



COMPLAINTS AND COMPLIANCE COMMITTEE

DATE OF HEARING: 10/4/2026

CASE NO: 497/2025

IN THE MATTER BETWEEN:

**LAVERNE ANGELA
GADIAH AND SELWYN
WILLIS**

COMPLAINANTS

V

CAMPUS BAY FM NPC (BAY FM)

RESPONDENT

CCC MEMBERS:

Judge Thokozile Masipa – Chairperson
Councilor PN Sithole – Member
Mr Luthando Mkumatela - Member
Mr Monde Mbanga - Member
Mr Thato Mahapa - Member
Mr Paris Mashile – Member
Ms Ngwako Molewa - Member

FROM THE OFFICE OF THE CCC:

Meera Lalla - Acting Coordinator of the CCC
Thamsanqa Mtolo - CCC Assessor
Amukelani Masia – CCC Administrator

LEGAL REPRESENTATION FOR PARTIES

For the Complainant : Laverne Gadiah
Selwyn Willis

For the Respondent: Mr. Van Rooyen

DECISION

Judge Thokozile Masipa

INTRODUCTION

[1] On 4 November 2025, the Complainants lodged a complaint against the Respondent with the CCC for investigation in terms of section 17B(a) of the Independent Communications Authority of South Africa ("ICASA") Act No. 13 of 2000.

[2] It was alleged that the Respondent contravened the following:

2.1 **Section 10A(7)(a) of the Standard Terms and Conditions Regulations for Class Licences, Schedule 1 (2016)** which provides that:

"a Licensee must be owned by community members with the Board of Directors as custodian of the licence."

2.1.1 The Complainants allege that Trevor Flugel (former Chairperson) held a meeting on 16 September 2023 (this meeting was declared by ICASA as a general meeting and not an electoral Annual General Meeting ("AGM")) and failed to provide feedback to ICASA and community leaders members of the discussions and decisions of this meeting. No invitation, agenda or minutes of such meeting exists.

[3] **Sections 24(2) and 34(4)(1) of Bay FM's Articles of Association** which provides as follows:

"24.2 No staff (voluntary/permanent) may be directors of Bay FM due to the fact that a conflict of interest may arise."

34.4 Without in any way limiting the nature and scope of their statutory and common law duties, each director shall be obliged, at all times to ensure that:

34.4.1 He/she devotes sufficient time to secure the proper execution of his duties and responsibility to the company."

- [4] **Section 10A(7)(d) of the Standard Terms and Conditions Regulations for Class Licences, Schedule 1 (2016)** which provides *that:*

"The Board of Directors/Trustees and station management must not occupy dual roles with regard to being managers/presenters at the radio station."

4.1 The Complainant alleged that to Campus Bay dual role by management was normal and acceptable. They gave the following examples:

4.1.1 Trevor Flugel was a radio presenter and director up until June 2023,

4.1.2 Angelique Schneider was radio presenter and station manager up until June 2023,

4.1.3 Adore Morgan was radio presenter and current station manager for the Brunch show, Monday to Friday, 2025.

- [5] **Section 12(1) of the Community Broadcasting Service Regulations (2019)** which states that:

"Management contracts must be lodged with the Authority for approval."

5.1 The Complainants alleged that Campus Bay failed to notify ICASA of the management changes in the appointments of the new station managers, Rob Taylor (July 2024 - September 2024), Larvene Angela Gadiah (October 2024 - December 2024) and Adore Morgan (January 2024 - the present).

- [6] **Section 13(2) of the Community Broadcasting Regulations (2019)** which states that:

"A Licensee must involve the community members in the management of the Community Broadcasting Licensee."

6.1 The Complainants alleged that the group of members of the station's input regarding the appointment of the role of station manager and further queries regarding Adore Morgan's former dealings with the station were raised and disregarded thereby failing to involve the community in the management of the station.

6.2 The Complainants alleged that Bay FM failed to process and notify ICASA of the changes in the contract details of clause 6 of the 2022 and 2024 Bay FM licences. The Complainants alleged that Angelique Schneider resigned in June 2023 and the licence details were not updated.

[7] Section 21(2) of Bay FM's Article of Association which states that:

"the directors shall be obliged to call an annual general meeting of the company, each year, within 6 (six) months of the financial year end of the company."

7.1 The Complainants alleged that Bay FM failed to hold a successful AGM since 2013 and that no AGM was organised in 2024.

[8] Section 27(2) of Bay FM's Article of Association which states that:

"if any vacancy at the Board of Directors occurs by virtue of this Article, such vacancy shall be filled by the members in accordance with Article 21 above."

8.1 The Complaints alleged that Trevor Flugel resigned as a board member on 12 June 2023 and such resignation was accepted by Lisa Ntsepe, in her capacity as Chairperson on 20 June 2023, yet Trevor Flugel continues to perform the roles of director and board member and has still not been replaced.

[9] Sections 11(2) and 25 of Bay FM's Articles of Association which states that:

"11(2) The directors shall employ a Management Committee, who shall consist of at least three (3) Directors to coordinate the Programming." "25 The number of directors of the company shall be at least (3) three."

9.1 The Complainants alleged that according to the CIPC records, Brink Botha, who was the third director of Bay FM, only served in that position in 2016. He was added on 19 January 2016 and changed/removed on 14 March 2016. Since then, there have only been two (2) directors of Bay FM which is in contravention of the requirement of the minimum of (3) three directors.

[10] **Article 27(1)(5) of Bay FM's Articles of Association** which states that:

"the office of the director shall be vacated if the director or legal entity for which they represent resigns his or her office by notice in writing to the Company."

10.1 The Complainants alleged that Bay FM had been operating without a board of directors for more than 21 months as Lisa Ntsepe and Trevor Flugel resigned.

THE PARTIES

[11] The Complainants are Laverne Gadiah, a former volunteer presenter and independent contractor at Campus Bay FM. She was also an acting station manager for three months in 2023. The Second Complainant is Selwyn Willis a former volunteer presenter and part of management pre 2014.

[12] The Respondent is Campus Bay FM 107.9 NPC, a non profit community radio station, in Gqeberha in the Eastern Cape Province.

[13] Mr Jason Aitken compiled a response on behalf of the Respondent.

THE COMPLAINT

[14] Details of the complaint have been set out in the introduction above.

THE RELIEF SOUGHT

[15] The Complaints sought a finding of noncompliance against the Respondent and appropriate sanctions.

THE RESPONDENT'S RESPONSE

[16] The Respondent's response was to the effect that, although in the past, there may have been issues of noncompliance by the Respondent, these had been resolved as ICASA had stepped in and had effectively dealt with the issues. According to the Respondent, therefore, no current contravention exists as all the issues raised by the Complainants *"related exclusively to a historic period."*

FACTUAL BACKGROUND

[17] The Respondent provided the background as outlined hereunder.

[18] Bay FM is a community broadcaster and served the Nelson Mandela Bay Municipal Area for nearly three decades.

[19] According to the Respondent, *"the station experienced a period of administrative and governance instability spanning a number of years, primarily due to vacancies on the Board of Directors, disruptions in management, and financial constraints."*

[20] The above mentioned challenges affected compliance with certain community licence obligations, for example,

(a) the maintenance of a recognised membership structure;

(b) the timely holding of elective Annual General Meetings ("AGMs"); and

(c) the accurate updating of director information and records with ICASA and CIPC.

[21] According to the Respondent, the Complainants allegations relate strictly to events prior to the current governance structure and *"therefore concern circumstances already remedied under ICASA's guidance."*

[22] It was the Respondent's contention that in early 2024 ICASA commenced a *"remedial compliance process"* with Bay FM. The process culminated in ICASA's decision that the compliance issues had been resolved.

[23] Among other things that were done was the following:

23.1 Bay FM convened:

- multiple membership reconstruction meetings
- public notices for enrolment
- community engagement sessions
- compliant AGM under ICASA oversight.

[24] Annexure C (AGM of Monday 25 October 2025) was attached to the papers as confirmation that ICASA addressed the issues complained of.

[25] The Complainants submitted that the meeting referred to, by the Respondent, was not a properly constituted elective AGM. It was also submitted that because of the above, the issues could not have been rendered moot.

DISCUSSIONS AND ANALYSIS

[26] The Respondent could not seriously refute any of the allegations against it. In fact, it became common cause that the Respondent operated for some years without a proper board.

[27] On the Respondent's own version it had a history of noncompliance specifically in the areas referred to by the Complainants in their complaint.

[28] The Respondent raised a defence to the effect that the issues raised in the complaint were moot since they had since been resolved by ICASA.

[29] The Complainants challenged the claim that the issues had been resolved in a properly constituted AGM.

THE ISSUE TO BE DECIDED BY THE CCC

[30] The issue to be decided became whether the complaints before the CCC had been rendered moot.

Are The Complaints Against The Respondent Moot?

- [31] The answer to this question is to be found in the details of what is being complained about.
- [32] The Respondent's version was that it had remedied the ills of the station by taking certain steps namely:—
- [33] As an example, the Respondent stated that *"there was a reconstruction of membership and board Under ICASA supervision, a full membership registration and validation process was undertaken in early 2024 through 2025 to date."*
- [34] What is striking is that questions such as what, where, when and by whom such measures or steps were taken, are not answered.
- [35] It would have assisted the CCC greatly if the evidence provided was more detailed, more concrete and specific. I say this because instead of providing answers, the response by the Respondent raises more questions. For example: What is the nature of the *"reconstruction"* of membership and board, that is being referred to? Where, when and how was the reconstruction concerned done?
- [36] A statement such as *"a full membership registration and validation process was undertaken in early 2024 through 2025 to date."* without stating what is meant by the *"full membership registration and validation process"*, what that entails, and how the process was done and by whom, as well as the specific dates, is unhelpful. In essence, it is vague in the extreme and falls short of a proper defence.
- [37] The Respondent's response is replete with such shortcomings even in respect of alleged meetings with ICASA.
- [38] The Respondent stated:

"Meetings were held between ICASA representatives, station management and extended operational stakeholders to:

- *stabilise station operations*

- *restructure membership according to the ICASA-approved community definition*
- *ensure proper Board formation and elections*
- *regularise regulatory documentation*
- *resolve governance gaps*

[39] Once again there is no indication of how many meetings were held with ICASA. No concrete examples of what specific measures were taken to address specific concerns were provided. Dates, venues, minutes of meetings as well as attendance lists to support the allegations that meetings were held and issues resolved, were omitted. The result is that the defence raised on behalf of the Respondent, remained woefully inadequate.

[40] An interesting but worrying feature of this matter is that on the Respondent's own version, for a number of years it operated illegally under a defective board of directors. Considering that Bay FM has always had a Compliance Officer to assist and guide it, this is a worrisome situation.

[39] Since the Respondent's main defence was based on the AGM held on 25 October 2025, it became necessary to examine the AGM concerned to test its validity.

[40] Annexure C, provided by the Respondent, stating that the AGM dated 25 October 2025 was a properly constituted elective AGM was no evidence at all. It was merely the Respondent's say so, that needed to be supported by relevant, reliable and credible evidence.

[41] To refute allegations of an improperly constituted AGM and board elections, a community radio station is expected to provide, documentary and procedural evidence that demonstrates full compliance with its founding documents such as the Constitution or Memorandum of Incorporation and relevant regulatory framework.

[42] The specific evidence required includes the following:

- **Notice of the Meeting:** Proof of when and how members were notified of the AGM. This includes a copy of the notice of the meeting such as newspaper

clippings, community notice boards, broadcast announcements, or emails. Also required would be proof of dispatch distributed within the time frames stipulated in the station's constitution.

- **Quorum Registration:** The official attendance register or list of signed-in members showing that valid quorum was present at the commencement of the meeting.
- **Membership Verification:** A verified and updated membership roll used at the AGM to demonstrate that only paid up or recognised members in good standing were allowed to register, participate and vote.
- **Minutes of the Meeting:** Certified minutes of the AGM procedure which must detail the exact nomination and voting procedures followed for the board elections.
- **Election Records:** The tallied voting records, ballot, if applicable, and official nomination forms to confirm that the elected members received the majority vote and met any sector representation quota required by the constitution or by broadcasting regulations.
- **Proof of ICASA Compliance:** Proof that the station submitted its updated board members' details, governance reports, or proof of community participation following the election.

[43] The requirement regarding the above records is not a mere formality. Such records serve as an audit trail to legally prove that the board elections were transparent, democratic and procedurally sound.

[44] Since the legitimacy of the AGM at which the current board (if there is a board), was elected was challenged, one would have expected the Respondent to provide evidence in support of its assertion that the issues were resolved and rendered moot. But none of that was forthcoming.

[45] In the absence of any credible evidence to the contrary, the CCC is unpersuaded that following the AGM of the 25 October 2025, the issues complained of were resolved and rendered moot.

AGGRAVATING AND MITIGATING FACTORS

[46] I now turn to the question whether there are aggravating or mitigating factors to

be taken into account. In this regard, the CCC considered a number of factors including the nature and gravity of the noncompliances, circumstances under which the noncompliances occurred, consequences of the noncompliances, steps taken by the Respondent to remedy the noncompliances and steps taken by the Respondent to ensure that similar noncompliances did not occur in the future. I proceed to deal with each in turn.

The Nature and Seriousness of the Noncompliances

[47] All the alleged noncompliances in the present matter are extremely serious. What makes them even more serious is that they all seem to arise from weak governance structures and processes - something which seem to have plagued the station for years.

[48] This is no small concern. I say this because a community radio station's failure to maintain a board of directors constitutes a fundamental breach of its mandate. And in the present matter, that seems to have been the case for some years.

Consequences of the noncompliances

[49] Because the board is legally designed as the sole custodian of the licence, the absence of a board carries critical, often existential implications for the licensee. Forfeiture of institutional trust, operational chaos due to unchecked management and an inability to truly represent the community it serves, are just a few examples.

[50] More troubling is that the lack of a recognised governing body means there are no fiduciaries legally responsible for the station's assets, finances and public mandate.

[51] A station cannot be effectively managed without the strategic direction and corporate accountability that a legally constituted board provides.

[52] Moreover, operating without a board violates the Standard Terms and Conditions of a community broadcasting licence. It also invalidates the station's constitutional structure, rendering the licensee vulnerable to heavy sanctions.

Circumstances Under Which the Noncompliances Occurred

- [53] The Respondent has a history of failure to comply with provisions of the Regulations as well as with provisions of its Articles of Association.
- [54] From the historical perspective it appears that although the Respondent was in communication with its Compliance Officer throughout the period mentioned, for some reason, it failed to nip the problem in the bud.
- [55] The station has been in existence for over thirty years during which period it maintained a clean record, which is commendable. Nevertheless, it is disturbing that the ills that beset the station surfaced about the year 2023, endured more than two years, and to date have not been resolved.
- [56] Considering that the station had a Compliance Officer guiding and assisting it, it seems to the CCC that two years is a long time without any form of resolution in sight. It is our view, therefore, that the station might benefit from being supervised by a different Compliance Officer/Compliance Team, who will provide a fresh perspective.

Steps taken by the Respondent to Remedy the Noncompliance

- [57] At the outset the Respondent admitted that the station had a history of failing to comply with regulations and with its Articles of Association. It alleged that these issues had been corrected when an AGM in October 2025 was held.
- [58] [I interpose to state that the AGM concerned was found to be wanting as a real solution. Details thereof are stated elsewhere in this judgment]. That, however, does not detract from the fact that this was a genuine attempt on the part the Respondent to remedy the situation.

Steps Taken By The Respondent To Ensure That Similar Noncompliances Did Not Occur In The Future

- [59] The Respondent certainly made an effort to right the wrongs of the past by convening the AGM of the 25 October 2025, already mentioned under remedial

steps taken by the Respondent. The AGM itself may not have had any impact on preventing the occurrence of future noncompliances, but it cannot be ignored as a genuine attempt to avoid such occurrences.

CONCLUSION

- [60] In their submissions, the Complainants suggested that the licence should be revoked as a sanction.
- [61] It is so that the CCC views governance issues in a serious light. This is because Community radio stations are mandated to reflect the moral, social, and information needs of specific grassroots populations. Strong governance prevents stations assets from being misused for private gain, nepotism or partisan propaganda.
- [62] On the other hand, weak governance has the opposite effect, as it often leaves the door wide open for mischief, including misuse of resources.
- [63] Without a board to oversee management, a station is clearly at a disadvantage. Stations in this position often frequently fail to hold Annual General Meetings with the community, as was demonstrated in the present matter.
- [64] Often, failure to file audited financial statements and submit statutory annual reports to ICASA becomes the order of the day.
- [65] In addition, the station risks losing its legitimacy within the community it serves. Without a Board there is no mechanism for community members to hold station management accountable, which often results in internal power struggles and loss of funding.
- [66] In the present case, noncompliance such as playing dual roles by management (which was described as normal by the Complainants), lack of community involvement in the affairs of the station, and the station having no proper board of directors for sometime, are a strong indication of weak governance.

POSSIBLE PENALTIES

- [67] On the facts of this matter, revoking the licence, as suggested by the Complainants, might seem like an attractive option as a way forward.
- [68] However, that cannot be a fair and just solution. A desirable solution can only be achieved by adopting a balanced approach.
- [69] In terms of the empowering statute, the CCC can only recommend revocation of a licence where the licence is found to have repeatedly violated the Regulations or terms and conditions of a licence, which is not the case here. As a creature of statute, the CCC cannot go beyond its powers as set out in the empowering statute, no matter how serious the noncompliance might seem.
- [70] In any event, in line with ICASA's mandate, the CCC's decisions are based upon what is in the public interest. So, instead of recommending revocation of a licence, (an option which is likely to cause harm to the community served by the station), the CCC would rather recommend corrective action.
- [71] Such remedial measures will ensure that while the station is corrected, guided and placed firmly on track, the community served by the station is not adversely affected.
- [72] The CCC's stance should not be viewed as an indication that it condones the wrong doings of the Respondent.
- [73] The approach of the CCC is based on the fact that the Respondent has a clean record, and, having been on air for more than three decades, that should count for something. Hopefully the Respondent will see this as an opportunity to start afresh with a clean slate.

FINDING

- [74] The CCC makes the following finding:

74.1 The Respondent is found to have contravened:

74.1.1 **Section 10A(7)(a) of the Standard Terms and Conditions Regulations for Class Licences, Schedule 1 (2016)** which provides that:

"a Licensee must be owned by community members with the Board of Directors as custodian of the licence."

in that Bay FM failed the community in that the station is not owned by the community. There is no Board of Directors in existence which can legally claim to be custodian of the licence.

74.1.2 **Section 10A(7)(d) of the Standard Terms and Conditions Regulations for Class Licences Schedule 1 (2016)** which provides that:

"The Board of Directors/Trustees and station management must not occupy dual roles with regard to being managers/presenters at the radio station."

in that three of the station's directors, at some point between 2023 and 2025 acted as presenters at the station

74.1.3 **Section 13(2) of the Community Broadcasting Services Regulations (2019)** which states that:

"A licensee must involve the community members in the management of the community broadcasting licensee."

in that views of members of the community regarding the management of the station were ignored or disregarded.

74.1.4 **Section 21(2) of Bay FM's Articles of Association** which states that:

"the directors shall be obliged to call an annual general meeting of

the company, each year, within 6 (six) months of the financial year end of the company.”

in that Bay FM failed to hold a successful AGM since 2013 and in that no AGM was organised in 2024.

74.1.5 **Section 27 (2) of Bay FM’s Articles of Association** which states that:

“if any vacancy at the Board of Directors occurs by virtue of this Article, such vacancy shall be filled by the members in accordance with Article 21 above.”

in that a vacancy in the Board occurred in June 2023 when a director, Trevor Flugel, resigned as a board member. He, however, was not replaced in accordance with the Articles as he continued to perform his role as a board member.

74.1.6 **Article 27(1) (5) of Bay FM’s Articles of Association** which states that:

“the office of a director shall be vacated if the director or legal entity for which they represent resigns his or her office by notice in writing to the Company.”

in that Bay FM operated without a board of directors for more than 21 months.

74.2 Insofar as **Sections 24(2) and 34(4)(1) of Bay FM’s Articles of Association** which provides as follows:

“24.2 No staff (voluntary/permanent) may be directors of Bay FM due to the fact that a conflict of interest may arise.”

34.4 Without in any way limiting the nature and scope of their statutory and common law duties, each director shall be obliged, at all times to

ensure that:

34.4.1 He/she devotes sufficient time to secure the proper execution of his duties and responsibility to the company.”

there was not enough evidence in support of the allegations against the Respondent. It follows, therefore, that no finding of noncompliance can be made in this regard.

RECOMMENDATIONS IN TERMS OF SECTION 17E(2) OF THE ICASA ACT NO 13 OF 2000

[75] In terms of section 17E(2) of the ICASA Act, the CCC recommends to the Authority that the following Order be issued to the Licensee:

75.1 direct the Licensee to dissolve the current board or the individuals posing as board members of Bay FM.

75.2 direct the station to elect an interim committee to run operations and that with the assistance of ICASA, organise a properly audited Annual General Meeting (AGM) within 90 days of the issuing of this Order.

75.3 direct that a new Compliance Officer/Team be assigned to assist the Respondent in organising the AGM and to oversee the elections.

TMD Masipa

Judge Thokozile Masipa
Chairperson of the CCC

8 July 2026

Date