

NEWS BROADCASTING STANDARDS AUTHORITY

Complaint No. 9 of 2011

Re: Telecast of programmes titled;

- 1. “What a Beauty” on News-9 television channel on 7th May, 2011**
- 2. “Pamela Anderson in Steamy Shoot” on News-9 television channel on 13th June, 2011**

ORDER

1. News-9 television channel (hereinafter the “said Channel”) owned and operated by M/s. Associated Broadcasting Company Pvt. Ltd., Hyderabad (the “said Broadcaster”) telecast a program titled “What a Beauty” at 15:48 hrs on 7th May, 2011, which contained visuals of pregnant women purporting to participate in a “Beauty Pageant for pregnant ladies”; and another program titled “Pamela Anderson in Steamy Shoot” at 11:39 hrs on 13th June, 2011 containing visuals of actress/model Pamela Anderson in beachwear purporting to be a photo-shoot of the said person (the said telecasts being hereinafter jointly referred to as the “said Programmes”; and individually referred to as “First Programme” and “Second Programme” respectively).
2. Letters dated 19th September, 2011 and 9th September, 2011 were received by the News Broadcasting Standards Authority (NBSA) from the Ministry of Information & Broadcasting (hereinafter the “MIB”) complaining that the said Programs contained visuals that were obscene, indecent and vulgar ; which would make the telecasts violative of the NBA’s Code of Ethics & Broadcasting Standards and Specific Guidelines Covering Reportage dated 10.2.2009 issued by the NBA proscribing the broadcast of such visuals (in particular, Guideline 4 relating to **Good Taste & Decency, Sex & Nudity**). Alongwith the aforesaid letters, the MIB had also submitted to NBSA CDs containing the allegedly offending broadcasts.
3. Upon receiving the aforesaid complaint letters from the MIB, the NBSA issued to the said Broadcaster Notice dated 5.12.2011, calling upon the said Broadcaster to respond to the allegations contained in the complaint letters from the MIB; to which, however, the said Broadcaster did not respond within the time stipulated under the News Broadcasting Standards Regulations. In fact, the said Broadcaster did not respond to the notice so

issued by the NBSA even within the 3-weeks extra time sought by the said Broadcaster itself for the purpose. Subsequently, the issue of failure of the said Broadcaster to respond to the NBSA's notice was placed before the NBSA at its meeting held on 16.1.12 ; and at the said meeting the NBSA decided to proceed in the matter on the basis of the information available with it, which were the CDs submitted by the MIB and the Ministry's observations regarding the said Programmes. The Authority viewed the said Programmes and found that both the said Programmes aired on the said Channel clearly offend the NBA Code of Ethics & Broadcasting Standards and Specific Guidelines relating to **Good Taste & Decency, Sex & Nudity** and were certainly not fit to be aired on a news channel. The NBSA also noted that the said Broadcaster appeared to have indulged repeatedly in the same wrong-doing, which therefore, cannot be countenanced. The NBSA further opined that not responding to the NBSA's notice itself implied that the broadcaster had no defence to offer and there was no basis to controvert the allegations . Therefore the Authority concluded that a fine be imposed upon the said Broadcaster in addition to the NBSA recommending to the MIB the suspension/ revocation of the uplinking/downlinking license of the said Broadcaster, may be appropriate. However, the NBSA decided that the said Broadcaster be given another opportunity by issuing a fresh notice calling upon it to explain why the NBSA should not recommend to the MIB for suspension/revocation of its license. Accordingly, NBSA issued to the said Broadcaster another Notice dated 30th January 2012, to which notice the Broadcaster sent a response (incorrectly) dated 7.1.12, received first by email on 7.2.2012, and then by post on 13.2.12.

4. The essence of the response received from the said Broadcaster as contained in its reply received on 07-02-2012 was the following:
 - 4.1 The said Broadcaster admitted that it had broadcast the said Programmes as contended by the MIB;
 - 4.2 In its defence the said Broadcaster submitted that it had set up an International Desk to look after international stories dealing basically with entertainment, lifestyle and fashion ; and that a two member team headed by one Mr. Vid Shetty and with Mr. Samuel Beech as a team member was placed in-charge of such programming and it was this team that produced both the programmes ;
 - 4.3 The said Broadcaster further submitted that Mr. Shetty aforesaid, who was born and brought up in the United Kingdom and had a sterling 7-year journalistic

career with several global organizations like Sky News, Daily Mail and Channel Asia Singapore, had been given a clear brief to produce clean, non-offensive and visually acceptable content in the Indian context and the said Broadcaster had also given to Mr. Shetty necessary editorial training. The said Broadcaster contended, however, that since Mr. Shetty had grown-up and worked in a completely different value system, he could not grasp the nitty-gritty of the Indian value system and found nothing offensive in these shows. Furthermore, since Mr. Shetty was in-charge of production of such programmes, he was able to bypass the system and managed to produce and put the First Programme on-air, violating the organization's content clearance policy ;

4.4 The said Broadcaster contended that it was in this manner that the First Programme came to be telecast. However, the said Broadcaster said, when they were alerted by their monitoring team about it, they immediately scrapped the First Programme from repeat telecast ; and questioned Mr. Shetty and strictly warned him not to repeat such shows again ;

4.5 However, the said Broadcaster responded, that in spite of such warning Mr. Shetty produced and telecast the Second Programme, whereupon the services of Mr. Shetty were terminated for violating the editorial policies of the said Broadcaster ;

4.6 The said Broadcaster has even stated that it later discovered that Mr. Shetty was suffering from serious psychological and sexual disorders, for which he was seeking professional counseling at NIMHANS, Bangalore; and that he also turned out to be severely alcoholic and a drug addict.

5. In this manner, the said Broadcaster contended that the said Programmes were against its own moral and ethical policies and that it has put in-place several stringent measures to prevent such "slip-ups" in future by strengthening its content monitoring and clearing systems and has also run in-house programs to sensitize producers to understand Indian media laws and policies.

6. The said Broadcaster has then gone on record to say that the said Programmes were telecast as part of simple news reporting about events and happenings in other parts of the globe without any intention to hurt anyone's morals or sentiments. It has also been argued in the said Broadcaster's response that the said Programmes were not obscene in

the legal sense, in view of the purported legal precedents and position in that regard ; and to that effect the said Broadcaster has cited principles of what may be termed as obscene in law, apart from referring to Article 19(2) of the Constitution of India, containing the permissible restrictions on the right to freedom of speech and expression as contained in the Article 19(1) (a) of the Constitution. The said Broadcaster has even gone to the extent of contending that it is imperative to distinguish between material that is merely offensive from material that is harmful and obscene ; stating that the law against obscenity is aimed at preventing “real harm” and not simply preventing “offence to public sensibilities”.

7. Reading reply (incorrectly) dated 7th January 2012 as a whole therefore, it appears that having first conceded misconduct on the part of Mr. Vid Shetty, the said Broadcaster is yet attempting to defend the said Programmes as not being legally obscene. The said Broadcaster has attempted to justify the said Programmes on the touchstone of the fast changing standards of contemporary society in India; stating that cases such as the ones under consideration should be treated as mere “slip-ups”.
8. In the light of reply received from the said Broadcaster, the NBSA viewed the said Programmes for a second time and is of the considered view that telecast of the said Programmes clearly offended the tenets of **Good Taste & Decency, Sex & Nudity** as contained in the NBA’s Code of Ethics and Broadcasting Standards and Specific Guidelines Covering Reportage dated 10.2.2009 issued by the NBA.
9. It may be observed that ‘decency’ is one of the specified heads in Article 19(2), under which ‘reasonable restrictions’ can be imposed on the right to freedom of speech and expression available under Article 19(1)(a) of the Constitution of India.
10. Assessing the said Programmes from the perspective of the NBA Code of Ethics & Broadcasting Standards and Specific Guidelines which member-broadcasters have voluntarily agreed to abide-by, the NBSA is of the considered view that telecast of the said Programmes not only amounts to breach of the principles of good taste and decency, but the said Programmes were in any event not fit to be aired on a news channel since they lacked any news-value whatsoever. The NBSA also notes that the said Broadcaster has indulged repeatedly in similar wrongdoing inasmuch as earlier-on a complaint had been received from the MIB in relation to a program titled “Courtship Hollywood Style”

which was telecast by the same broadcaster on its channel News 9 on 9.6.11 at 8:41 hrs, which telecast was also found by the NBSA to be offensive.

11. Accordingly, the NBSA holds that the clear breach by the said Broadcaster as aforesaid should not be countenanced or condoned ; and a fine of Rs. 50,000/- (Rupees Fifty Thousand Only) is hereby imposed upon the said Broadcaster for breach of the NBA's Code of Ethics and Broadcasting Standards and Specific Guidelines Covering Reportage dated 10.2.2009 relating to good taste and decency. Fine shall be paid to the NBA within 7 (seven) days of receipt of a copy of this Order.
12. The NBSA further directs the NBA:
 - 12.1 to send a copy of this Order to the said Broadcaster for compliance within 7 (seven) days of the date hereof ;
 - 12.2 to also send a copy of this Order to the Ministry of Information & Broadcasting for information ;
 - 12.3 to circulate this Order to all Members & Editors of NBA for information ;
 - 12.4 to host a summary of these proceedings on the NBA website and to include such summary in the NBA's Annual Report.

Sd/-

Justice J S Verma (Retd.)
Chairperson

Place : New Delhi
Dated : March 19, 2012