CASE NUMBER: 03/2026

TRIBUNAL DATE: 11 JUNE 2026
JUDGMENT RELEASE DATE: 02 OCTOBER 2026

AFRIFORUM **APPLICANT**

vs

eNCA **RESPONDENT**

BCCSA TRIBUNAL: **MR BRIAN MAKEKETA (TRIBUNAL CHAIREPERSON)**
ADV RETHABILE MAKOANYANE
PROF SANDRA FERREIRA

FOR THE APPELLANT: ADV HERMAN SCHOLTZ, MR WIAN SPIES FROM HURTER SPIES ATTORNEYS AND MR LOUIS BOSHOFF

FOR THE RESPONDENT: MR DAN ROSENGARTEN AND MR RICHARD CHEMALY FROM ROSENGARTEN & FEINBERG ATTORNEYS

This is an appeal against the finding of the Adjudicator in Adjudication No: 29/A/2025, handed down on 8th of December 2025. The Adjudicator dismissed the complaint. The appeal is upheld. AfrForum vs eNCA, Case 03/2026 (BCCSA).

SUMMARY

The question to be decided on appeal was whether the broadcaster complied with the requirements set out in Clause 28.2.2 of the Code for Subscription Broadcasters. The impugned statement refers to a statement made by the interviewer during an interview. It was found that the statement did not comply with Clause 28.2.2 as the statement was not an honest opinion expressed as comment and was not based on facts truly stated or fairly indicated or referred to. The appeal succeeded.

JUDGMENT

ADV MAKOANYANA

[1] This is an appeal against the finding of the Adjudicator in Adjudication No: 29/A/2025, handed down on 8th of December 2025. The Adjudicator dismissed the complaint.

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

"RE: Complaint against eNCA

Program: The South African Morning. 9 November 08:00, Presenter: Heidi Giokos
Section title: Trump pulls US from G20. Interview with Fikile Mbablula. Link: https://x.com/mbalulafikile/status/1987433710602625488?s=46

Description of complaint:

Giokos:

"Why does the ANC want to engage at all with the likes of Solidarity and AfriForum? G25 and that has led to Donald Trump ostracising South Africa and threatening to sanction certain ANC members." (emphasis added)

We submit that this is in breach of section 28.2.2 of the BCCSA's code of conduct for subscription services for licensed broadcasters.

The claim is made that AfriForum has gone to the United States to say that there's a white genocide [in South Africa]. This is presented as fact and not merely as the presenter's opinion. It is however false and does damage to AfriForum's reputation.

AfriForum and Solidarity have not made any public claim that there is a present or pending "genocide" against white people in South Africa.

This has been confirmed by a number of rulings by the Press Council. See the following links for reference:

https://presscouncil.org.za/2018/12/06/afriforum-vs-mail-guardian/
https://presscouncil.org.za/2021/01/21/afriforum-vs-times live/
https://presscouncil.org.za/2024/12/02/afriforum-vs-sunday-world/
https://presscouncil.org.za/2025/10/15/ag reed-settlement -afriforum-and -solidarity -vs -daily - maverick-31251-32153/
https://x.com/louisbos123/status/1908054578202845193

We request that the BCCSA investigate this and upon finding, direct the respondent to broadcast a correction and apology with the following (or similar) wording:

"eNCA wrongly stated that AfriForum went to the United States to say that there is a white genocide taking place in South Africa. We apologise to AfriForum for making this false claim and for causing reputational damage. We wish to correct this statement by acknowledging

that AfriForum has not made any public claim that there is a present or pending genocide against white people in South Africa."

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

"RE: ENCA V AFRIFORUM - SA MORNING SHOW – OPINION AND FACTS

[1] This letter serves as our response to the complaint lodged by AfriForum ("**the Complainant**") on 11 November 2025 regarding the interview with the Secretary General of the African National Congress ("**the ANC**")— Mr Fikile Mbalula ("**Mr Mbalula**"), broadcast on *The South African Morning Show* on 9 November 2025 between 08h01 and 08h20 ("**the Interview**").

[2] At the outset, it must be noted that the Complainant did not base its complaint on the actual broadcast as envisaged under Rules 2.1–2.4 of the Procedural Rules. Instead, the complaint is founded on footage recorded and posted by Mr Mbalula on his personal social media account on X.

[3] We acknowledge that the footage corresponds to the Interview, and therefore respond in the context of the broadcast itself

Impugned Statement

[4] The Complainant alleges that the Presenter made the following statement as fact and not opinion:

> Why does the ANC want to engage at all with the likes of Solidarity and AfriForum? Because *they have gone to the United States to say that there's a white genocide* and that has led to Donald Trump ostracising South Africa and threatening to sanction certain ANC members. (emphasis added)

[5] A simple review of the broadcast confirms that this allegation is false.

[6] The Presenter did not make any such assertion. Instead, she posed the following **question** to Mr Mbalula:

> Do you as the ANC want to engage at all with the likes of Solidarity and AfriForum because they have gone to the United States to say that there is a white genocide that has led to Donald Trump ostracizing South Africa and threatening to sanction certain ANC members.

[7] The Complainant has effectively manipulated this question into a statement by artificially inserting a question mark between "AfriForum" and "because", thereby attempting to transform a single question into both a question and a new, grammatically incorrect "statement" beginning with "Because".

[8] In context, the Presenter was asking whether the ANC, amid allegations concerning unpunished ANC leaders implicated in corruption, intended to engage with organisations such as Solidarity and AfriForum, given their demonstrated ability to influence foreign actors who have taken punitive positions against ANC leaders.

[9] We therefore categorically deny that a reasonable people would think that the Presenter made any statement as alleged. Accordingly, there is no factual or legal basis for the complaint.

Applicable clause

[10] The Complainant alleges violation of clause 28.2.2 of the BCCSA's Code of Conduct for Subscription Broadcasting Service Licensees ("**the Code**"), claiming that the Presenter's "statement" was presented as fact rather than opinion.

[11] The registrar of the BCCSA requested us to respond in terms of the clause stated by the Complainant.

[12] Clause 28.2.2 provides:

> Comment must be an honest expression of opinion and must be presented in such manner that it appears clearly to be comment and must be made on facts truly stated or fairly indicated and referred to.

[13] The Complainant relies on Press Council case law concerning written news reporting. We submit that the Press Code is wholly irrelevant: it applies exclusively to published print and online content, not to broadcast material.

[14] Furthermore, the Commission has consistently held that the truth and accuracy obligations under the news clause of the BCCSA Codes do **not** apply to discussion or interview programmes such as this.

[15] The Commission has also repeatedly ruled that clause 28.2.2 **does not require that the underlying facts be true**, only that they be truly stated or fairly indicated or referred to when forming an opinion.[1]

[16] The Complainant's entire complaint is based on the alleged "truthfulness" of what it incorrectly characterises as a factual statement. It therefore has no basis under clause 28.2.2. Furthermore, the Commission has established that clause 28.2.2 **does not require a statement made to be true** and justifiable but rather only to be truly stated or fairly indicated and referred to.

[17] We further verified that there is no BCCSA ruling that obliged Newzroom Afrika to apologise to the Complainant. Their apology on 28 March 2025 was a voluntary action undertaken for their own reasons and unrelated to any contravention of the Code.

Evaluation of the Actual Question Posed

[18] Despite the fact that the Presenter did not make any statement, we address the context of her question to demonstrate that even the question itself does not contravene clause 28.2.2.

[19] The Presenter's question implied an opinion that organisations "such as Solidarity and AfriForum" had travelled to the United States and made representations contributing to narratives of "white genocide".

[20] Clause 28.2.2 requires only that comment be:

- an honest expression of opinion, and
- based on facts that are truly stated or fairly indicated and referred to.

[21] The following are matters of public record and form a fair basis for comment:

[1] Para 10 of case no. 15/2024 in pg 21 and para 11 of case no. 24/A/2024

21.1. in April 2018, AfriForum travelled to the USA to lobby U.S government institutions.

21.2. Following this lobbying, U.S. media—including Tucker Carlson on Fox News—broadcast segments promoting the "white genocide" narrative in South Africa.

21.3. Then U.S president—Donald Trump ("**Mr Trump**") subsequently posted on X, referencing **@TuckerCarlson @FoxNews** and alleging a large scale killing of farmers[2] in South Africa,

21.4. On 2 February 2025, Mr Trump wrote on Truth Social post that "South Africa is … treating certain classes of people VERY BADLY…"

21.5. These developments generated public backlash within South Africa, including criticism from politicians such as Brett Herron of the GOOD Movement, who attributed the spread of (this "white genocide") disinformation to AfriForum and its associates[3]

21.6. In response, AfriForum released a public statement on 3 February 2023 urging Mr Trump "**to punish ANC leaders rather than South Africa."**

21.7. In an interview with eNCA on 3 February 2023, AfriForum representatives acknowledged links to influential networks in the U.S. and declined to disclose further details at the time.

21.8. On 25 May 2025, Mr Trump confronted President Ramaphosa and his delegation at the White House with allegations of "white genocide."

21.9. On 5 November 2025, Mr Trump announced that U.S. officials would not attend the South African-hosted G20 Summit, citing the alleged "killing and slaughtering" of Afrikaners and illegal farm confiscations.

[22] In her question, the Presenter fairly referred to:

22.1. organisations such as AfriForum having travelled to the United States,

22.2. their role in promoting or contributing to the spread of "white genocide" narratives, and

22.3. the resulting actions and rhetoric of Donald Trump towards South Africa, including threats of punitive measures which the Complainant requested to be directed at ANC leaders.

[23] On this basis, we submit that the Presenter's question clearly constituted an honest expression of opinion grounded in facts that were fairly indicated and referred to as required by clause 28.2.2.

Conclusion

[24] In light of the above, we submit that

24.1. the Presenter **did not** make the alleged statement;

24.2. the Complainant mischaracterised a question as a statement;

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[2] https://x.com/realDonaldTrump/status/1032454567152246785
[3] https://x.com/brettherron/status/1886283825157747042?s=20

24.3. the alleged contravention is based on truthfulness standards that do **not** apply under clause 28.2.2; and

24.4. even if the question implied a comment, it was an honest expression of opinion based on facts fairly indicated.

[25] We therefore humbly request the Commission to dismiss the complaint in its entirety."

[5] The Adjudicator's decision was as follows:

"[5] I watched the impugned segment of *The South African Morning* show. This segment formed part of a news-style programme rather than a news bulletin or broadcast. Broadcasters have adopted a hybrid approach in which a news item is read by a presenter followed by a discussion conducted with an authoritative guest. This follow-up discussion can hardly be described as news. The news clip or event may be the peg on which the discussion is hung but it does not bring the discussion within the parameters of Clause 28.2. Clause 28 clearly distinguishes between "news" and "comment on matters of public importance". The definition of news is that it pertains to newly received or noteworthy information, especially about recent or important events[4]. In this instance, we are dealing with a discussion of a controversial issue of public importance that has been in the news for several months.

[6] It is general knowledge that presenters are provided with a list of questions to be posed when conducting an interview. The impugned interview with Mr Mbalula started with the following question from the presenter:

I want to get your response with regards to Donald Trump announcing yesterday that he will not be attending the G20 or any US officials.

After Mr Mbalula's response, she continued with the impugned question, which the Complainant argues involved an untrue statement of fact. The Complainant contends that as written and spoken questions differ significantly, the tone of a verbal question is very important. The Complainant argues that the impugned question was posed as follows:

"*Do you as the ANC want to engage at all with the likes of Solidarity and AfriForum because* [pause] ***they*** [emphasis] *have gone to the United States to say that there is a white genocide that has led to Donald Trump ostracizing South Africa and threatening to sanction certain ANC members[?]"*

The Complainant maintains that the sentence was clearly stated as fact, however, it was untrue. It is widely confirmed that AfriForum has never claimed that there is a white genocide taking place in South Africa.

[7] Clause 28.2.1 states that broadcasters may broadcast comment on and criticism of any actions or events of public importance. This matter is clearly an event of public importance given the diplomatic and political implications of South Africa's relations with the United States.

[8] The Broadcaster argues that the presenter's impugned question implied her opinion that organisations such as AfriForum which had visited the United States, may have contributed to narratives of white genocide.

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[4] Oxford English Dictionary, 2021 edition.

[9] Clause 28.2.2 requires that comment must be an honest expression of opinion and must be presented in such manner that it appears clearly to be comment. Although it is unknown to what extent the question was pre-drafted, the presenter's articulation indicates that the latter portion of the question could have constituted her own view. Clause 28.2.2 further requires that such comments must be made on facts truly stated or fairly indicated and referred to. It does not require those facts or opinions to be objectively true or correct, only that they be truly stated or fairly indicated and referred to. In this regard, the presenter referred to widely publicised facts and opinions: AfriForum's visit to the United States; its 'alleged' contribution to the spread of 'white genocide' narratives; and President Trump's public rhetoric towards South Africa.

[10] The Complainant further maintains that even if the impugned sentence involves a question, the ambiguity of the wording caused reputational harm to AfriForum. However, the Code of Conduct for Subscription Broadcasters does not address reputation; it addresses the privacy and dignity of individuals, which was not at issue here and may in any event be overridden by a legitimate public interest.

[11] Accordingly, no contravention of the Code has been established, and the complaint is dismissed."

[4] The Appellant in its grounds for appeal raised the following grounds:

"RE: AFRIFORUM NPC // ENCA – SA MORNING SHOW – APPEAL AGAINST ADJUDICATION NUMBER: 29/A/2025

1. We refer to the above matter and confirm that we act on behalf of AfriForum NPC (our Client) who instructed us to formulate and address this formal appeal with reasons to you.

2. It is trite that the test of a successful application for leave to appeal is that the appellant must show that there are reasonable prospects that another 'Court' or in this case, Tribunal, might come to a different conclusion than that of the learned Adjudicator in this matter. This application and reasons is filed in terms of clause 3.14 to 3.19 of the BCCSA's Rules of Procedure Applicable to the Free-to-Air Code, Subscription Code and Online Content Services Code.

3. For the sake of convenience we do not intend to repeat what was already argued in our client's initial complaint and subsequent reply. We do however request that the learned Adjudicator read this submission together with the papers already before her. Where necessary, reference will be made to paragraphs in our client's complaint and reply.

Grounds For Appeal

4. The essence of the complaint relates to what was stated by the presenter at eNCA, posing a question, containing a statement to Mr Fikile Mbalula. eNCA has interestingly denied that there was any statement made by the journalist because she asked a question, however that argument is with respect very opportunistic. It is trite that leading questions can also clearly depict the view of the person asking the question as is clearly seen in *casu*. When asking a question to someone and ending it with the word "because" everything following the word is statement and reason for asking the question which can either be true or not. If it is true, then it is fact. There exists no such thing as an untrue fact.

5. The learned Adjudicator had to consider the version presented to her by eNCA. eNCA's answer to the complaint is summarised as follows:

5.1. The presenter did not make the allegation that AfriForum and Solidarity went to the United States of America to say that there is a white genocide in South Africa;
5.2. The complainant mischaracterised a question as a statement;
5.3. The alleged contravention is based on truthfulness standards that do not apply to clause 28.2.2 of the BCCSA Code of Conduct; and
5.4. If the question did contain a statement, it was an honest expression of opinion based on facts fairly indicated.

6. The first and second points are opportunistic, and it seems that from the ruling the learned Adjudicator correctly regarded this argument as such.

7. The learned Adjudicator however erred in her interpretation of clause 28.2.2 which reads:

Comment must be an honest expression of opinion and must be presented in such a manner that it appears clearly to be comment, and must be made on facts truly stated or fairly indicated and referred to.

8. Put differently the clause places 3 obligations on licencees when delivering and presenting comments. All 3 obligations must be met for the licencee to be in complaince with the Code. It can be devided as follows:

8.1. The comment must be an honest expression of opinion; and
8.2. Must be presented in such a manner that it appears clearly to be comment; and
8.3. Must be made on facts truly stated or fairly indicated and referred to.

The first part of clause 28.2.2 which the learned Adjudicator failed to apply is the part that states, "... must be presented in such a manner that it appears clearly to be comment...". This phrase places a burden on the Licensee to clearly state that an expression, comment or opinion is exactly that. This has not been done by the Respondent. In fact it has been so unclear that the Respondent itself could not decide whether the question contained a statement. The statement was hidden in a question rather vaguely formulated by the presenter. If the presenter had complied with the obligation put on her in terms of 28.2.2 she ought to have used the words, "...because [I/we/some people/others] believe that they have gone to the United States to say there is a white genocide..." or at the very least something similar. This would have clearly shown the viewer that the statement hidden within a question is the opinion of the journalist or of the licensee themselves or others. This point has not been addressed by the Respondent and the learned Adjudicator has not addressed this very important obligation placed on the Respondent. At paragraph [9] of the Ruling the Adjudicator states:

"Although it is unknown to what extent the question was pre-drafted, the presenter's articulation indicates that the latter portion of the question could have constituted her own view." [own emphasis]

10. The Adjudicator could not clearly take from the question whether the statement made by the presenter constituted her own personal view or whether it is a presentation of fact. The Code however places an oblligation on the presenter to clearly present the comment as such.

11. Had the learned Adjudicator taken this point into consideration the commission would have reached a different conclusion. On this point alone we submit that the commission should grant this application for leave to appeal and refer the matter to the Tribunal for hearing.

12. The second part of clause 28.2.2 which the learned Adjudicator erred in interpreting is the last phrase which states that the comment must be made on facts truely stated or fairly indicated and referred to. Under this argument it is crucial to determine the true meaning and definitions of the wording of this phrase in clause 28.2.2.

13. Study.com wrote an article clearly destinguising between what is a fact and what constitutes and opinion:

    *"An **opinion** is a statement that expresses a belief, idea, or emotion that is not provable. Opinions are subjective, meaning the veracity depends on the person's own perception rather than an objective truth.*

    *On the other hand, a **fact** is a statement that can be proven beyond any doubt. Facts are objective, meaning the veracity is independent of anyone's perception or beliefs.*[5]"

14. Where the code states that comment must be made on "facts truly stated or fairly indicated and referred to" (emphasis added), it must be understood that the code does not attempt to alter the definition of the word 'fact'. Instead, the code is only clarifying the manner in which licensees should present or convey facts. The standard for what passes as fact is not lowered in any way.

15. The Cambridge Dictionary defines a fact as something that is known to have happened or to exist, especially something for which proof exists, or about which there is information.[6]

16. Merriam-webster defines a fact as something that actually exists or occurs: an actual event, situation, or information or a piece of information presented as true or accurate.[7]

17. In paragraph [9] of the ruling the learned Adjudicator states that, "It does not require those facts or opinions to be objectively true or correct, only that they be truly stated or fairly indicated and referred to." This interpretation of the clause is most certainly not correct. From this interpretation it is clear that the learned Adjudicator decided to add the word 'opinion' when the code expressly does not mention the word opinion. It says that the comment made must refer to facts truly stated. The misinterpretation comes in when it is clear that the learned Adjudicator confuses the truthfulness of the comment and the truthfulness of the fact. The comment might not need to be objectively true, but it must refer and rely on facts which are. Those facts must also be stated or at least referred to and in *casu* the only fact relied upon by the presenter was that the appellant had gone to the United States. That is the only part of the statement which is true, the rest of the sentence is not true. It is very important to read the full statement as one, which is that the Appellant went to the United States to say there is a white genocide that has lead to Donald Trump ostracising South Africa and threatening to sanction ANC Members. The presenter presents an untrue opinion as fact, which is not protected in terms of the Code.

18. Had the learned Adjudicator taken this point into consideration the commission would have reached a different conclusion. On this point alone we submit that the commission should grant this application for leave to appeal and refer the matter to the Tribunal for hearing.

19. The learned Adjudicator failed to consider clause 28.3 of the Code.

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[5] https://study.com/academy/lesson/determining-facts-vs-opinion-in-a-text.html <visited at 09h25 on 18 December 2025>.

[6] https://dictionary.cambridge.org/dictionary/english/fact <visited 09h28 at 18 December 2025>.

[7] https://www.merriam-webster.com/dictionary/fact <visited 09h28 at 18 December 2025>.

20. In paragraph [5] of the Ruling the learned Adjudicator made the ruling that the programme presented by the Respondent constituted a discussion of a controversial issue of public importance that has been in the news for several months. Despite making this ruling, the learned Adjudicator fails to rule on how the presenter must comply with clause 28.3 of the Code. The issue was also not raised by the Respondent, but compliance with the Code (in its entirety) must be upheld by the BCCSA.

21. Clause 28.3.1 states:

"In presenting a programme in which controversial issues of public importance are discussed, a licensee must make reasonable efforts to fairly present opposing points of view either in the same programme or in a subsequent programme forming part of the same series of programmes presented within a reasonable period of time of the original broadcast and within substantially the same timeslot." [own emphasis]

22. This argrument is really quite clear. The Code places an obligation on the Respondent to make reasonable efforts to fairly present opposing points of view. This has not been done. In fact, the Respondent has presented a opinion as a fact and which is unfortunately for the Respondent not allowed under the Code.

23. Had the learned Adjudicator taken this point into consideration the commission would have reached a different conclusion. On this point alone we submit that the commission should grant this application for leave to appeal and refer the matter to the Tribunal for hearing.

24. Wherefore we submit that a proper case has been made out for the Commission to grant the application for leave to appeal and refer the matter to the Tribunal for final determination."

[5] The Respondent responded as follows:

"ANSWERING AFFIDAVIT

[1] We refer to the application for leave to appeal dated 12 January 2026 that was filed by AfriForum NPC ("**the Appellant**") against the decision of the Commissioner of the BCCSA ("**the Adjudicator**") in adjudication number 29/A/2025 that was issued on 8 December 2025.

[2] The Appellant contends that the Adjudicator erred in finding that we did not contravene subclause 28.2.2 of the BCCSA's Code of Conduct for Subscription Broadcasting Services ("**the Code**").

[3] At the outset, we submit that the Appellant's application for leave to appeal simply re-argues the merits of their original complaint, without showing any misdirection of the Code in light of BCCSA precedent; any material irregularity with the decision; or any conclusion that no reasonable adjudicator could have reached. As such, the appeal should fail on this basis alone as the appeal is an attempt at a full merits appeal, not a demonstration of a reasonable prospect that a Tribunal will find differently.

[4] Furthermore, the grounds set out in paragraphs 4, 5.2, and 6 of the application are irrelevant. The Adjudicator did not base the decision on eNCA's submissions regarding the grammatical phrasing of the presenter's comment. Instead, the decision was grounded in the interpretation and application of the elements of subclauses 28.2.1 and 28.2.2 of the Code, namely:

4.1. the broadcaster's rights to comment on and criticise any actions of Public importance,
4.2. the public importance-nature of the broadcast
4.3. the Presenter's comment as an honest expression of opinion [not fact]
4.4. whether honest expression of opinion on facts truly stated or fairly indicated and referred.

[5] The Appellant correctly identifies the requirements of subclause 28.2.2, namely that the comment must be:

5.1. an honest expression of opinion; and
5.2. presented in such a manner that it appears clearly to be comment; and
5.3. made on facts truly stated or fairly indicated and referred to.

[6] The Appellant does not dispute that the statement was an honest expression of opinion. The appeal is confined to the latter two elements.

[7] We shall therefore address these two grounds to demonstrate that the Adjudicator correctly applied the Code and that the appeal has no prospects of success.

GROUND 1: COMMENT MUST CLEARLY APPEAR TO BE COMMENT

[8] The Appellant's argument is based on a misreading of clause 28.2.2 of the Code. While the Appellant suggests that the adjudicator failed to apply the "second limb" of clause 28.2.2 – that the statement was presented in such a manner that it appears clearly to be comment and based on facts truly stated or fairly indicated.

[9] The Appellant argues that the presenter was required to explicitly qualify her statement with wording such as "*I/we/some people/others believe*" in order for it to meet the threshold of clause 28.2.2 of the Code.

[10] This argument is unfounded. Firstly, neither the language of 28.2.2 nor BCCSA precedent supports such a rigid requirement. The Code speaks of how comment is "presented", not about formal verbal formulas. the Code prescribes no mandatory wording, and imposing such a requirement would unjustifiably restrict freedom of expression.

[11] The use of phrases such as "I think" or "I believe" does not determine whether a statement is opinion or fact. In practice the BCCSA has accepted that comment can be evident from the format and context of a broadcast. In this case, the entire segment is introduced and structured as an interview with the ANC form of a question put to a political interviewee, requesting his response and perspective. This clearly signals to a reasonable viewer that the Presenter is not asserting a settled fact for viewers to accept as "news" but rather she is putting a contested proposition to a political figure within a discussion programme.

[12] Secondly, the Adjudicator did in fact address whether the statement was comment in paragraph [9] of the Adjudication. She states that the presenter's articulation indicates that the latter portion of the question could have constituted her own view. This is a direct recognition that the question functioned as comment (an implied opinion), not hard news reporting. AfriForum's assertion that this "has not been addressed" is demonstrably incorrect.

Reliance on grammar and prosody

[13] The Appellant's own submissions are internally inconsistent. In their earlier submission, it was argued that prosody (pause after "because", emphasis on "they") to argue a

listener would hear an assertion of "fact" and that spoken language is messy and normally contains grammatical errors.

[14] However, in the Appeal, the Appellant treats the grammatical structure as determinative of how the broadcast must be legally interpreted; while earlier conceding that grammar in speech is loose.

[15] The Appellant wants to have it both ways invoking grammar when it suits them, minimising it when it does not. The Adjudicator looks at the overall context and structure of the programme, not micro-linguistic arguments about one pause or emphasis.

Comment v statement of fact

[16] It is clear that the Code clearly obligates a broadcaster to present a comment as an honest expression of opinion **and** in such a manner that it appears clearly to be a comment. This is to distinguish comment from statement of fact.

[17] Comment is protected by law even if it is extreme, unjust, unbalanced, exaggerated, or prejudicial, provided it is honestly expressed on a matter of public interest and based on facts.

[18] In the Constitutional Court case of *McBride*, Cameron J indicated that facts need to be justified but comments need not be justified.

[19] The test to differentiate a comment from a statement of fact was laid in the *Argus Printing & Publishing*[8] case where Davis J said:

> What differentiates a comment from a statement of fact? I venture to think that the test may be thus stated. If the statement is such that a reasonable hearer or reader will perceive it to be an opinion or inference drawn from the facts stated, then it is a comment. An opinion may be wrong or unjustified but it cannot be said to be false

[20] It is a true fact that the Appellant travelled to the United States government officials and criticised South African government, thereafter Trump started attacking the South African government to a point of using the term "White Genocide."

[21] The Appellant's whole case is based on its own view that the statement made by the Presenter is untrue. But it ignores that the statement is an opinion.

[22] Most importantly, the opinion is based on the fact that the Appellant travelled to the United States to engage U.S. officials and criticised the South African government, after which President Trump and Fox News advanced the "white genocide" narrative.

[23] Mr Mbalula also implied that the above is a fact in the impugned interview when he responded that [the above fact] makes the Appellant "a bunch of unpatriotic South Africans. When all failed they turned and said the sanctions must be directed to the ANC."

[24] The presenter expressed a belief that the Appellant conveyed this narrative to U.S. officials — a proposition that is not objectively provable because the Appellant itself denies.

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[8] Pearce v Argus Printing & Publishing Co Ltd 1943 CPD 137 at 144

[25] The Appellant's reliance on the Adjudicator's observation that the statement "could have constituted her own view" is misplaced. This reflected no uncertainty as to whether the statement was comment, but merely acknowledged that the opinion could have originated from the presenter, the broadcaster, or others.

GROUND 2: FACTS FAIRLY INDICATED AND REFERRED TO

[26] The Appeal ignores or attempts to override BCCSA precedent as set out by us in our response. Cases 15/2024 and 24/A/2024 show that Clause 28.2.2 does not require that the underlying facts be true, only that they be truly stated or fairly indicated or referred to when forming an opinion. The Adjudicator accepted that this was the correct interpretation of Clause 28.2.2 at paragraph [9].

[27] The Appellant does not engage with this at all nor try to argue why this particular case would be distinguishable from past precedent.

[28] Instead, the Appellant uses a general dictionary definitions of "fact" and an online article (Study.com) to argue that "facts" must be objectively true, and therefore any comment relying on a premise later shown to be wrong cannot satisfy 28.2.2.

[29] What the Appellant clearly misses is that comment can be grounded on widely publishes narratives and allegations which are fairly indicated as such. It is clear that there was a factual basis for the comment – Afriforum travelled to the United States and Donald Trump took certain positions regarding a "white genocide".

[30] In terms of Clause 28.2.2, comment is allowed to draw inferences and characterisations from a factual base, as long as those underlying facts are fairly indicated. The Appellant has failed to demonstrate that the statement was not grounded in thee above facts.

[31] In fact, the Appellant does no contest the bulk of the factual background set out in our response, namely: that it did travel to the US to lobby; Tucker Carlson and other U.S. media amplified "white genocide" narratives in that context; Trump publicly tweeted and posted about killings of white farmers and later about South Africa "treating certain classes of people very badly"; South African politicians (e.g. Brett Herron) publicly attributed the spread of that narrative to AfriForum and allies; AfriForum itself issued a statement urging Trump to "punish ANC leaders rather than South Africa".

[32] Nevertheless, we would like to emphasise it in order to prove further that the appellant has no prospect of success in this matter.

[33] eNCA has repeatedly reported on the Appellant, including an interview broadcast on 3 February 2023 in which the Appellant acknowledged links to influential U.S. networks.

[34] In any event, the presenter explicitly referred to the facts by stating that "**they have gone to the United States**…", thereby fairly indicating and referring to the fact.

[35] Even if the Appellant disagrees with the fairness of such characterisation, it does not transform the question into "fake news". The requirement that facts be fairly indicated and referred to was therefore satisfied.

[36] In light of the above, we are of the view that the facts which the Presenter's opinion was based on, was fairly indicated and referred to.

Comment and opinion

[37] In para 17 – 18, The Appellant argues that the Adjudicator erred by referring to "fact or opinion" in paragraph 9 of the adjudication.

[38] This argument does not affect the correctness of the Adjudicator's conclusion.

[39] What this reflects is that comment need not be correct or universally agreed; it must be genuinely held and grounded in a fair portrayal of the factual context; and the "truthfulness" of comment is not policed; only whether it fairly reflects underlying, recognisable facts in the public domain. The presenter's opinion was plainly grounded in facts that were fairly indicated and referred to.

[40] The opinion was honestly expressed, clearly presented as comment, and not framed as an assertion of fact.

GROUND 3: CLAUSE 28.3.1

[42] The Appellant alleges that the Adjudicator failed to consider clause 28.3.1, relating to the presentation of opposing views.

[43] This clause was not relied upon in the original complaint or subsequent submissions. The Adjudicator could not, consistent with procedural fairness and *audi alteram partem*, make findings on an issue which was never previously raised.

Conclusion

[44] The Appellant has failed to demonstrate any error in the Commissioner's decision. Their own references are weak, relying on a dictionary definition and study.com instead of BCCSA precedent.

[45] The Appellant has failed to provide any persuasive argument that another adjudicator would reach a different conclusion.

[46] The application for leave to appeal should accordingly be dismissed."

EVALUATION

[6] Having watched the impugned clip, read both parties' written submissions and heard the oral submissions, I must from the outset make it clear that the threshold question to be determined by the Tribunal is one of scope. What falls to be decided now is the merits of the single surviving ground. That ground is whether the broadcast of 9 November 2025 contravened Clause 28.2.2 of the Code.

[7] Clause 28.2.2 imposes three distinct and cumulative obligations on a licensee. Comment must be:

- an honest expression of opinion
- presented in such manner that it appears clearly to be comment
- made on facts truly stated or fairly indicated and referred to.

[8] Neither party disputes that the impugned words, whatever their proper characterisation, amounted to an expression of opinion rather than a considered factual assertion advanced by the broadcaster in its own voice as established truth.

[9] Clause 28.2.2 does not ask whether comment could have been comment; it asks whether it was presented in a manner that appears clearly to be comment. Could have and clearly sit at opposite ends of the spectrum of certainty, and a finding expressed in the language of possibility cannot, without more, sustain a conclusion that the higher threshold of clarity has been met. To that extent, the Appellant's principal complaint is well founded.

[10] The Respondent's strongest point is a contextual one. The impugned words were not delivered as a news headline or read from an autocue in a bulletin; they arose within a live, extended interview conducted with a serving political office-bearer, on a matter that had already generated months of public and diplomatic controversy. The structure of that interview, a question addressed to Mr Mbalula, inviting his response, is itself a signal to the reasonable viewer that a proposition is being tested and put to a political actor for reply, not asserted by the broadcaster as settled fact. I accept that this segment was properly characterised as a discussion of a controversial issue of public importance rather than news within the meaning of Clause 28.1, and that this context is relevant to how a reasonable viewer would receive the words used.

[11] I am not, however, persuaded that format alone is sufficient. Clause 28.2.2 does not prescribe a mandatory verbal formula. The Appellant is correct not to insist on one. The absence of any formula, however, does not mean that manner of presentation is irrelevant, only that its assessment is contextual rather than mechanical.

[12] The specific words used were framed in the indicative and embedded in a causal ‘because’ clause, grammatically presented as the reason for a state of affairs, not as a view the presenter or others held. Unlike a phrase such as ‘some argue that’ or ‘it is claimed that’, which carries its own internal signal of contestability, the sentence as spoken asserted, without qualification, that the Appellant ‘have gone to the United States to say that there's a white genocide’. A reasonable viewer, hearing that sentence once and without the benefit of transcript analysis, could readily receive it as the presenter's own factual premise for her question, rather than as a proposition she was tentatively advancing for testing.

[13] I am mindful of the Respondent's fair criticism that the Appellant's own papers are, in places, internally inconsistent as to whether the words constituted a statement of fact or inadequately flagged comment. That inconsistency is a legitimate forensic point but it does not, of itself, resolve the question before the Tribunal, which turns on the objective character of the broadcast, not on the coherence of the Appellant's pleading.

[14] Balancing these considerations, I find that the interview format was a relevant, but not a decisive, contextual signal, and that it did not, in this instance, clearly convert an unqualified, causally-framed assertion into comment that a reasonable viewer would clearly recognise as such. However, the further requirement that comment should be based on facts truly stated or fairly indicated or referred to provides the final answer. In the absence of any facts provided to underpin the statement, it clearly cannot be described as comment in terms of Clause 28.2.

[15] The Respondent's reliance on the off-air material relied upon in its answering papers; the Washington Declaration, commentary attributed to Tucker Carlson, and President Trump's social media posts do not take the matter any further. The BCCSA evaluates complaints based on the impugned programme as it was broadcast and viewed by the audience at the time. Accordingly, I find that the third requirement of Clause 28.2.2 was not satisfied.

[16] This is not, on my finding, a case of an honestly held opinion that was merely inelegantly flagged. The underlying premise attributed to the Appellant, that it went to the United States to advance a white genocide narrative, was never supported by any reference to facts, irrespective of whether truly stated or fairly referred to.

[17] It follows that the appeal succeeds. The impugned words were not presented in such a manner that they clearly appeared to have been comment, nor made on facts truly stated or fairly indicated and referred to.

SANCTION

[18] The parties are invited to make written submissions on the appropriate sanction for the Broadcaster's contravention of Clause 28.2.2 of the Subscription Code.

THE COMPLAINANT: "AFRIFORUM'S SANCTION SUBMISSIONS

RELIEF SOUGHT AND BASIS OF THE SUBMISSIONS

1. The purpose of a sanction is to correct the wrong that was committed and to prevent repetition of such mistakes through, amongst other means, deterrence.

2. Based on the seriousness and nature of the breaches and the aggravating factors set out below, AfriForum submits that the following sanction is appropriate:

    a. A retraction of the impugned attribution that "AfriForum went to the United States to say there is a white genocide";

    b. An unqualified apology to AfriForum;

c. That the retraction and apology, together with a summary of the BCCSA's findings, be broadcast in the same programme and timeslot of the original broadcast; and

d. That such retraction and apology be published on eNCA's social media platforms.

e. To impose a fine on eNCA in the discretion of the Tribunal.

3. These remedies are sought cumulatively because each addresses a Consequence of the contravention which the others cannot adequately address.

4. The breach occurred publicly, through the authority and reach of a television broadcaster. Its correction must therefore be public. A fine or reprimand alone would leave the audience uninformed. A retraction without an apology would not assuage the reputational harm suffered by AfriForum. And finally, there is no deterrence of future misconduct if the sanction is not accompanied by a fine.

NATURE AND SERIOUSNESS OF THE BREACH

5. The Tribunal is requested to bear in mind that the breach occurred in Journalistic/news programming. The presenter in question is a respected, trained, professional journalist, and not an interviewee or entertainer.

6. The public relies on journalists for accuracy. As the BCCA recently held in **Rutledge v SABC SAFM 25/A/2026:**

"The whole world is facing a pandemic of disinformation (not only in debates about migration but about wide-ranging political issues). In the face of this challenge, the broadcast media need to be particularly alert to the dangers of disinformation and misinformation, most of all when the country is approaching elections."

7. By making a false claim that AfriForum "went to the United States to say there is a white genocide", the broadcaster became part of disseminating disinformation that could easily have been avoided, as will be set out below.

8. Moreover, the journalist went far further than making the claim that AfriForum "went to the United states to say there is a white genocide". The journalist continued to state "and that has led to Donald Trump ostracising South Africa and threatening to sanction certain ANC members". In other words, AfriForum was directly and unashamedly blamed for South Africa's ostracization.

9. As eNCA said itself in answer to the complaint, there was a "public backlash within South Africa" against AfriForum. This backlash was based on a falsity that AfriForum told US President Donald Trump there is a "white genocide" in South Africa. eNCA perpetuated this false claim.

10. The rationale for clause 28 of the Subscription Code is to distinguish between news and opinions.

11. This Tribunal found <u>two</u> separate breaches of clause 28 the Code:

a. eNCA failed to present what could only possibly be justified as an opinion as an opinion [paragraph 9]; and

b. Such opinion was not based on facts truly stated or fairly indicated [paragraph 14].

12. The transgression is therefore not merely technical or an editorial oversight in how the statement was presented, but also a breach on substantive grounds.

13. Incredibly, and aggravatingly so, eNCA maintained throughout these proceedings that opinions need not be based on true facts. Its insistence that "the underlying facts (need not) be true" would lead to a complete collapse of the integrity of the information ecosystem – for anyone is entitled to their opinion, but not to their own facts.

AGGRAVATING FACTORS

Timeline

14. AfriForum and Solidarity have made several visits to the United States over a number of years. These visits had been widely reported on and debated by the time the impugned interview took place. Even the visit probably referred to by the interviewer, took place several months before the interview and any reasonably informed journalist who has followed the news would have known what the facts were.

15. Similarly, and as referenced in the original complaint, the false claim that AfriForum went to the United States to "say there is a white genocide" in South Africa has been publicly refuted for several years. As the Commissioner a quo correctly stated in paragraph [6] of her judgment: "It is widely confirmed that AfriForum has never claimed that there is a white genocide taking place in South Africa".

16. The original complaint lists four rulings spanning from 2018 to 2025 from the Press Council where news outlets were ordered to apologise for making similar incorrect claims. Those complaints were not cited as "Press Council case law", as eNCA claimed, but to illustrate that any journalist who followed the news on the subject matter must have been aware of the true facts and the refuted nature of the claim. The fact that NewzRoom Afrika – to their credit – voluntarily apologised to AfriForum on 28 March 2025 was cited for similar reason and is equally relevant in considering aggravating factors.

17. eNCA concedes it in answer that a public backlash against AfriForum has been raging since March 2025.

18. Yet, on 09 November 2025 – several months into the controversy – eNCA uncritically repeats the same incorrect claim. This was not a bona fide misapprehension of facts emerging from breaking news.

Reach

19. eNCA has an immense reach. AfriForum does not have access to eNCA's entire audience. It therefore cannot correct the facts itself. Only a retraction and apology in the same programme and timeslot will result in a reasonable number of affected viewers to receive the correct information. The objective is comparable prominence, not an impossible guarantee that every original viewer will see the correction.

20. The broadcast was also not confined to a once-off broadcast. As is evident from the X clip on which the complaint was based, a recording of the broadcast has been widely shared and disseminated on social media platforms.

21. It is for this reason that it is appropriate for eNCA to distribute the apology and retraction on social media and to provide a copy of the broadcast to AfriForum. This would enable AfriForum to address the social media presence of the broadcast.

Reputational harm

22. The contravention fuelled a fire against AfriForum. In response to the presenter's statement, the interviewee (Fikile Mbalula) branded AfriForum a "bunch of unpatriotic South Africans". AfriForum is explicitly accused of spreading misinformation abroad, and for causing damage to South Africa. This is damaging to a civil rights organisation.

23. The aim of the disinformation about what AfriForum said in the United States is calculated to undermine the credibility and integrity of AfriForum, which is its currency in civil advocacy. Based on the false narrative of what AfriForum supposedly said in the United States, and which was now perpetuated by the broadcaster, AfriForum has even been publicly accused of the crime of high treason.

RETRACTION AND APOLOGY

24. A statement confined to saying that eNCA contravened clause 28.2.2 of the Code would tell viewers that a regulatory error occurred without correcting the disinformation.

25. It is respectfully requested that the sanction must include a retraction of the claim that "AfriForum went to the United States to say there is a white genocide", and that "this led to Donald Trump ostracising South Africa".

26. An apology is justified because a correction of information does not, by itself, acknowledge the harm done. It ought to be unqualified. An expression of "regret that AfriForum felt offended" or any similar wording that dilutes an apology is not acceptable.

27. In *Little Green Beverages v eNCA, Adjudication 02/A/2024*, paragraphs [12]-[13], the Commissioner ordered a summary and apology in the same programme and time slot, with advance confirmation and a recording supplied to the Registrar. This established practice is submitted to be appropriate.

28. A proposed formulation of the apology and retraction is set out above. AfriForum submits that this wording will correct the matter in a way that would not unduly burden the broadcaster:

    "On 9 November 2025, during The South African Morning interview with ANC Secretary Fikile Mbalula, our presenter made a statement that AfriForum "went to the United States to say there is a white genocide" and that this has led to US President Donald Trump ostracising South Africa. A Tribunal of the Broadcasting Complaints Commission of South Africa has upheld AfriForum's appeal. The Tribunal found that the impugned statement was not clearly presented as commentary and that the broadcast did not state or fairly indicate facts supporting such an opinion. eNCA accordingly breached clause 28.2.2 of the Code for Subscription Broadcasters. We retract the statements concerning AfriForum and apologise to AfriForum for broadcasting it in that manner and for the unfair impression created."

THE FINE

29. AfriForum expressly requests a fine payable to the BCCSA, with the amount determined by the Tribunal. The aim is not to fine the broadcaster into censorship, but to send a clear message about the seriousness of the transgressions and to prevent future misconduct. The fine is not compensation payable to AfriForum.

30. A retraction and apology repair the public perception. A fine marks the regulatory seriousness of the conduct and reinforces the obligation to observe the Code when conducting future interviews.

31. This approach – of public correction and marking the regulatory seriousness – would be in following the approach of the Appeals Tribunal in *Support Public Broadcasting Coalition (SOS) and Media Monitoring Africa v SABC Channel 404, Case 012/2021*. As the Appeals Tribunal noted, internal procedures of the broadcaster is not necessarily sufficient.

CONCLUSION

32. All AfriForum demanded throughout the process is accuracy and fairness. Unfortunately, right up to oral argument during the appeal hearing, eNCA has been unwilling to correct its conduct. During that hearing, it even sought to introduce new "evidence" to argue that the statements were, in fact, true. The broadcaster is not contrite.

33. Under these circumstances, the proposed sanction is appropriate."

THE BROADCASTER: "**RE: ENCA V AFRIFORUM—SUBMISSION ON SANCTION**

This letter is in response to the draft adjudication no. 03/2026 in which the BCCSA requested both the Broadcaster and Complainant to file submissions on sanction.

Summary

1. As a point of departure, the Tribunal held that "Neither party disputes that the impugned words … amounted to an expression of opinion"

2. In fact, in reading the finding on the merits, the Tribunal itself accepts much of the broadcaster's contextual argument. There is no finding of dishonesty, malice, recklessness, deliberate misinformation, actual harm or intentional violation of the Code. There is one impugned sentence.

3. Ultimately, the contravention consists of the way an otherwise permissible comment was formulated and the unintentional failure to put the supporting factual foundation sufficiently before the viewer.

4. These submissions are confined to the matter of sanction.

5. The broadcaster respectfully submits that, having regard to the nature and circumstances of the contravention actually found by the Tribunal, a reprimand is the appropriate and proportionate sanction.

Detailed Submissions

6. The nature of the contravention is significantly less egregious than what the complaint purported it to be. The Tribunal did not find that the broadcaster deliberately broadcast false information.

7. The contravention found by the Tribunal is considerably narrower in two primary respects:

    7.1. although the Tribunal accepted that the interview format was a relevant contextual indication that a proposition was being put to a political actor for response, it concluded that the particular formulation used by the presenter did not sufficiently clearly signal to the reasonable viewer that the impugned proposition constituted comment; and

7.2. The Tribunal found that the facts relied upon by the broadcaster in making its statement were not sufficiently stated, indicated or referred to in the broadcast itself so as to satisfy the further requirement in clause 28.2.2. The Tribunal elected to disregard the external aspects presented not because they were irrelevant to the comment but because they were not before the viewer in the present case.

8. The breach is thus one concerning the limited manner in which a comment was formulated and contextualised during an interview, rather than deliberate misinformation, dishonesty or a calculated attempt to mislead the audience.

9. This distinction is material to sanction as is the following context of the impugned broadcast:

9.1. The impugned words occurred in the course of a political interview concerning a matter of considerable public importance;

9.2. The impugned words were not delivered as a headline, read as a news report, or presented in a conventional news bulletin as an established fact;

9.3. They arose in the formulation of a question directed to the Secretary-General of the African National Congress in circumstances where the presenter was seeking his response to a political controversy.

9.4. The Tribunal specifically accepted that the structure of the interview was itself a signal to the reasonable viewer that a proposition was being tested and put to a political actor for response; and

9.5. The Tribunal ultimately considered that contextual signal insufficient, but its existence remains highly relevant to the degree of culpability involved.

10. Notably, this was not a case of the broadcaster deliberately ignoring the Code.

11. At its highest, the contravention arose because the formulation of a question did not sufficiently distinguish the statement between news and comment based on fact truly stated.

12. There is also an absence of any aggravating factors:

12.1. The draft judgement makes no finding of malice on the part of the broadcaster;

12.2. There is also no finding that the broadcaster knew that the impugned broadcast was false but aired it all the same;

12.3. The Tribunal did not find any evidence of any form of unlawful activity / speech;

12.4. The finding relates to a single line from a single question during a live political interview;

13. Those considerations militate against the imposition of any sanction more severe than a reprimand.

14. The broadcaster accepts the importance of the Tribunal's guidance regarding the need, where appropriate, to distinguish sufficiently clearly between a presenter's comment or inference and the factual material upon which that comment is based.

15. A reprimand will mark the Tribunal's disapproval of the formulation used and will provide clear guidance for future broadcasts. There is no basis upon which a more intrusive sanction is required in order to achieve those purposes.

16. A reprimand is also consistent with the BCCSA's historical findings. By way of example:

    16.1. In *Gering v East Coast Radio*,[9] the BCCSA found contraventions including clause in the free to air equivalent of 28.2.2 (being 12(2)) as well as contravention of the controversial issues of public importance clause. In considering sanction, a "reprimand will suffice";

    16.2. Considering *Slydeb (Pty) Ltd v M-Net/Carte Blanche*,[10] one also finds that the BCCSA takes the passage of time into account. In the current case, the impugned broadcast was broadcast in November 2025. Some 10 months have gone by (significantly more than in the *Slydeb* matter) and there can be no benefit to any party for a sanction beyond a reprimand;

    16.3. One should also consider that the Tribunal has not found that the impugned statement was untrue, merely that it was not based on facts truly stated. To that end, it would be incorrect to compel the broadcaster to broadcast that it misrepresented the appellants because the Tribunal has not found that.

17. Therefore, the Tribunal's finding does not require a correction of any underlying proposition in the terms sought by the Appellant.

18. This distinction is important as it specifically speaks to why an on-air statement, is an inappropriate sanction.

19. A sanction requiring the broadcaster to broadcast a "correction" or apology framed around the truth or falsity of the underlying political proposition would go materially beyond the contravention established by the Tribunal.

20. A reprimand avoids that difficulty. While the avoidance of difficulty is not what should form the basis of the Tribunal's position, it marks the breach found by the Tribunal, reinforces the requirements of clause 28.2.2, and does so without converting a finding concerning the presentation of comment into a compelled substantive editorial statement on an issue which remains politically contested.

21. Without a basis for an on-air statement, there is no basis for a monetary fine.

22. This submission should not be interpreted as accepting of the Commissioner's decision on the draft adjudication. We are considering our options to petition the Chairperson for leave to appeal this decision."

23. Additionally, in our view the adjudicator ignored all previous BCCSA jurisprudence. This is a major cause of concern for a broadcaster as we are not able to rely on accepted principles which have been laid down by the Commission over many years. The adjudicator clearly accepts that the statement was a statement of opinion.

24. This matter relates to a broadcast from November 2025. Approximately 10 months have elapsed since the Broadcast. eNCA was not found to have contravened the Code by the first

[9] Adjudication No. 11/A/2023.
[10] Adjudication No. 22/A/2024.

Commissioner who adjudicated the matter. The lapse of time means that should e.tv be required to broadcast anything, it will bring the matter into the public eye again and be subject to scrutiny as a correction would, of necessity, require a further mention of "white genocide"

25. Further, an apology would not be appropriate as the news anchor, Heidi Giokos, is no longer employed by eNCA and would not be able to make any apology to the Complainant. As such, it would have to be made in a completely different broadcast from the initial one without proper context.

Conclusion

26. The broadcaster respects the role of the BCCSA in maintaining standards applicable to broadcasters and has taken note of the Tribunal's interpretation and application of clause 28.2.2 in the present matter.

27. The appropriate sanction must remain proportionate to the contravention actually established.

28. The contravention concerns the manner in which comment was identified and its factual foundation indicated.

29. A reprimand is thus appropriate, proportionate and sufficient sanction in line with the precedent set by the BCCSA."

[19] The Tribunal considered the submissions on sanction. The Respondent is directed to broadcast the following statement within 48 hours of receipt of this judgment:

On 9 November 2025, during an interview on The South African Morning with ANC Secretary-General Fikile Mbalula, the presenter asked Mr Mbalula why the ANC wanted to engage with groups such as AfriForum since they have gone to the United States to say that there is a white genocide in South Africa.

The Broadcasting Complaints Commission of South Africa has subsequently found that we had contravened Clause 28.2.2 of the Code for Subscription Licensees, since AfriForum has never made any public claim that there is a present or pending genocide against white people in South Africa. We apologise for any unintended consequences the comment may have caused.

[37] The Respondent shall inform the Registrar of the date and the time of the broadcast and furnish a recording of the corrective broadcast to the Registrar within 24 (twenty-four) hours of broadcast.



ADV R MAKOANYANA
BCCSA COMMISSIONER

COMMISSIONERS MAKEKETA AND FERREIRA CONCURRED WITH THE JUDGMENT.