



Ref: IBA/R1/22/054

Mr. Nicolas Adelson
Managing Director
Viva Voce Ltd
United Docks Business Park
Caudan Waterfront
Port Louis

08 June 2022

Dear Sir,

Re: Breaches in the news bulletins of 12h00, 14h00, 15h00, 16h30, 17h00 and 18h00 broadcast by Radio One on 30 May 2022

I am directed, by the Independent Broadcasting Authority, to inform you that:

1. The following was heard on Radio One on 30 May 2022 at the times set out in the heading to this letter:

In the news bulletin of 12h00

Shazia Thupsee:

La demande de Judicial Review du diocèse de Port Louis contestant la décision de l'Independent Broadcasting Authority de rejeter sa plainte à l'encontre de la Mauritius Broadcasting Corporation a été appelée devant la cour suprême ce matin. Cette affaire concerne la censure du message de Noel de l'Évêque des Catholiques l'année dernière. Ce matin le représentant de l'Évêque de Port Louis a présenté un affidavit devant la juge Nirmala Devat. L'Independent Broadcasting Authority a informé la cour qu'elle devra prendre connaissance de ces nouveaux éléments avant de préciser sa position. Gael Rangain, vous avez suivi cette affaire, vous êtes en direct.

Gael Rangain :

Effectivement, Shazia. Donc, le document présenté par le diocèse de Port Louis a pour but d'apporter des modifications à sa demande. Donc, en réponse en cela, à cela, le représentant de l'Independent Broadcasting Authority a fait comprendre qu'il lui faudra du temps avant de se prononcer.

Pour sa part, la Mauritius Broadcasting Corporation a présenté ses objections dans cette affaire. Il faudra attendre pour savoir quels sont les arguments de la télévision nationale. Donc, je vous rappelle que cette affaire remonte en fin de l'année dernière, soit le 25 décembre où le message annuel de Noël de l'Évêque de Port-Louis Maurice Piat avait été censuré. Quelques jours plus tard, la MBC avait diffusé l'intégralité de la vidéo, mais le Cardinal Piat est d'avis qu'il y a eu une atteinte à sa liberté d'expression. De ce fait, une plainte avait été consignée à l'Independent Broadcasting Authority, plainte qui avait été rejetée, d'où la décision de l'église catholique d'avoir recours à la Cour Suprême. C'était Gael Rangain, en direct de Port Louis pour Radio One."

In the news bulletin of 14h00

Avi Gopee:

Censure de, du message de Noël du Cardinal Piat, le représentant de l'Évêque de Port-Louis a présenté un affidavit devant la Juge Nirmala Devat, l'Independent Broadcasting Authority a informé la cour qu'elle devra prendre connaissance de ces nouveaux éléments avant de préciser sa position. L'affaire a été renvoyée au 20 juin prochain.

In the news bulletin of 15h00

Avi Gopee :

Censure de, du message de Noël du Cardinal Piat, le représentant de l'Évêque de Port-Louis a présenté un affidavit devant la Juge Nirmala Devat, l'Independent Broadcasting Authority a informé la cour qu'elle devra prendre connaissance de ces nouveaux éléments avant de préciser sa position. L'affaire renvoyée au 20 juin prochain.

In the news bulletin of 16h30

Avi Gopee :

*La demande de révision judiciaire du diocèse de Port Louis contestant la décision de l'Independent Broadcasting Authority de rejeter sa plainte à l'encontre de la Mauritius Broadcasting Corporation a été appelée devant la cour suprême ce matin. Cette affaire concerne la censure du message de Noël du Cardinal Maurice Piat par la MBC l'année dernière. **Ce matin, le représentant de l'Évêque de Port Louis a présenté un affidavit devant la Juge Nirmala Devat. L'IBA a fait comprendre qu'elle devra prendre connaissance de ce document avant de préciser sa position.** Pour sa part la MBC a présenté ses points de contestation. L'affaire sera de nouveau appelée le 20 juin prochain.*

In the news bulletin of 17h00

Ayrece Stewart:

The Port-Louis Diocese' application for Judicial Review challenging the Independent Broadcasting Authority's decision to dismiss its complaint

against the Mauritius Broadcasting Corporation was called before the Supreme Court this morning. The case concerns the censorship of Cardinal Maurice Piat's Christmas message by the MBC last year. **This morning, the representative of the bishop of Port Louis presented an affidavit before Justice Nirmala Devat. The IBA has indicated that it would need to see the document before it can make its position clear.** For its part, the MBC presented its points of contention. The case will be called again on 20 June.

In the news bulletin of 18h00

Avi Gopee:

*Le demande de révision judiciaire du diocèse de Port Louis contestant la décision de la, de l'Independent Broadcasting Authority de rejeter sa plainte à l'encontre de la MBC a été appelée devant la cour suprême ce matin. Cette affaire concerne la censure du message de Noël du Cardinal Maurice Piat par la MBC l'année dernière. **Et ce matin, le représentant de l'Évêque de Port Louis a présenté un affidavit devant la Juge Nirmala Devat. L'IBA a fait comprendre qu'elle devra prendre connaissance de ce document avant de préciser sa position.** L'affaire sera de nouveau appelée le 20 juin prochain.*

2. A transcript of the relevant extracts of the Supreme Court record, dated 30 May 2022, is produced below for ease of comparison (**Annex 1**).

"Mrs R Cammiah, Deputy Chief State Attorney, begs leave to file a counter affidavit dated 26 May 2022 sworn by Jean Yann Babet, a Compliance Officer/Senior Compliance Officer, on behalf of the Respondent.

Mrs Attorney M C Poon Yow Tse begs leave to file Ground of Objection on behalf of Co-Respondent.

Mrs F Maudarbocus-Moolna, SA, moves for a postponement to take a stand on the affidavit filed on behalf of the respondent"

[Emphasis is ours]

3. Having considered the content of the news broadcast in the different news bulletins and the Court record setting out the proceedings before the Supreme Court at **Annex 1**, the Independent Broadcasting Authority has determined that:

- (a) Radio One has breached paragraphs 2.1 and 2.2 of the Code of Ethics;
- (b) Radio One has breached paragraphs 23.2 and 25.2 of its licence; and
- (c) Radio One has breached paragraphs 3(1), 3(2)(a) and 3(5) of the Code of Conduct for Broadcasting Services.



4. The Authority reminds Radio One that it is bound by the Code of Ethics, the IBA Act and the Code of Conduct for Broadcasting Services.
5. The Authority highlights that paragraphs 2.1 and 2.2 of the Code of Ethics read as follows:

"2.1 Principle

In a modern society, citizens have a right to information and broadcasters have the freedom to produce programmes satisfying that right. This freedom is linked only by the obligations of fairness, balance and a respect for truth, qualities which lie at the heart of impartial and accurate broadcasting.

'Due' means adequate or appropriate to the subject and nature of the programme.

2.2 Factual Programmes

In all factual programmes, due impartiality and accuracy must be preserved. This may be secured in a number of different ways, depending on the purpose and format of the programmes. Those primarily addressed to an examination of issues already in the arena of public debate should give a fair representation of the main differing views on the matter."

6. Paragraphs 23.2 and 25.2 of the Licence of Radio One read as follows:

"23.2 The Licensee shall ensure that its broadcasting services are provided in conformity with the Code of Conduct for Broadcasting Services set out in the Second Schedule to the Act.

25.2 The Licensee shall ensure that all its broadcast contents are accurate. Any news given in whatever form shall be presented with due accuracy and impartiality. Any mistake that does occur shall be corrected as quickly as possible and an apology broadcast, where appropriate during peak listening hour at more than one frequency."

7. The Authority further finds that paragraphs 3(1), 3(2) and 3(5) of the Code of Conduct for Broadcasting Services (see the underlined part) have been breached. These provide as follows:

"3. News

(1) Broadcasting licensees shall report news truthfully, accurately and objectively.

(2) News shall be presented in the correct context and in a balanced manner, without intentional or negligent departure from the facts, whether by—

- (a) distortion, exaggeration, or misrepresentation.**
- (b) material omission; or**
- (c) summarisation.**

(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."

8. Pursuant to its powers under section 5(1)(a) of the Independent Broadcasting Authority Act, the Authority hereby issues the following direction to Radio One:



"Radio One is hereby directed to broadcast an unreserved apology with the reasons thereof together with the stand of the Authority as set out below:

- (a) On 10 June 2022 in the 12h00 News Bulletin;*
- (b) On 10 June 2022 in the 14h00 News Bulletin;*
- (c) On 10 June 2022 in the 15h00 News Bulletin;*
- (d) On 10 June 2022 in the 16h30 News Bulletin;*
- (e) On 10 June 2022 in the 17h00 News Bulletin; and*
- (f) On 10 June 2022 in the 18h00 News Bulletin.*

The apology, pursuant to this Direction, should read as follows:

« Au cours de la journée du 30 mai 2022, Radio One a annoncé dans divers bulletins d'information que le représentant de l'Évêque de Port Louis a présenté un affidavit devant la Senior Puisne Judge Nirmala Devat et que le représentant de l'Independent Broadcasting Authority a fait comprendre qu'il lui faudra du temps avant de se prononcer. Les faits énoncés s'avèrent être incorrects et infondés dans la mesure où la transcription officielle de la procédure judiciaire de la Cour Supreme du 30 mai 2022 stipule, entre autres, que la Senior Attorney, Maitre Maudarbocus-Moolna, qui représente le Diocèse de Port-Louis, a demandé un renvoi afin de préciser la position de l'Évêque de Port Louis suite à l'affidavit juré par l'IBA. De ce fait, Radio One présente ses excuses à l'Independent Broadcasting Authority et à la Cour Supreme. »

"Radio One had, in its news bulletins of 30 May 2022, announced that the representative of the Bishop of Port Louis presented an affidavit before the Senior Puisne



Judge Nirmala Devat and that the IBA has indicated that it would need to see the document before it can make its position clear. The news items referred to are untrue and inaccurate in as much as the transcript of the Supreme Court proceedings of 30 May 2022 provides, inter alia, that the Senior Attorney Me. Maudarbocus-Moolna, who appeared for the Roman Catholic Diocese of Port-Louis, moved for a postponement to take a stand on the affidavit filed on behalf of the Independent Broadcasting Authority. Radio One hereby presents its unreserved apologies to the Independent Broadcasting Authority and to the Supreme Court of Mauritius.

9. Radio One is further reminded that a failure to comply with a direction issued by the Authority is a criminal offence. Sections 5(1)(a) and 5(1)(b) of the Independent Broadcasting Authority Act read as follows:

“5. Powers of Authority

(1) (a) The Authority may, for the purposes of this Act, give written directions to the Corporation or any licensee and they shall comply with those directions.

(b) Any licensee who fails to comply with paragraph (a) shall commit an offence.”

10. The Authority reminds Radio One that sections 37(1)(g) and 37(2) of the Independent Broadcasting Authority Act provide as follows:

“37. Offences

(1) Any person who—

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



(2) Any person who commits an offence shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.”

11. Radio One is directed to strictly adhere to the provisions of the Independent Broadcasting Authority Act, the Code of Conduct for Broadcasting Services, the Code of Ethics, and its licence, failing which, more severe sanctions may be applied.
12. The Authority relies on the cooperation of Radio One and trusts that it will exercise due care in its reporting.

Yours faithfully,



**K. Ramphul
Acting Director**

ANNEX 1

IN THE SUPREME COURT OF MAURITIUS

On Monday 30 May 2022

Before Hon N Devat, AG Chief Justice

IN CHAMBERS

SCR NO. 123116 (5A/121/22)

The Roman Catholic Diocese of Port Louis & Anor

Applicants

v.s

The Independent Broadcasting Authority

Respondent

And in the presence of: -

The Mauritius Broadcasting Corporation

Co-Respondent

Mrs F Maudarbocus-Moolna, SA, appears instructing Mr R Rault, of Counsel, together with Mr J Moirt, of Counsel, for the applicants.

Mrs R Camiah, Deputy Chief State Attorney, appears replacing the Chief State Attorney, for the respondent.

Mrs Attorney M C Poon Yow Tse appears replacing Mr M Mardemootoo, SA, instructing Mr M Ajodah, of Counsel, for the co-respondent.

Mrs F Maudarbocus-Moolna, SA, moves to amend the statement of case and she begs leave to file a Proposed Amended Statement of Case dated 16 May 2022.

Mrs R Camiah, Deputy Chief State Attorney, states that there is no objection to the Proposed Amended Statement of Case.

Mrs Attorney M C Poon Yow Tse states that there is no objection to the Proposed Amended Statement of Case.

Court grants the motion for amendment.

Mrs F Maudarbocus-Moolna, SA, undertakes to file an Amended Statement of Case during the course of the day.

Mrs R Camiah, Deputy Chief State Attorney, begs leave to file a counter affidavit dated 26 May 2022 sworn by Jean Yann Babet, a Compliance Officer/Senior Compliance Officer, on behalf of respondent.

Mrs Attorney M C Poon Yow Tse begs leave to file Ground of Objection on behalf of co-respondent.

Mrs F Maudarbocus-Moolna, SA, moves for a postponement to take a stand on the affidavit filed on behalf of respondent.

Court adjourns the matter to 20 June 2022 for Mention before the Hon. Chief Justice - for stand and for the case to be in shape.



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(H Beedah)
for Master & Registrar