORD “MOER” WAS NOT INCIDENTAL TO THE MESSAGE

- 3.1 Kaya describes the word as merely “illustrative” and as part of the presenter’s conversational style.
- 3.2 I respectfully disagree with that characterisation.
- 3.3 The sentence was:

“...that doesn’t give you the right to go around and moer everyone.”
- 3.4 The word was not an incidental utterance, slip of the tongue or quotation from another person. It was selected by the presenter as the verb used to describe the hypothetical act of violently attacking other people.
- 3.5 The violent meaning was therefore integral to the analogy. The presenter could have made the same point by saying “hurt”, “attack” or “beat up”. The responsible message would have remained intact.
- 3.6 This is important not because I contend that broadcasters are legally required to use the least offensive possible synonym, but because the availability of equally effective non-vulgar alternatives is relevant when the Commission assesses the circumstances and degree of offensiveness.

4. THE OBJECTIVE CHARACTER OF THE WORD

- 4.1 The complaint did not rely merely upon my personal dislike of the word.
- 4.2 The evidence identified in my complaint was provided to demonstrate the objective register and meaning of the expression. Collins classifies the South African verb “moer” as vulgar slang, while the Dictionary of South African English records the word as “not in polite use”.
- 4.3 I accept Kaya’s submission that a dictionary definition cannot, by itself, determine whether the Code has been breached. I have never suggested otherwise.
- 4.4 The dictionary evidence is relevant to the preliminary question of what kind of language was used. The ultimate question remains the one prescribed by the Code: whether the language, considered in its broadcast context, was excessively or grossly offensive at a time when large numbers of children were likely to form part of the audience.

5. THE PRESENCE OF THE CHILD GUEST IS A MATERIAL FACT

- 5.1** Kaya correctly states that an adult breakfast programme does not become a children's programme merely because a child appears as a guest.
- 5.2** That, however, is not the proposition advanced in my complaint.
- 5.3** I rely on the fact that this was not merely an adult conversation during which an unidentified child might coincidentally have been listening.
- 5.4** The presenter was knowingly and directly speaking to a child guest, approximately 12 or 13 years old, during a live broadcast, and the subject under discussion concerned firearms, violence, responsibility and the appropriate use of exceptional shooting ability.
- 5.5** The child was therefore not incidental to the broadcast. He was an active participant in the conversation and the presenter knew this when choosing the language.
- 5.6** This is a materially different factual situation from an adult discussion in which children might happen to be secondary listeners.

6. THE RELEVANCE OF THE BREAKFAST TIMESLOT

- 6.1** Clause 6(11) does not make the applicability of its radio protection dependent upon the programme being designed for children. The relevant consideration is whether large numbers of children are likely to be part of the audience.
- 6.2** The broadcast occurred during the weekday breakfast period, approximately between 07:05 and 07:45.
- 6.3** My original complaint also drew attention to the "Breakfast Buddies" segment which had occurred shortly before the impugned exchange and which involved children participating in the programme.
- 6.4** I submit that this is relevant contemporaneous evidence concerning the audience which the broadcaster itself anticipated and engaged during that period.
- 6.5** I therefore respectfully ask the Commission to consider the programme recording and schedule in determining the audience circumstances, rather than treating the programme's general adult target demographic as conclusive.

7. THE 2019 DJ FRESH PRECEDENT

- 7.1** I wish to clarify my reliance on *Mokwa v SABC Metro FM*, Adjudication 23/A/2019, because I accept that the decision should not be overstated.
- 7.2** The BCCSA did not find that every word complained of in that matter constituted a contravention. In particular, it found that "msunery" was ambiguous and could not objectively be reconstructed as "umsunu".
- 7.3** The finding of contravention concerned the subsequent statement that people should stop "texting from their arses".
- 7.4** The importance of the decision for the present complaint is therefore narrower and more precise.

- 7.5 The Commissioner found that “arse” was commonly considered slang and vulgar language and, considered in context, was distasteful and inappropriate for child consumption. The Commissioner specifically noted that the broadcast occurred between 06:30 and 07:00, when large numbers of children were likely to be travelling to school and listening to the radio.
- 7.6 Significantly, the Commissioner found that the presenter's utterances lacked intention to offend or cause harm to children, but nevertheless described the language as distasteful and found that, as an experienced presenter, he ought to have exercised greater control. The complaint was upheld.
- 7.7 I therefore do not rely on *Mokwa* for the proposition that a single vulgar word automatically constitutes a breach. I rely on it for the more limited proposition that **lack of malicious intent, lack of intention to harm children and the isolated nature of the language do not, by themselves, prevent a finding of contravention.**
- 7.8 There is also a factual distinction which, in my submission, warrants consideration: *Mokwa* concerned vulgar language arising from an emotional response to a listener's comments. The present matter concerns language used deliberately in an interaction with a child, in the course of explaining responsible behaviour.

8. KAYA'S RELIANCE ON THE ABSENCE OF INTENTION

- 8.1 Kaya places considerable reliance on the presenter's intention.
- 8.2 Again, I accept that his intention appears to have been responsible.
- 8.3 However, *Mokwa* is instructive because the Commissioner expressly found that DJ Fresh did not intend to offend listeners or cause harm to children, yet still found a contravention and regarded his lack of control as negligence rather than exculpatory conduct.
- 8.4 I therefore respectfully submit that intention should be treated as a contextual and potentially mitigating factor, rather than as a complete answer to the clause 6(11) inquiry.

9. THE DISTINCTION BETWEEN “NOT A CHILDREN'S PROGRAMME” AND “CHILDREN LIKELY TO BE LISTENING”

- 9.1 Kaya's submission that the programme is not designed for children is not disputed.
- 9.2 However, clause 6(11) expressly contemplates radio broadcasts at times when large numbers of children are likely to be part of the audience. It would therefore undermine the wording of the provision if an adult-targeted radio programme could avoid the provision merely by identifying its primary demographic as adults.
- 9.3 The BCCSA's jurisprudence demonstrates that the audience question is contextual.
- 9.4 I acknowledge that the 2026 decision in *Gerber v Jacaranda FM*, Adjudication 04/A/2026, is relevant and should be considered. In that matter, a complaint concerning suggestive lyrics broadcast at 06:28 was dismissed. However, the Commissioner placed considerable weight on the fact that the lyrics were indistinct, that attentive listening was required to understand their meaning, that children were likely to be secondary listeners, and that the station was an adult contemporary station.

- 9.5 The present circumstances are materially different. The word complained of here was not hidden within song lyrics or dependent upon interpretation. It was clearly spoken by the presenter, in an ordinary conversational sentence, with its colloquial meaning readily apparent.
- 9.6 More importantly, the presenter was directly engaging with a child guest. I respectfully submit that this makes the present matter distinguishable from *Gerber*.

10. THE OBJECTIVE TEST

- 10.1 I accept that the Commission must not determine the matter simply by asking whether I, personally, found the word offensive.
- 10.2 *Schalkwyk* makes clear that the assessment is objective and involves a reasonable, broadminded and balanced listener rather than an overly sensitive individual.
- 10.3 I respectfully submit that applying that test does not require the Commission to ignore the ordinary meaning and register of “moer”.
- 10.4 The question is whether the reasonable listener, considering the circumstances as a whole, would regard the use of a vulgar expression denoting violent assault, spoken directly to a child during a firearm-related discussion on breakfast radio, as falling within the prohibition against excessively or grossly offensive language.
- 10.5 I leave that objective assessment to the Commission.

11. THE ABSENCE OF AN INCITEMENT TO VIOLENCE

- 11.1 Kaya repeatedly submits that the broadcast did not encourage violence.
- 11.2 I agree that the presenter was not advocating violence. That is not my complaint.
- 11.3 However, the absence of an incitement to violence does not answer the separate question under clause 6(11), which concerns offensive language.
- 11.4 The fact that “moer” was used in a sentence condemning violence is relevant context, but it does not necessarily determine whether the expression itself was excessively or grossly offensive.

12. THE FACT THAT THE WORD WAS USED ONLY ONCE

- 12.1 I accept that the single use of the word is a relevant mitigating circumstance.
- 12.2 I do not contend that repetition is necessary to establish a contravention.
- 12.3 The *Mokwa* adjudication demonstrates why the isolated nature of an utterance does not necessarily end the inquiry. There, the BCCSA found a contravention in respect of a single use of “arses” in the relevant context.
- 12.4 I therefore submit that the fact that “moer” was used once should be considered by the Commission in determining the seriousness of the matter, but should not be treated as determinative of whether clause 6(11) was breached.

13. THE PARTICULAR CIRCUMSTANCES MAKE THIS CASE DIFFERENT

13.1 When the circumstances are considered cumulatively, this was not simply an isolated vulgar expression occurring randomly during adult radio programming.

13.2 The relevant circumstances include:

13.2.1 the word is objectively classified as vulgar/impolite South African slang;

13.2.2 it carries a meaning associated with beating or violently attacking someone;

13.2.3 it was used during a weekday breakfast broadcast;

13.2.4 the programme had shortly beforehand actively involved children through "Breakfast Buddies";

13.2.5 the presenter was speaking directly to a child guest;

13.2.6 the discussion concerned firearm skills and the responsibility not to misuse those skills;

13.2.7 the word was deliberately selected as part of the analogy rather than being an unavoidable quotation or reproduction of someone else's language; and

13.2.8 equally intelligible alternatives existed which would have conveyed the same responsible message without the vulgar expression.

13.3 I submit that it is the cumulative effect of these circumstances, rather than the word in isolation, that the Commission should assess.

14. I DO NOT ASK THE COMMISSION TO CENSOR KAYA FM'S EDITORIAL STYLE

14.1 I appreciate Kaya's concern that the BCCSA should not become an editorial language-policing body.

14.2 I am not asking the Commission to determine what language Kaya FM may generally use, nor am I suggesting that every colloquial South African expression should be prohibited.

14.3 I am asking only that the Code be applied to this particular broadcast and this particular use of the word, within the particular audience and circumstances in which it occurred.

14.4 The distinction is important because *Gerber* itself recognises the need to balance broadcasters' editorial discretion with the protections afforded to audiences under the Code.

15. CONCLUSION

15.1 Having considered Kaya FM's response, I remain of the view that there are reasonable grounds for the Commission to find that clause 6(11) was contravened.

15.2 I accept that the presenter's underlying message was responsible, that there was no apparent intention to insult the child, that the word was used only once, and that Kaya FM is an adult-targeted breakfast station. I respectfully submit that these are

contextual and potentially mitigating considerations rather than conclusive answers to the complaint.

- 15.3** I also acknowledge the Commission's recent decision in *Gerber v Jacaranda FM*, 04/A/2026, and do not suggest that children being present or potentially listening automatically makes adult radio content impermissible. The circumstances of each broadcast must be assessed on their own facts.
- 15.4** My submission is simply that the present facts are materially distinguishable because the vulgar expression was clear and unambiguous, was used in its ordinary violent sense, occurred during breakfast radio, and was spoken directly to a child guest in a discussion specifically dealing with firearms and responsible conduct.
- 15.5** The Commission will ultimately determine whether those circumstances meet the threshold of "excessively or grossly offensive language" contemplated by clause 6(11). I respectfully leave that determination to the Commission.
- 15.6** For completeness, I maintain my original position concerning clause 6(1), but I recognise that the stronger and more direct issue raised by the facts is clause 6(11).
- 15.7** I accordingly respectfully request that the Commission consider the full broadcast, the surrounding programme context, the relevant audience circumstances and the applicable BCCSA jurisprudence before making its determination.
- 15.8** I have no further submission to make at this stage and will abide by the Commission's determination"

EVALUATION

- [5] In evaluating this matter, the Commission must balance the broadcaster's editorial freedom and conversational style against the statutory obligation under Clause 6 of the Code to protect child listeners from harmful, disturbing, or grossly offensive material during times when children are likely to form a substantial part of the audience.
- [6] The core issue before the Commission is whether the single use of the Afrikaans/South African colloquialism "moer" by the presenter, during a peak weekday morning breakfast broadcast (07:05–07:45) while speaking directly to a 12- or 13-year-old guest, crosses the legal threshold established under Clause 6(11) ("excessively or grossly offensive language") or Clause 6(1) ("harmful or disturbing to children").

- [7] Lexicographically, independent authorities, including the *Collins English Dictionary* and the *Dictionary of South African English*, classify the verb "moer" as vulgar slang that is "not in polite use" and denotes physical assault or beating.

¹The Commission accepts that the word sits outside the register of formal, polite broadcasting vernacular. However, the BCCSA Code does not prohibit all slang, crude expressions, or impolite colloquialisms per se. As affirmed in *Schalkwyk v SABC (RSG)* (Adjudication No: 22/A/2022), the Code does not police mere crudeness; the standard is objective, judged through the ears of a reasonable, broadminded, and balanced listener considering the content within its full context.

- [8] In evaluating context, the following material factors are considered
- i. The presenter was engaged in an interview with a highly accomplished young practical shooter. The explicit purpose of the segment was to instill a lesson of restraint, safety, and moral responsibility, namely, that technical proficiency with a weapon does not license aggression. The phrase "*doesn't give you the right to go around and moer everyone*" was deployed specifically to condemn and discourage physical violence, not to promote or glorify it.
 - ii. The word was not used as an insult, curse, or abusive epithet directed at the child guest, nor was it delivered in anger. It was used hypothetically and descriptively within a conversational analogy regarding martial arts and weapon discipline.
 - lii The utterance was a single, isolated colloquialism within a 40-minute current affairs and talk segment.

¹ *Collins English Dictionary* sv "moer" (online) available at:
https://www.collinsdictionary.com/dictionary/english/moer#google_vignette

- [9] The complainant relies heavily on *Mokwa v SABC (Metro FM)* (Adjudication No: 23a/2019),² where a finding was made against the same presenter for using the word "arse" on morning radio. While *Mokwa* established that lack of malicious intent does not automatically exculpate a presenter, broadcasting jurisprudence requires each matter to be assessed on its specific factual matrix. In *Gerber v Jacaranda FM* (Adjudication No: 04/A/2026),³ the Commission re-affirmed that on adult-targeted commercial breakfast stations, isolated colloquial slang used without abusive or sexually explicit intent does not automatically trigger a violation of Clause 6(11) merely because child listeners may be present during morning transit.
- [10] Broadcasters and seasoned presenters are strongly cautioned to exercise heightened linguistic discipline and editorial restraint when interviewing child guests on air, particularly during peak morning commute hours when children are known to be listening. Speaking directly to a minor in the studio carries a heightened duty of care regarding language modelling.
- [11] However, applying the high threshold required by the Code, a single, isolated colloquial vulgarity deployed explicitly to communicate a pro-social message discouraging violence does not reach the level of being "excessively or grossly offensive" under Clause 6(11), nor does it constitute material that is "harmful or disturbing to children" under Clause 6(1). To hold that every slip into street colloquialism during an otherwise exemplary lesson on firearm safety constitutes a regulatory breach would stretch the Code past its intended purpose and impose an unworkable standard of editorial censorship on live talk radio.
- [12] While the presenter's choice of word was careless and inappropriate for polite broadcast register in the presence of a child guest, it does not amount to a

² *Mokwa v SABC (Metro FM)* Adjudication No 23A/2019 (BCCSA, 9 July 2019) available at: <https://www.bccsa.co.za/2019/07/09/adjudication-no-23-a-2019-mokwa-vs-sabc-metro-fm-harmful-to-children/>

³ *Gerber v Jacaranda FM* Adjudication No 04/A/2026 (BCCSA, 22 March 2026) available at: <https://www.bccsa.co.za/2026/03/22/adjudication-no04-a-2026-gerber-vs-jacaranda-fm-harmful-to-children/>

contravention of the Code. The complaint is accordingly dismissed. The broadcaster is urged to ensure its presenters maintain appropriate language boundaries when large number of children are likely to be part of the audience.

FINDING

1. The complaint under Clause 6(1) (Protection of Children) is DISMISSED.
2. The complaint under Clause 6(11) (Offensive Language) is DISMISSED.

A handwritten signature in black ink, appearing to read 'M Fuma'.

MS MELANY FUMA
COMMISSIONER: BROADCASTING COMPLAINTS COMMISSION