



ADJUDICATION NO: 25/A/2026

NAME OF PROGRAMME: THE NATIONAL PULSE

DATE AND TIME OF BROADCAST: 3 JUNE 2026 AT APPROXIMATELY
14h00–15h00

BROADCASTER: SABC SAFM

COMPLAINANT: RUTLEDGE

COMPLAINT

Complaint about a radio talk show in which a guest made adverse factual claims about foreign nationals, which were presented as facts rather than opinions.

APPLICABLE CLAUSES

FREE-TO-AIR CODE OF CONDUCT:

12. Comment

- (2) 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.
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ADJUDICATION

INTRODUCTION

- [1] A complaint was lodged with the BCCSA against the SABC (“**the Broadcaster**”) concerning an episode of the talk show *The National Pulse*, aired on SAfm Radio.
- [2] The complaint concerns an interview between the show’s host, Ashraf Garda, and the leader of the “March and March” movement, Jacinta Ngobese-Zuma.
- [3] This interview was billed as a right-of-reply to an immediately preceding interview between Mr Garda and Daniel Steyn of *GroundUp News*, who had disputed certain claims by the March and March movement about foreign nationals in South Africa, and related matters.
- [4] **The complaint reads as follows:**

“RE: COMPLAINT AGAINST SAFM (SABC) – THE NATIONAL PULSE BROADCAST OF 3 JUNE 2026

...

3. NATURE OF THE COMPLAINT

I submit this complaint against SAfm for failing to exercise appropriate editorial responsibility when broadcasting repeated, serious and inflammatory allegations concerning migrants, refugees, NGOs and national security without requiring evidence, providing adequate challenge, or supplying corrective context.

The complaint is not directed at the mere fact that Jacinta Ngobese-Zuma was interviewed. Public broadcasters are entitled to interview controversial figures and permit the expression of controversial opinions.

Rather, the complaint concerns the repeated broadcast of factual allegations that were unsupported, disputed, and potentially harmful, particularly in a social context where migrants and foreign nationals are routinely subjected to intimidation, discrimination, violence and displacement.

The programme allowed a series of extraordinary factual claims to be presented to listeners while applying minimal evidentiary scrutiny, despite the presenter having just interviewed a GroundUp journalist whose appearance was specifically intended to challenge and fact-check many of those claims.

4. RELEVANT CODE PROVISIONS

Clause 9: News

News shall be presented in a truthful, accurate and fair manner and shall not be presented in such a way as to create a misleading impression.

Clause 10: Comment

Comment shall be an honest expression of opinion and shall be presented in a manner that makes clear the distinction between fact and opinion.

Clause 11: Controversial Issues of Public Importance

Broadcasters must exercise due care and responsibility when dealing with controversial matters of public importance.

5. GROUNDS OF COMPLAINT

The programme concerned migration, crime, national security, undocumented migrants, NGOs and public policy. These are controversial matters of significant public importance.

During the interview, Ms Ngobese-Zuma made a series of serious allegations, including:

- "60% of all serious crimes are committed by foreign nationals in Gauteng."
- Claims that NGOs receive foreign funding which is used to purchase weapons.
- Claims regarding foreign military bases operating in South Africa.
- Claims that undocumented migrants are responsible for widespread serious crime.
- Claims that foreign nationals routinely evade justice because they are untraceable.
- Claims that migrants are responsible for widespread identity theft.
- Claims that police are collaborating with foreign nationals through bribery.
- Claims that South Africa is experiencing an "invasion."

Many of these allegations were presented as factual statements rather than political opinion.

Despite the seriousness of these claims, the presenter did not require evidence, did not identify authoritative sources, and did not provide listeners with factual context enabling them to assess the credibility of the assertions.

For example, when Ms Ngobese-Zuma stated: "**60% of all serious crimes are committed by foreign nationals in Gauteng**," the presenter did not ask for the source of the statistic, whether it had been independently verified, or whether official crime statistics supported the claim.

Similarly, when Ms Ngobese-Zuma asserted: "**South Africa has NPOs and NGOs that are foreign funded and have millions of rand. The money goes to buying arms**," the presenter merely invited further comment and did not require evidence for what amounts to an extremely serious allegation against civil society organisations.

When discussing the notion that South Africa is being "**invaded**," Ms Ngobese-Zuma referred to alleged foreign military bases, foreign organisations, explosives, arms trafficking and other security threats. Yet these claims were largely allowed to stand without meaningful scrutiny.

The result was that listeners were exposed to a succession of serious factual allegations without being provided the information necessary to evaluate their accuracy.

6. **FORESEEABLE PUBLIC HARM**

The concerns raised in this complaint extend beyond ordinary political disagreement.

South Africa has experienced repeated episodes of anti-migrant violence, xenophobic attacks, forced displacement, looting of migrant-owned businesses and public campaigns portraying foreign nationals as criminals and threats to society.

In this context, allegations that migrants are responsible for most serious crime, are protected by corrupt police, are stealing identities, are connected to criminal syndicates, or are participating in an "invasion" carry significant potential to inflame prejudice and hostility.

Broadcasters have a heightened responsibility when broadcasting claims directed at vulnerable groups, particularly where such claims are disputed and unsupported by verifiable evidence.

The issue is not whether Ms Ngobese-Zuma should have been interviewed. The issue is whether the broadcaster fulfilled its obligation to subject such allegations to appropriate journalistic scrutiny before allowing them to be disseminated to a national audience.

7. **PATTERN OF CONDUCT**

I further request that the BCCSA consider whether this broadcast forms part of a broader pattern in which individuals making repeatedly disputed allegations about migrants and refugees are afforded substantial airtime without equivalent evidentiary standards being applied to their claims.

The concern is not a single statement but the cumulative effect of repeatedly amplifying unverified allegations concerning a vulnerable population group.

8. **RELIEF SOUGHT**

I respectfully request that the BCCSA:

1. Investigate whether SAfm complied with its obligations under Clauses 9, 10 and 11 of the Free-to-Air Code.
2. Determine whether the broadcaster exercised sufficient editorial care when broadcasting serious factual allegations concerning migrants, NGOs and national security.
3. Direct the broadcaster, if appropriate, to broadcast a corrective statement clarifying that the disputed allegations aired during the programme were not independently verified by the broadcaster.
4. Consider issuing guidance regarding the responsibilities of broadcasters when interviewing public figures who repeatedly advance disputed factual claims concerning vulnerable communities."

[5] The next day, **the Complainant lodged a revised complaint**, reading as follows:

"I submit this revised complaint in terms of the BCCSA Free-to-Air Code of Conduct concerning a broadcast of The National Pulse on SAfm on 3 June 2026, hosted by Mr Ashraf Garda.

This complaint is directed at the broadcaster's compliance with the Free-to-Air Code and does not challenge the broadcaster's editorial independence or its right to interview controversial public figures.

The issue is whether SAfm complied with its obligations under Clauses 11 and 12 of the Code when it broadcast a series of serious and highly inflammatory factual allegations concerning migrants, crime, civil society organisations, corruption and national security without requiring evidence, without verification, and without clearly informing listeners that the allegations were disputed and unverified.

APPLICABLE PROVISIONS OF THE CODE

Clause 11(1) requires that:

"Broadcasting service licensees must report news truthfully, accurately and fairly."

Clause 11(2) requires that:

"News must be presented in the correct context and in a fair manner, without intentional or negligent departure from the facts."

Clause 11(3) provides:

"Only that which may reasonably be true, having reasonable regard to the source of the news, may be presented as fact."

Clause 11(4) provides:

"Where a report is not based on fact or is founded on opinion, supposition, rumours or allegations, it must be presented in such manner as to indicate, clearly that such is the case."

Clause 11(5) provides:

"Where there is reason to doubt the correctness of the report and it is practicable to verify the correctness thereof, it must be verified."

Clause 12(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."

THE BROADCAST CONTEXT

The context of the broadcast is critical.

Immediately before interviewing Ms Jacinta Ngobese-Zuma, the programme interviewed GroundUp Deputy News Editor Daniel Steyn concerning an article examining a number of claims previously made by Ms Ngobese-Zuma.

During that interview Mr Steyn expressly challenged and disputed several of Ms Ngobese-Zuma's claims and explained why he believed they were unsupported by available evidence.

For example, in relation to allegations concerning NGOs purchasing weapons, Mr Steyn stated: **"there's no evidence that that is true."**

The programme therefore entered the subsequent interview with Ms Ngobese-Zuma fully aware that a number of her claims were disputed and that there were serious questions concerning their factual foundation.

In these circumstances, Clause 11(5) is directly implicated because there was plainly reason to doubt the correctness of the claims that were subsequently repeated.

SERIOUS FACTUAL ALLEGATIONS WERE BROADCAST WITHOUT EVIDENTIARY SCRUTINY

During the interview Ms Ngobese-Zuma made a series of factual assertions, including:

- **"60% of all serious crimes are committed by foreign nationals in Gauteng."**
- **"South Africa has NPOs and NGOs that are foreign funded and have millions of rand. The money goes to buying arms."**
- **"We've had military bases..."**
- **"There are bombs, explosives coming into the country."**
- **"They get away with these crimes because they are in cahoots with the police because they pay them."**

These are not expressions of political opinion. They are factual allegations concerning crime statistics, corruption, national security, organised criminal activity and civil society organisations.

Yet in each instance the broadcaster failed to require any evidentiary basis for the allegation.

- No source was identified.
- No documentary evidence was cited.
- No official statistics were produced.
- No verification was presented to listeners.

Most importantly, listeners were not informed that these allegations had not been independently verified by the broadcaster.

FAILURE TO COMPLY WITH CLAUSE 11(4)

Clause 11(4) requires that where information is based upon opinion, supposition, rumours or allegations, it must be presented in a manner that clearly indicates that this is the case.

This did not occur.

Listeners were not clearly informed that the allegations concerning:

- crime statistics attributed to foreign nationals;
- foreign-funded NGOs purchasing weapons;
- foreign military bases;
- widespread corruption involving police officers; and
- organised criminal infiltration

were unverified allegations rather than established facts.

The effect was that serious allegations were broadcast in a manner capable of creating the impression that they constituted factual information.

FAILURE TO COMPLY WITH CLAUSE 11(5)

The strongest concern arises under Clause 11(5).

This was not a situation in which the broadcaster had no reason to question the accuracy of the claims.

The programme itself had just devoted a substantial segment to examining and disputing those very claims.

The broadcaster therefore knew, before the interview commenced, that there was reason to doubt the correctness of at least some of the allegations.

Despite this, no meaningful attempt was made to verify the claims during the interview and no indication was given to listeners as to whether the claims had been verified at all.

Where a claim is made that:

- 60% of serious crime is committed by foreign nationals;
 - NGOs are using foreign funding to purchase weapons;
 - foreign military bases are operating in South Africa; or
 - police officers are systematically protecting foreign criminals in exchange for bribes,
- the Code requires more than merely providing a platform for repetition of the allegation.

The Code requires verification where there is reason to doubt the correctness of the report and where verification is practicable.

The broadcaster did not meet that obligation.

FAILURE TO COMPLY WITH CLAUSE 12(2)

The commentary and conclusions advanced by Ms Ngobese-Zuma were substantially dependent upon the factual allegations referred to above.

Clause 12(2) requires that comment be based upon facts truly stated or fairly indicated.

Where the factual foundation of the commentary is disputed, unsupported or unverified, there is a serious question whether the requirements of Clause 12(2) have been satisfied.

PUBLIC INTEREST CONSIDERATIONS

The allegations concerned migrants, undocumented foreign nationals, crime and threats to national sovereignty.

These are matters of significant public sensitivity in South Africa.

The purpose of this complaint is not to prevent robust public debate.

The purpose of this complaint is to ensure compliance with the standards imposed by the Code when broadcasting serious allegations capable of influencing public perceptions on matters of substantial public importance.

The greater the potential social impact of a factual allegation, the greater the responsibility on the broadcaster to ensure that the allegation is properly verified or clearly identified as disputed and unverified.

RELIEF SOUGHT

I respectfully request that the BCCSA:

1. Obtain and review the complete broadcast.
2. Determine whether SAfm complied with Clauses 11(1)–(5) and Clause 12(2) of the Free-to-Air Code.
3. Determine whether the broadcaster presented disputed and unverified allegations as factual assertions.
4. Determine whether the broadcaster failed to verify allegations despite having reason to doubt their correctness.
5. Determine whether the broadcaster failed to clearly distinguish between verified facts and unverified allegations.”

[6] The Broadcaster responded as follows:

- “1. The broadcast in question was not a straightforward news report, but rather a current affairs discussion programme, addressing significant public issues, specifically illegal immigration, crime, and their perceived impact on South African society. The intention behind the segment was to facilitate an engaging public discussion by presenting listeners with differing viewpoints on these important matters.
2. Before the interview with Ms. Jacinta Ngobese-Zuma, the presenter Ashraf Garda, conducted an interview with Mr. Daniel Steyn, the Deputy News Editor of GroundUp, who specifically challenged several of Ms. Ngobese-Zuma's claims and explained why he believed they lacked support from available evidence. This approach ensured that listeners were presented with an alternative and contradictory perspective prior to hearing Ms. Ngobese-Zuma's views.
- ...
3. Regarding Clause 12(2) of the Code, it is important to note that Ms. Ngobese-Zuma's statements, were presented as her personal views and opinions on matters of public controversy during the interview. The programme did not frame her views as facts, nor did Ashraf endorse her assertions.
4. Issues surrounding illegal immigration, crime, and social cohesion have sparked considerable public concern and debate within South Africa and it's our responsibility to provide a platform for robust discussion on these topics while ensuring fairness, context, and editorial independence.
5. Taking the programme as a whole into consideration, the SABC respectfully submit that the broadcast was balanced and that listeners were exposed to materially different viewpoints regarding the issues discussed and that no breach of the Code occurred in this instance.”

[7] The Complainant replied as follows:

“PRELIMINARY OBSERVATION

At the outset, I wish to clarify that the SABC's response largely addresses issues that are not in dispute.

The broadcaster repeatedly submits that:

- the programme was a current affairs discussion;
- Ms Jacinta Ngobese-Zuma was expressing her own opinions;
- the presenter did not endorse those opinions;
- listeners were exposed to differing viewpoints.

I do not dispute any of those propositions.

Indeed, my complaint has never challenged the broadcaster's editorial independence, its decision to interview Ms Ngobese-Zuma, or the legitimacy of hosting robust debate on matters of public importance.

The sole issue before the Commission is whether the commentary broadcast during the programme complied with Clause 12(2) of the Free-to-Air Code.

The broadcaster's response does not adequately engage with that question.

CLAUSE 12(2) REQUIRES MORE THAN IDENTIFYING THE SPEAKER

The broadcaster submits that Ms Ngobese-Zuma's statements were "presented as her personal views and opinions" and that "the programme did not frame her views as facts."

With respect, this is not the legal test established by Clause 12(2).

Clause 12(2) provides that 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."

The complaint is therefore not concerned with who owned the opinions.

The complaint concerns the factual foundation upon which those opinions were constructed.

The broadcaster's response does not explain how the factual premises underlying the guest's commentary were "truly stated" or "fairly indicated."

THE DISTINCTION BETWEEN OPINION AND FACTUAL ASSERTION

This distinction is central to the complaint. Political opinions enjoy wide constitutional protection. However, the programme did not merely broadcast opinions. It broadcast numerous factual assertions that served as the foundation for the political opinions expressed.

Among those factual assertions were claims that:

- "60% of all serious crimes are committed by foreign nationals in Gauteng";
- foreign-funded NGOs use donor funding to purchase weapons;
- foreign military bases are operating within South Africa;
- foreign nationals systematically evade prosecution through corruption involving members of the South African Police Service.

These are factual propositions. They are capable of verification or refutation. They are not simply value judgments or political beliefs. Those factual assertions then formed the basis upon which broader political conclusions concerning immigration, national sovereignty and public safety were advanced.

Clause 12(2) requires that commentary be made upon facts truly stated or fairly indicated.

The broadcaster's response does not identify any factual material presented during the programme which established these propositions.

THE GROUNDUP INTERVIEW DOES NOT ANSWER THE COMPLAINT

The broadcaster correctly points out that Mr Daniel Steyn of GroundUp was interviewed immediately beforehand and challenged several of Ms Ngobese-Zuma's claims.

I accept this. However, the existence of that interview does not dispose of the complaint. On the contrary. The GroundUp interview demonstrates that the broadcaster knew, before interviewing Ms Ngobese-Zuma, that several of the factual propositions underpinning her political arguments were disputed.

Despite this knowledge, when those same factual assertions were repeated moments later, no attempt was made to establish their evidentiary basis. Instead, discussion proceeded to the political implications flowing from those assertions.

The complaint is therefore not that opposing viewpoints were absent. The complaint is that disputed factual assertions were permitted to function as the factual foundation of commentary without being established during the programme.

THE PRESENTER'S ROLE

The broadcaster submits that Mr Garda did not endorse the guest's assertions. I do not suggest that he expressly endorsed them. However, the transcript demonstrates that, on several occasions, the discussion moved directly from disputed factual assertions to broader political analysis without first requiring evidence for the underlying factual claims.

For example, when allegations were made concerning foreign military bases, foreign-funded organisations, organised criminal networks and national sovereignty, the discussion shifted toward questions of institutional influence rather than first establishing whether those factual assertions were supported.

Similarly, when crime statistics concerning foreign nationals were advanced, discussion focused upon interpretation rather than evidentiary foundation.

My concern is therefore not endorsement. It is whether commentary founded upon disputed factual propositions complied with Clause 12(2).

BALANCE DOES NOT OF ITSELF SATISFY CLAUSE 12(2)

The broadcaster concludes that the programme was balanced because listeners heard materially different viewpoints. I do not dispute that listeners heard differing opinions. However, balance and factual foundation are distinct concepts.

A broadcaster may present opposing viewpoints and yet still fail to satisfy Clause 12(2) if commentary is built upon factual assertions that are neither truly stated nor fairly indicated.

The existence of opposing viewpoints cannot substitute for the factual foundation required by the Code.

PUBLIC IMPORTANCE HEIGHTENS THE DUTY OF CARE

The SABC correctly notes that the programme concerned matters of significant public importance, namely immigration, crime and social cohesion. I respectfully agree.

Precisely because these issues have profound implications for public safety, social cohesion and constitutional rights, broadcasters bear an enhanced responsibility to ensure that factual assertions underpinning public commentary are treated with appropriate care.

Since the broadcast, independent analysis by the Institute for Security Studies, drawing on research by Murrumbidgee Intelligence, has identified coordinated online amplification of anti-immigration narratives surrounding the 30 June protests. The ISS reports concerns regarding inorganic amplification of inflammatory narratives and cites experts warning that coordinated information manipulation can have real-world consequences by shaping public attitudes and fuelling hostility.

I do not rely upon this subsequent analysis to prove that any particular statement made during the programme was false.

Rather, it illustrates why broadcasters discussing these issues must exercise particular care in ensuring that commentary rests upon facts truly stated or fairly indicated.

Where public discourse is characterised by contested claims, coordinated amplification and heightened social tensions, the obligations imposed by Clause 12(2) assume even greater significance.

CONCLUSION

The SABC's response addresses:

- editorial independence;
- the existence of opposing viewpoints;
- the presenter's neutrality.

Respectfully, it does not answer the question posed by Clause 12(2).

The broadcaster has not demonstrated that the factual premises upon which Ms Ngobese-Zuma's commentary rested were "facts truly stated or fairly indicated and referred to."

The Commission is therefore respectfully requested to determine whether the broadcast complied with the requirements of Clause 12(2) of the Free-to-Air Code."

EVALUATION

- [8] In his reply to the Broadcaster's response, the Complainant – correctly – narrowed his complaint to **Clause 12(2)** of the Free-to-Air Code of Conduct for Broadcasting Service Licensees ("**Free-to-Air Code**").¹

¹ In this adjudication, except where indicated otherwise, a reference to a Clause is a reference to a Clause of the Free-to-Air Code.

[9] I say correctly, for two reasons.

[9.1] First, the interview with Ms Ngobese-Zuma was not a news report, and so Clause 11 is not applicable. Rather, it was a talk show, in which topics are discussed from subjective points of view, and which is covered by Clauses 12 (Comment) and 13 (Controversial issues of public importance).

[9.2] Second, the Broadcaster clearly complied with Clause 13, by interviewing a person who criticised Ms Ngobese-Zuma's views, and then affording her a right to reply to that criticism in the same programme.² The Broadcaster made "reasonable efforts to fairly present opposing points of view".³

The issues

[10] Clause 12(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."

[11] The issues in this case are whether each statement by Ms Ngobese-Zuma was:

[11.1] an honest expression of opinion, clearly presented as such; and

[11.2] made on facts truly stated or fairly indicated and referred to.

[12] Both requirements must be met for the Broadcaster's airing of the statements to be compliant with Clause 12(2).⁴

[13] The statements in question are:

[13.1] "60% of all serious crimes are committed by foreign nationals in Gauteng."

² Clause 13(2).

³ Clause 13(1).

⁴ *eNCA and Another v Media Monitoring Africa*, Case No 010/2021, BCCSA Appeal Tribunal, Judgment, 3 May 2021 ("**eNCA v MMA**"), para 20.

[13.2] "We've had [foreign funded] military bases [in South Africa]."

[13.3] "We've got bombs, explosives coming into the country [South Africa], and arms being found at the border going undetected."

[13.4] "South Africa has NPOs and NGOs that are foreign funded and have millions of rand. The money goes to buying arms."

[13.5] "And you know why they [foreign nationals] get away with these crimes? Because they are in cahoots with the police, because they pay them."

[14] I will address each statement in turn, to assess whether the Broadcaster breached Clause 12(2) by broadcasting the statement in the manner it did.

[15] Thereafter, I will consider whether there has been a contravention of Clause 10(1) of the Online Code.

First statement: "60% of all serious crimes are committed by foreign nationals in Gauteng"

[16] The statement appeared in the following context:

Mr Garda: Daniel Steyn from *GroundUp* is saying you've made a series of claims as per last week, right? And ... the general thought of those claims is to show all of us, including me, to say, hey, South Africa, foreign nationals are, you know, not that South Africans don't commit wrong, but foreign nationals do so far more in proportion to South Africans. And if that's your claim, then his claim is, in fact, that's not true. Right now, you're saying, if I can hear you correctly, that that's based on stats that he's been able to dilute, but the reality is many of the stats are incomplete from South Africa itself because we just, our systems have collapsed, so we don't have the correct information.

Ms Ngobese-Zuma: He's giving me the stats of people who've been convicted. I'm saying why would he ignore statistics like 60% of all serious crimes are committed by foreign nationals in Gauteng. Why would he ignore that if he's trying to paint a clear picture of what is going on in the country? It just shows that in his reporting, he's not biased, he's not fair.

[17] Mr Garda then moved on to a new topic (the township economy).

(a) *Was it an honest expression of opinion, clearly presented as such?*

[18] It is notoriously difficult, in practice, to distinguish between an assertion of fact and an expression of opinion:⁵

Whereas extremes on both ends of the fact/opinion continuum are easily identifiable, in reality there is no clear line somewhere in the middle that makes this a binary inquiry. Saying that a government “ruined our economy” or “took us into a war” looks as if it is a factual assessment, but it is readily apparent that it may rather be an assessment of policies, according to criteria, numbers and statistics which people on different sides of the political spectrum disagree about. It is a matter of opinion, even though it is presented in a factual manner.

[19] In my view, the assertion that “60% of all serious crimes are committed by foreign nationals in Gauteng” cannot be described as an interpretation or assessment of a factual position indicated or stated somewhere else – it purports, itself, to indicate or state what the factual position is.

[20] My view is bolstered by the context of the statement, in which Ms Ngobese-Zuma claims that the figure of 60% emerges from “statistics”, and asks why Mr Steyn has “ignored” those “statistics”.

[21] Of course, Clause 12(2) does not ban a Broadcaster from including, in a comment programme, factual assertions by participants. It requires, however, that opinions may not be presented as facts. If a participant presents their opinion as a fact, it is incumbent on the Broadcaster to ask them to clarify whether this is their opinion or a fact, and if it is an opinion, what are the facts on which it is based.

[22] In ***Nzimande v SABC***, in a complaint of defamation, the BCCSA Appeal Tribunal held that, in certain circumstances, a presenter has “duty to react” when a guest or contributor makes a statement that might fall foul of a Code.⁶

⁵ *Democratic Alliance v African National Congress and Another* [2015] ZACC 1; 2015 (2) SA 232 (CC); 2015 (3) BCLR 298 (CC), para 182.

⁶ *Nzimande v SABC (SAfm)*, Case No 30/2014, BCCSA Appeal Tribunal, Judgment, 3 October 2014, para 14.

[23] In **eNCA v MMA**, the BCCSA Appeal Tribunal held that a discussion programme, in which an interviewee (Mr Icke) had made factual claims, with no evidence (that the Covid-19 pandemic was a “hoax”), was not in breach of Clause 12(2).⁷ It said so, *because* the interviewer (Mr Cliff) had equipped the viewers to understand that the assertions were unsubstantiated. In particular, Mr Cliff had introduced Mr Icke as “the world’s most famous conspiracy theorist”,⁸ and “confronted [him] with the fact that he had done no research on his statements about the pandemic”.⁹

[24] In the present case, Mr Garda did not ask Ms Ngobese-Zuma any questions about her assertion that there were “statistics” showing that “60% of all serious crimes [in Gauteng] are committed by foreign nationals”. Consequently, the listeners did not know which “statistics” she was referring to, who compiled them, when, and how.

[25] Asking these questions would have revealed whether the statement was merely Ms Ngobese-Zuma’s opinion, and if so, whether it was honestly held and what facts, if any, it was founded on.

[26] It may well be that Ms Ngobese-Zuma’s honest opinion is that “60% of all serious crimes [in Gauteng] are committed by foreign nationals”. But it was not presented as an opinion – it was presented as a fact.

[27] As quoted earlier, the Broadcaster’s main defence to the complaint was as follows (with my emphasis):

Ms Ngobese-Zuma’s statements, were presented as her personal views and opinions on matters of public controversy during the interview. The programme did not frame her views as facts, nor did Ashraf endorse her assertions.”

[28] For the reasons given above, this defence does not hold. While Mr Garda indeed did not expressly endorse Ms Ngobese-Zuma’s assertion about “60% of all serious crimes”, he equally did not challenge it, and thus left the listeners to accept it.

⁷ **eNCA v MMA** (note 4 above).

⁸ *Id.*, para 19.

⁹ *Id.*, para 17.

[29] As quoted earlier, the Broadcaster also contended that the immediately preceding interview with Mr Steyn (who challenged claims that Ms Ngobese-Zuma had made in the past, as lacking an evidential basis) “ensured that listeners were presented with an alternative and contradictory perspective”.

[30] I am not convinced. The interview with Ms Ngobese-Zuma was billed as a right to reply to Mr Steyn’s criticism. Ms Ngobese-Zuma was being invited, and prompted by Mr Garda, to rebut that criticism, and thus to present the evidence that Mr Steyn argued was absent. When she vaguely cited “statistics”, without more, Mr Garda needed to probe further, for the sake of the listeners, and to ask the questions that I have referred to earlier. He failed to do so.

[31] For these reasons, the Broadcaster failed the first requirement of Clause 12(2).

(b) Was it made on facts truly stated or fairly indicated and referred to?

[32] Even if the claim about “60% of all serious crimes” had been clearly presented as a comment, it would still have to meet the second requirement of Clause 12(2), namely that the comment must have been made on facts truly stated or fairly indicated and referred to.

[33] Ms Ngobese-Zuma bolstered her claim that “60% of all serious crimes [in Gauteng] are committed by foreign nationals” by saying that it was based on “statistics”. But nothing about these “statistics” was stated (truly or otherwise) during the interview.

[34] Nor were they “fairly indicated and referred to”. Such a vague reference could only be sufficient if the “statistics” concerned were so notorious that the listeners would know which statistics were being cited. Even in its response to this complaint, the Broadcaster has neither identified the “statistics”, nor contended that they were so notorious that such a vague citation was fair to the listeners.

[35] For these reasons, the Broadcaster also failed to meet the second requirement of Clause 12(2).

Finding

[36] I therefore find that, in respect of the statement that “60% of all serious crimes are committed by foreign nationals in Gauteng”, the Broadcaster contravened Clause 12(2) of the Free-to-Air Code. The complaint is **upheld** in this respect.

Second statement: “We’ve had [foreign funded] military bases [in South Africa]”

[37] This statement appeared in the following context:

Mr Garda: Right, so Jacinta... on the issue of South Africa being invaded, the quote from you is: “We demand that the sovereignty of our country be protected. South Africa is currently being invaded.” His [Mr Steyn’s] point is that South Africa is approximate – and I have to say approximate because we know the issue of undocumented foreign nationals – he talks about 5% of the population being foreign nationals, whereas in other countries like Australia and Canada he’s quoting, they could go up to 20%. So we’re far from being invaded.

Ms Ngobese-Zuma: You know, when you were saying that, I heard him call it a rhetoric. And if you’re a journalist, then you’re going to make such a very strong point, statement, I’d expect you to actually go and do some actual investigations to find out how many foreign funded – I don’t even know what to call it – we’ve had military bases, we’ve had organizations that were found that people didn’t even know, people from Kenya were even able to come here and work on behalf of the USA. And he cannot tell me that that is not an invasion. Because, on top of that, we’ve got zama-zamas who are running people out of their own communities. On top of that, we’ve got bombs, explosives coming into the country, and arms being found at the border going undetected. There’s Mexican cartels going on in this country. There’s Phil Craig, who’s trying to push for Cape independence. If that is not an invasion, what exactly does he term an invasion? If he’s talking to me about rhetoric, what is rhetoric? Because it’s something that we create that’s not even real. It’s real. This is what’s happening in our country every day. This is factual news.

Mr Garda: I’m going to move on because of time. So, I hear what you’re saying. So, he’s talking about sheer numbers. You’re actually talking about institutions have influenced South Africa and the examples you’ve just given.

Ms Ngobese-Zuma: Far beyond the threat of the sovereignty of the country and the arms that have been found, the bombs, the zama-zamas, all of it.

Mr Garda: Okay, point made.

[38] We must again assess the statement, in its context, against the two requirements of Clause 12(2).

(a) Was it an honest expression of opinion, clearly presented as such?

[39] I readily accept that the statements that “South Africa is currently being invaded” and that there is a “threat [to] the sovereignty of the country” lie on the opinion side of the fact/opinion continuum.

[40] But the same is not true of the claim that “we’ve had [foreign funded] military bases [in South Africa]”. This claim, on its own, purports to describe something that has happened. It has either happened or it has not. The statement thus sits far on the fact side of the fact/opinion continuum. It is pushed further towards that end of the spectrum by Ms Ngobese-Zuma’s insistence that “this is factual news”, and that Mr Steyn would have known this if he conducted “actual investigations”.

[41] Mr Garda again moved on to the next topic without challenging Ms Ngobese-Zuma to substantiate her extraordinary assertion. The listeners were left to accept that it was indeed “factual news” that foreign funded military bases exist in South Africa.

[42] The Broadcaster’s defence that all Ms Ngobese-Zuma’s claims were “presented as her personal views and opinions” thus fails in respect of this statement, too.

[43] Consequently, the Broadcaster again failed the first requirement of Clause 12(2).

(b) Was it made on facts truly stated or fairly indicated and referred to?

[44] Even if the statement about “military bases” was clearly presented as an opinion, it would still have to meet the second requirement.

[45] Apart from a vague reference to “factual news”, Ms Ngobese-Zuma did not refer to any report or other source on which she was commenting. Nor did Mr Garda. And the Broadcaster has not argued that the presence of foreign funded military bases in South Africa is a fact notoriously known to its listeners.

[46] Thus, the Broadcaster also failed to meet the second requirement of Clause 12(2).

Finding

[47] I accordingly find that, in respect of the statement that “we’ve got [foreign-funded] military bases”, the Broadcaster contravened Clause 12(2) of the Free-to-Air Code. The complaint is **upheld** in this respect.

Third statement: “We’ve got bombs, explosives coming into the country”

[48] This statement appeared in the same context as the statement about the “military bases”, and has been underlined in the extract quoted above.

(a) Was it an honest expression of opinion, clearly presented as such?

[49] This claim also tends more to be a factual assertion than an expression of opinion. Either explosives have been brought into the country (by foreign nationals) or they have not. There is little room for interpreting this as a metaphor of some kind. The insistence that “[t]his is real” and “[t]his is factual news” removes the statement still further from the realm of an expression of opinion.

[50] The statement was thus not clearly presented as an expression of opinion, as the Broadcaster contends.

[51] It failed the first requirement of Clause 12(2).

(b) Was it made on facts truly stated or fairly indicated and referred to?

[52] As with the previous statement about “military bases”, Ms Ngobese-Zuma did not refer to any factual material on which she was making her comment that “bombs [and] explosives [are] coming into the country”. Nor did Mr Garda. And, again, the Broadcaster has not answered the complaint by stating what factual material exists or whether it was notoriously known to its listeners.

[53] The Broadcaster thus also failed the second requirement of Clause 12(2).

Finding

[54] I thus find, in respect of the statement that “we’ve got bombs, explosives coming into the country”, that the Broadcaster contravened Clause 12(2) of the Free-to-Air Code. The complaint is **upheld** in this respect.

Fourth statement: “South Africa has NPOs and NGOs that are foreign funded... buying arms.”

[55] This statement appeared in the following context:

Mr Garda: Okay, lastly. Again, quoting you, “I think South Africa is currently facing a huge security threat more than a lot of us realise. South Africa has NPOs and NGOs that are foreign funded and have millions of rands. The money goes to buying arms.” Right? Now, he’s questioning your evidence around that. You’ve given one or two examples. Tell me more about that statement.

Ms Ngobese-Zuma: If he had actually done his research in regards to the people who are in charge of these NPOs, he will be asking me that, because that’s where I get the information from, the same place that he can get that information from.

Mr Garda: Overall, let’s end with this, right? The gist of the argument is that you may have a case about many things, but some of your concerns around foreign nationals are exaggerated. That’s my words, not his words. That’s the essence of the *GroundUp* piece. What’s your response to that?

(a) Was it an honest expression of opinion, clearly presented as such?

[56] The statement that “South Africa has NPOs and NGOs that are foreign funded and have millions of rand ... [which] goes to buying arms” is presented as a statement of fact, not an expression of opinion. This view is fortified by Ms Ngobese-Zuma’s claim that the statement is based on “research”, as well as by Mr Garda’s statement that Ms Ngobese-Zuma had already “given one or two examples”. It is unclear which examples he was referring to.

[57] As with the other claims made, Mr Garda should have asked Ms Ngobese-Zuma to refer the listeners to the factual material on which her claim was based. Again, he failed to do so. The result was that the listeners were left to accept as a fact what may very well have been conjecture or a conspiracy theory.

[58] The Broadcaster thus failed the first requirement of Clause 12(2).

(b) Was it made on facts truly stated or fairly indicated and referred to?

[59] Ms Ngobese-Zuma's vague reference to "research" was completely inadequate. The Broadcaster has neither identified the "research", nor contended that it was so notorious that such a vague reference was fair to the listeners.

[60] Accordingly, the Broadcaster also failed the second requirement of Clause 12(2).

Finding

[61] I thus find, in respect of the statement that "South Africa has NPOs and NGOs that are foreign funded and have millions of rand ... [which] goes to buying arms", that the Broadcaster contravened Clause 12(2) of the Free-to-Air Code. The complaint is **upheld** in this respect.

Fifth statement: "[Foreign nationals] are in cahoots with the police, because they pay them"

[62] This statement appeared in the following context:

Ms Ngobese-Zuma: You know, anyone who says that the issue of foreign nationals is exaggerated, I wish for them to spend time, whether we have to deal with children whose identities have been stolen. One of them can't even write Matric today because someone stole their identity – a foreigner and wrote Matric last year. Now we're sitting with those problems. We've got children who are in hospitals right now having eaten food from these shops. On top of that, we've got numbers of children in communities whose parents have reached out to us because these people have raped them or touched them inappropriately, then they must tell us we're exaggerating. And you know why they get away with these crimes? Because they are in cahoots with the police, because they pay them. And then when you go to the police, they don't get arrested because police are on their side. But you go to government, the government is protecting them. You go to NPOs, the NPOs are protected, you go to the media, the media is painting them as victims. When do people actually listen to South Africans and tell South African stories the way that they're supposed to be told instead of calling us xenophobic?

Mr Garda: Well, you see, that old example you've given may then talk of a collapse of infrastructure in our country anyway.

Ms Ngobese-Zuma: And they're not innocent either. They're the ones committing the crime.

[63] Mr Garda then moved on to a new topic.

(a) Was it an honest expression of opinion, clearly presented as such?

[64] The statement that “they [foreign nationals] are in cahoots with the police, because they pay them” falls somewhat closer to the centre of the fact/opinion continuum. A reasonable listener could construe this as a mere rhetorical device, even though it appears to be an assertion of fact.

[65] However, Clause 12(2) requires an opinion to be “clearly” presented as such. In a context where the claim went unchallenged, and was thus not “clearly” exposed as mere conjecture, I must find that Ms Ngobese-Zuma was asserting, as a fact, that police officers had been paid by foreign nationals on one or more occasions within her knowledge. Indeed, she was asserting that this is a widespread practice.

[66] The Broadcaster’s defence, that all of Ms Ngobese’s claims were presented as her opinions, thus fails again.

[67] The Broadcaster failed to meet the first requirement of Clause 12(2).

(b) Was it made on facts truly stated or fairly indicated and referred to?

[68] Even if the Broadcaster had met the first requirement, it failed the second, as it was not based on any facts, whether truly stated or fairly indicated or referred to, either by Ms Ngobese-Zuma or Mr Garda. And the Broadcaster has not contended that such facts are so notorious that they need not have been stated or referred to in the broadcast.

Finding

[69] I thus find, in respect of the remark that “[foreign nationals] are in cahoots with the police, because they pay them”, that the Broadcaster contravened Clause 12(2) of the Free-to-Air Code. The complaint is **upheld** in this respect.

SANCTION

The parties' submissions

[70] The parties were invited to make written submissions on an appropriate sanction for the Broadcaster's contraventions of Clause 12(2) of the Free-to-Air Code.

[71] The Broadcaster submitted as follows:

"The SABC notes the invitation by the Commission to submit its comments with regards to a sanction. Please find our comments as follows:

1. The SABC/SAfm acknowledges receipt of the Commissioner's adjudication and appreciates the invitation to present arguments concerning a suitable sanction for the violations of Clause 12(2) of the Free-to-Air Code. In this case the SABC considers that a reprimand will be an appropriate sanction.
2. The SABC is committed to utilising the findings as a learning opportunity to enhance guidance for presenters and producers regarding factual claims.
3. SAfm is committed to strengthening its editorial safeguards for high-risk current affairs discussions and believes that these measures effectively address the editorial issues raised by the Commission.
4. The SABC respects the authority of the BCCSA and the standards outlined in Clause 12(2). While acknowledging the editorial lapse identified, it supports the need for scrutiny in sensitive discussions. Nonetheless, the appropriate sanction must take into consideration the broader context, including the presentation of opposing views and the Commission's recognition of compliance with Clause 13.
5. The SABC remains dedicated to fostering vigorous public debate while maintaining essential editorial oversight.
6. In conclusion, SAfm would like to sincerely thank the complainant for their positive engagement and interest shown in our programming. We urge them to continue supporting the station."

[72] The Complainant submitted as follows:

"RE: SUBMISSIONS ON SANCTION – RUTLEDGE v SABC / SAFM – THE NATIONAL PULSE, 3 JUNE 2026

I thank the Commission for the opportunity to make submissions regarding an appropriate sanction following the finding that the SABC contravened Clause 12(2) of the Free-to-Air Code in respect of multiple statements broadcast during The National Pulse on SAfm on 3 June 2026.

I respectfully submit that the appropriate sanction should be considered not only in relation to the individual contraventions established in this matter, but also in light of the broader regulatory purpose served by the Commission's findings.

1. THE OBJECTIVE IS CORRECTION AND FUTURE COMPLIANCE, NOT CENSORSHIP

I wish to emphasise at the outset that I do not seek a sanction aimed at preventing SAfm, the SABC or any other broadcaster from interviewing Ms Jacinta Ngobese-Zuma, representatives of March and March, critics of immigration policy, or any other controversial public figure.

Nor do I seek to restrict robust debate about immigration, crime, border control, unemployment, public services or government policy.

Those are legitimate matters of public importance.

The concern giving rise to this complaint is narrower but, in my respectful submission, extremely important: **the distinction between protected political opinion and serious factual allegations presented as the foundation for that opinion.**

The draft adjudication demonstrates why that distinction matters.

The Commission identified a series of assertions capable of objective verification, including allegations concerning crime statistics, foreign military bases, explosives entering South Africa, foreign-funded NGOs allegedly purchasing arms, and alleged bribery of police, and found that these assertions did not satisfy the requirements of Clause 12(2).

The significance of these findings extends beyond this particular interview.

2. THE “GUEST’S OPINION” DEFENCE REQUIRES CLEAR REGULATORY GUIDANCE

A central defence advanced by the SABC was that the impugned statements represented Ms Ngobese-Zuma’s personal views and opinions and were not endorsed by the broadcaster.

The Commission’s findings demonstrate the limitation of that defence.

There is an important distinction between statements such as:

“Government’s immigration policy has failed”;

and:

“60% of all serious crimes are committed by foreign nationals in Gauteng.”

The former is plainly political opinion.

The latter purports to be an objectively verifiable statistical fact.

Likewise, allegations that military bases exist within South Africa, that foreign-funded NGOs use money to purchase weapons, that explosives are entering the country, or that foreign nationals evade prosecution by bribing police are propositions capable of proof or disproof.

They do not become mere “opinions” simply because they are uttered by an interviewee.

This distinction is, in my respectful submission, one of the most important aspects of the present adjudication.

3. THIS MATTER PRESENTS AN OPPORTUNITY TO ESTABLISH A CLEAR STANDARD

I respectfully request that the Commission consider using its final adjudication to articulate clearly the principle emerging from its findings.

That principle need not impose an unrealistic obligation upon broadcasters to fact-check every spontaneous statement made during a live programme.

Rather, the principle could make clear that **a broadcaster does not necessarily discharge its obligations under Clause 12(2) merely by attributing serious factual allegations to a guest or describing them as that person's views.**

Where an interviewee advances serious assertions capable of objective verification as the factual foundation for political commentary, appropriate journalistic scrutiny may require the presenter, depending upon the circumstances, to:

- ask for the source or evidentiary basis of the assertion;
- distinguish clearly between established fact, allegation and opinion;
- inform listeners where an assertion is disputed or has not been established;
- provide relevant factual context where available; or
- otherwise ensure that the factual foundation of the commentary is truly stated or fairly indicated.

Such a standard would preserve editorial independence and freedom of expression while giving meaningful effect to Clause 12(2).

4. THE CIRCUMSTANCES OF THIS BROADCAST MAKE SUCH GUIDANCE PARTICULARLY APPROPRIATE

This was not a situation in which an entirely unexpected allegation arose without warning during a live interview.

Immediately before interviewing Ms Ngobese-Zuma, the programme interviewed GroundUp journalist Daniel Steyn concerning a number of claims previously made by her.

Those claims were specifically challenged.

Ms Ngobese-Zuma was subsequently afforded an opportunity to respond.

The broadcaster therefore knew that important factual propositions underpinning the discussion were contested.

The Commission's draft adjudication recognises the significance of this sequence and finds that, where Ms Ngobese-Zuma referred vaguely to "statistics," the presenter needed to probe further for the benefit of listeners.

That finding is important because it identifies a workable journalistic standard.

The broadcaster was not required to silence the guest.

It was required to interrogate the factual foundation of what was being presented to its audience.

5. THE SOCIAL CONTEXT INCREASES THE IMPORTANCE OF THE FINDING

This matter must also be understood in its social context.

The disputed assertions concerned foreign nationals and linked them, among other things, to serious crime, weapons, corruption, national security threats and institutional subversion.

Subsequent independent analysis by the Institute for Security Studies concerning the 30 June anti-immigration protests has documented coordinated and apparently inorganic online amplification of anti-immigration narratives.

The ISS analysis specifically identified Ms Ngobese-Zuma's account as among those benefiting substantially from coordinated "buzzer" activity and recorded expert concern that information manipulation and harmful narratives may have offline consequences.

I do not rely upon that subsequent research to prove retrospectively that any particular statement in the 3 June broadcast was false.

Rather, it illustrates the wider information environment in which these narratives circulate and demonstrates why professional broadcasters play such an important role in distinguishing verified information from allegation, rhetoric and misinformation.

Broadcast media possess an institutional credibility that social-media accounts generally do not.

Consequently, when unsupported factual allegations migrate from social media or political campaigning onto a national broadcasting platform without meaningful interrogation, they may acquire an appearance of legitimacy they did not previously possess.

6. THE OBJECTIVE OF SANCTION SHOULD THEREFORE BE CORRECTIVE AND PROSPECTIVE

For these reasons, I respectfully submit that a purely punitive sanction, particularly a fine standing alone, would not adequately address the circumstances of this matter.

The misinformation reached listeners. The Commission's correction should, as far as reasonably possible, reach listeners as well.

More importantly, the adjudication provides an opportunity to prevent repetition of the conduct identified by the Commission.

I therefore respectfully request that the Commission consider a combination of corrective and prospective measures.

First, the SABC should be formally reprimanded for the multiple contraventions of Clause 12(2).

Second, SAfm should be directed to broadcast, during *The National Pulse* or a substantially comparable current-affairs timeslot, an appropriate summary of the Commission's findings.

That summary should make clear that the BCCSA found that specified factual allegations broadcast during the interview failed to comply with Clause 12(2).

Third, insofar as the programme remains available through an SABC-controlled podcast, streaming service or other online archive falling within the Commission's jurisdiction, I request that appropriate corrective contextualisation accompany the archived content so that subsequent listeners are not exposed to the impugned allegations without knowledge of the Commission's findings.

Fourth, I respectfully request that the final adjudication articulate clearly the prospective principle arising from this matter: serious factual allegations capable of verification do not become protected

factual foundations for commentary merely because they are characterised as the opinions of an interviewee.

7. THE IMPORTANCE OF A CLEAR PRECEDENT

This final aspect of the requested remedy is particularly important. The purpose of my complaint was never simply to obtain a finding against one presenter or one programme.

The underlying concern is a recurring broadcasting practice in which controversial public figures are afforded substantial airtime to make serious factual allegations and broadcasters subsequently defend the content on the basis that the statements constituted the guest's views.

If Clause 12(2) is to provide meaningful protection against this practice, broadcasters, presenters and audiences need clarity regarding the distinction between political opinion and the factual premises upon which that opinion rests.

A clear ruling would not inhibit robust journalism. It would strengthen it.

It would affirm that broadcasters remain free to interview controversial speakers, challenge prevailing orthodoxies and facilitate vigorous political debate, while requiring that objectively verifiable factual allegations forming the basis of such commentary receive appropriate journalistic scrutiny.

That principle would apply irrespective of the identity or political viewpoint of the speaker and irrespective of the community, organisation, institution or individual against whom the allegations are directed.

8. THE BROADER PUBLIC INTEREST

There is a substantial public interest in establishing this principle. South Africa's constitutional democracy depends upon both freedom of expression and access to reliable information. Those principles are complementary rather than contradictory. The answer to misinformation is not censorship. It is rigorous journalism.

The Commission therefore has an opportunity through this adjudication to send a clear message to the broadcasting sector:

Controversial opinions may be broadcast. Political views may be challenged or defended. But serious factual allegations cannot escape the requirements of the Code merely by being labelled the views of a guest.

That, respectfully, is the lasting remedy this matter requires.

9. RELIEF REQUESTED

I accordingly request that the Commission consider:

1. imposing an appropriate formal reprimand upon the SABC for the multiple contraventions found;
2. directing SAfm to broadcast an appropriate correction or summary of the Commission's findings during The National Pulse or a substantially comparable current-affairs timeslot;
3. directing appropriate corrective contextualisation of any SABC-controlled online or podcast version of the offending programme, insofar as this falls within the Commission's jurisdiction;

4. considering whether an additional financial sanction is appropriate in light of the number and seriousness of the contraventions;
5. incorporating into the final adjudication clear guidance concerning the responsibilities of broadcasters when interviewees present serious and objectively verifiable factual allegations as the foundation for commentary; and
6. granting such further corrective or ancillary relief as the Commission considers appropriate to promote future compliance with the Code.

CONCLUSION

I respectfully submit that the significance of this matter extends beyond the five individual contraventions identified in the draft adjudication.

The Commission has identified an important boundary between political opinion, which deserves robust protection, and factual allegations presented as the foundation for such opinion, which remain subject to the requirements of Clause 12(2).

A clear final ruling, appropriately communicated to the public and broadcasting sector, would protect freedom of expression while strengthening journalistic accountability.

That would, in my respectful submission, constitute the most meaningful remedy arising from this complaint.”

Relevant considerations

[73] At the outset, I must commend both parties for the constructive spirit in which they have made their respective submissions on sanction.

[74] I am required to consider any relevant aggravating and mitigating factors to arrive at an appropriate sanction.

[75] A significant aggravating factor is that each of Ms Ngobese-Zuma’s assertions was extremely serious, and could expose foreign nationals in South Africa to contempt, discrimination and even displacement. According to the Broadcaster, these were only her opinions. They were, however, presented as facts.

[76] 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.

[77] The importance of this cannot be emphasised enough. Just last week, the South African Human Rights Commission released a Policy Brief on Information Integrity and Human Rights. One of its central findings is the following:

“Information integrity is foundational to the human rights project. Without access to reliable, plural and rights-respecting information, people cannot meaningfully participate in public life, hold power to account, exercise democratic choice or claim their rights effectively. Protecting the integrity of the information environment is therefore not ancillary to human rights but rather a condition for dignity, equality, accountability and democratic self-government.”¹⁰

[78] Another aggravating factor is that there were five separate unsubstantiated claims and not one of them was challenged.

[79] There are also mitigating factors. The Broadcaster has accepted full responsibility for its contraventions of the Code in this instance, and has committed in good faith to “enhance[ing] guidance for presenters and producers regarding factual claims”, and “strengthening its editorial safeguards for high-risk current affairs discussions”.

[80] I have no doubt that they will do so diligently.

[81] I do not, however, agree with the Broadcaster that a reprimand alone is a sufficient sanction. The Broadcaster owes it to the listeners, as well as to the vulnerable group being vilified in the broadcast, to set the record right.

[82] I do not believe a monetary fine is necessary or appropriate in this case.

Order

[83] I make the following order.

[84] The Broadcaster shall, within one week, broadcast the following summary of the findings in this complaint during *The National Pulse* on SAfm, in substantially the same timeslot as the broadcast complained about:

¹⁰ South African Human Rights Commission, *Information Integrity and Human Rights: A Rights-Centred Policy Brief on Disinformation, Platform Accountability and Democratic Resilience in South Africa*, 19 August 2026, accessible online at: <https://sahrc.org.za/index.php/publications/619-sahrc-human-rights-and-info-integrity-policy-brief-final/viewdocument/619>.

- “A complaint was lodged with the Broadcasting Complaints Commission of South Africa (BCCSA) regarding the programme *The National Pulse* aired on 3 June 2026, when we interviewed Ms Jacinta Ngobese-Zuma, leader of the March and March movement.
- During the interview, Ms Ngobese-Zuma stated that foreign nationals were responsible for 60% of serious crime in Gauteng, setting up military bases in South Africa, smuggling explosives into the country, and paying police officers to get away with these crimes. She also said that NPOs and NGOs in South Africa were using foreign funding to buy weapons.
- The BCCSA found that we had contravened Clause 12(2) of the Code of Conduct for Free-to-Air Broadcasters because Ms Ngobese-Zuma’s claims were not clearly presented as opinions, and were not based on facts that were truly stated or fairly indicated and referred to.
- For this, we sincerely apologise.”

[85] Prior to the broadcast, the Broadcaster must notify the Registrar of the BCCSA in writing of the date and time at which the summary of the findings will be aired, so that the Registrar may in turn inform the Complainant who may wish to listen to it. The Broadcaster is further directed to submit a recording of the broadcast to the Registrar within twenty-four (24) hours of the date of its broadcast, as proof of compliance.



ADV BEN WINKS
COMMISSIONER: BROADCASTING COMPLAINTS COMMISSION