



Ref: IBA/RP/21/093

Mr. Eshan Kodarbux  
Executive Chairman  
Radio Plus Ltd  
4B, Labourdonnais Street  
Port Louis

12 October 2021

Dear Sir,

**Re: Breaches by Radio Plus Ltd in “Le Grand Journal” broadcast on  
23 September 2021**

I am directed to inform you that:

1. The Authority refers to all previous correspondences in relation to this matter.
2. The complaint from the Honourable Sooroojdev PHOKEER, GCSK, GOSK, Speaker of the National Assembly, in relation to a news item broadcast by Radio Plus Ltd as follows:

**Broadcaster:** Radio Plus Ltd  
**Programme:** Le Journal 16h30  
**Date:** Thursday 23 September 2021  
**Time:** 16h37 – Item 4

**Anoop Dookeeya:**

***Le speaker de l'Assemblée nationale devra se présenter en cour Suprême la semaine prochaine. Cela suite à la plainte constitutionnelle d'Arvin Boolell appelée devant la justice ce jeudi. Sooroojdev Phokeer devra répondre sur la***

**décision de suspendre pour 8 séances le chef de file du Parti Travilliste au Parlement. Dans sa plainte, pour rappel, Arvin Boolell considère que ses droits constitutionnels ont été bafoués.**

The Honourable Speaker of the National Assembly has provided to the Authority the proceedings before the Ag. Deputy Master and Registrar of the Supreme Court in relation to the news item broadcast on 23 September 2021 by Radio Plus Ltd.

3. Radio Plus Ltd broadcast the following news item on Saturday 25 September 2021 at around 07h00 and 08h00:

**Broadcaster: Radio Plus**  
**Programme: Le Journal de 07h00 and 08h00**  
**Date: Saturday 25 September 2021**  
**Time: 07h10**

**Jean Luc Emile:**

**L'assemblée nationale a apporté un rectificatif traitant le sujet que le Speaker est attendu en cour le 30 septembre prochain, cela suite à la plainte constitutionnelle intentée par le Dr. Arvin Boolell contre Sooroojdev Phokeer. L'assemblée nationale tient à préciser que le procès a été appelé pour la première fois le 7 Septembre devant le Deputy Master and Registrar de la cour suprême. Les hommes de loi du Speaker ont présenté deux motions, d'abord que la clerk de l'assemblée nationale soit mis hors de cause et ensuite que certains paragraphes de la plainte étant contraires au Supreme Court Rules soient enlevés. L'avoué d'Arvin Boolell a demandé à la cour que les motions lui soient communiquées par écrit. La cour a accédé à la demande et l'affaire a été fixée au 23 septembre. Les hommes de loi du Dr. Boolell a demandé à la cour du temps additionnel afin de prendre position. La cour a de nouveau accédé à cette demande et l'affaire a été fixée au 30 septembre afin de permettre au plaignant de soumettre ses commentaires par écrit concernant les deux motions.**

4. The Authority has considered the explanations of Radio Plus Ltd as per its letter dated 05/10/21 issued under the signature of its counsel Me. Ashok B. Radhakisson;



5. The Authority is of the considered view that the explanations of Radio Plus Ltd are not satisfactory in as much as:

(a) the preliminary objection in law is untenable and is totally devoid of merit. Your attention is drawn to Section 37(1)(g) of the IBA Act which provides as follows (it is clear that the Authority does not have any jurisdiction in relation to criminal offences but it is even clearer that any regulatory body, including the Authority, is empowered to take regulatory action even where a criminal offence is disclosed. Regulatory action and criminal offences, can and do, co-exist):

**"37. Offences**

(1) Any person who –

(g) otherwise contravenes any provision of this Act, shall commit an offence."

(b) The Authority has the jurisdiction and power to take regulatory action against any licensee who breaches the Code of Conduct for Broadcasting Services notwithstanding the fact that such breaches may also disclose potential criminal offences;

(c) The Code of Conduct for Broadcasting Services as set out in the Second Schedule of the IBA Act is an integral part of the IBA Act and the Authority is not debarred by any provision of the IBA Act from taking regulatory action against a licensee when a breach of a Code of Conduct for Broadcasting Services arises; and

(d) On the merits of the complaint, it is highlighted that the broadcast of Radio Plus Ltd dated 23 September 2021 when compared to the Supreme Court Record SCR 121978 (1/217/21) (**Annex 1**) clearly shows that the news broadcast by Radio Plus Ltd was inaccurate in the manner highlighted by the Authority in its letter to Radio Plus Ltd dated 30<sup>th</sup> September 2021. The rectification which was broadcast by Radio Plus Ltd, itself, on 25 September 2021 is unequivocal as to the inaccuracy of the impugned broadcast of 23 September 2021. Nevertheless, Radio Plus Ltd did not find it fit and proper to broadcast an apology despite the fact that it had misled its listeners and acted in breach of paragraphs 3(1) and 3(5) of the Code of Conduct for Broadcasting Services. As highlighted by the broadcast of Radio Plus Ltd on 25 September 2021, it is only after the Clerk of the National Assembly wrote to Radio Plus that Jean Luc Emile gave a faithful account of the events before the Ag.



Deputy Master and Registrar on 23 September 2021. The Authority commends the stand of Jean Luc Emile which has been the most crucial mitigating factor in relation to the regulatory action being taken by the Authority in this case.

6. The Authority views with concern the broadcast of Radio Plus Ltd of 23 September 2021. It highlighted that by broadcasting the inaccurate news in relation to the Honourable Speaker of the National Assembly, who is the holder of a constitutional post, Radio Plus Ltd has failed in its responsibility to report news truthfully, accurately and objectively. The Authority has, in assessing the nature of this breach, taken into consideration, the honest and accurate "rectificatif" broadcast by Jean Luc Emile on 25 September 2021. This broadcast, in the Authority's view, faithfully reports the proceedings before the Ag. Master and Registrar of the Supreme Court on 23 September 2021.
7. The Authority, finds, after having considered all the material before it, that the above extract at paragraph 2 of this letter breaches paragraphs 3(1) and 3(5) of the Code of Conduct for Broadcasting Services set out in the Independent Broadcasting Authority Act and which read as follows:

**"3. News**

- (1) *Broadcasting licensees shall report news truthfully, accurately and objectively.*
- (5) *Where it subsequently appears that a broadcast report was incorrect in a material respect, it shall be rectified forthwith, without reservation or delay. The rectification shall be presented with such a degree of prominence and timing as may be adequate and fair so as to readily attract attention. [Emphasis is ours]*

8. Thus, the Authority findings may be summed up as follows:

- (a) Radio Plus Ltd has breached paragraph 3(1) of the Code of Conduct for Broadcasting Services as the news broadcast was not accurate; and

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(b) Radio Plus Ltd has breached paragraph 3(5) of the Code of Conduct for Broadcasting Services as the news broadcast was not rectified forthwith, without reservation or delay.

9. The breaches of paragraph 3(1) and 3(5) of the Code of Conduct for Broadcasting Services also constitute a breach paragraph 9 of the licence issued by the Authority to Radio Plus Ltd and provides for the suspension of the licence of Radio Plus Ltd. The Authority wishes to place on record the key factor in mitigating the nature of the regulatory sanction was the honest broadcast of Jean Luc Emile on 25 September 2021 which, by itself, illustrates that the broadcast of 23 September 2021 by Radio Plus Ltd was inaccurate.
10. The Authority was initially minded to inflict a suspension of 2 days to Radio Plus Ltd. However, in view of the fact that Radio Plus Ltd has broadcast a rectification on 25 September 2021 and bearing in mind that the inaccurate broadcast was not repeated by Radio Plus Ltd, the Authority, pursuant to its powers under section 5(1) of the IBA Act, hereby issues the following direction to Radio Plus Ltd.
11. Radio Plus Ltd is hereby directed to broadcast an unreserved apology with the reasons thereof in line with Supreme Court Record SCR No. 121978 (1/217/21) (**ANNEX 1**) as set out below:
- (a) On Thursday 14 October 2021 in 07h00 News Bulletin;
  - (b) On Thursday 14 October 2021 in 08h00 News Bulletin;
  - (c) On Thursday 14 October 2021 in 09h00 English News Bulletin;
  - (d) On Thursday 14 October 2021 in 12h00 News Bulletin;
  - (e) On Thursday 14 October 2021 in 16h30 News Bulletin; and
  - (f) On Thursday 14 October 2021 in 18h00 News Bulletin.
12. Radio Plus Ltd is forthwith directed to exercise due care and attention in its future broadcasts failing which more severe sanctions may be applied.

Yours faithfully,



**K. Ramphul**  
Acting Director

c.c. *Honourable* Sooroojdev PHOKEER, GCSK, GOSK, Speaker of the National Assembly

ANNEX 1

**IN THE SUPREME COURT OF MAURITIUS**

**On Thursday 23 September 2021**

*Before H. H Mr. R Seebaluck, Ag Deputy Master & Registrar*

*SCR NO. 121978(1/217/21)*

*Honourable Dr A Boolell, GOSK*

**v.s**

*The Speaker of the National Assembly, Hon S Phokeer, GCSK, GOSK & Ors*

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Mr R Unnuth, of Counsel, appears together with Mr S Bhuckory, SC, instructed by Mr Attorney A O Jankee for the Plaintiff.

Mr C Seebaluck, SA, appears instructing Mr R Chetty, SC, for Defendants Nos 1 & 3.

Ms K Ramessur, Senior State Attorney, appears for the Defendant No 2 and the Third Party.

Mr R Unnuth, of Counsel, states that after having taken cognizance of the motions made on behalf of all the Defendants, he moves for a short postponement of one week to formulate and file the written objections.

Ms K Ramessur, Senior State Attorney states that as regards Defendant no. 2, the stand has been set out in the letter dated 21/09/2021. As regards the 3<sup>rd</sup> party, she states that the stand is that in view of Rule 2 paragraph 3(b) of the Supreme Court Constitutional Relief Rules, the 3<sup>rd</sup> party will address the Court on matters of Law and will otherwise abide by the decision of the Court.

*Court adjourns the matter to 30 September 2021 for mention for the case to be in shape.*

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*(S Bhowon)*  
*For Master & Registrar*