



## Independent Communications Authority of South Africa

350 Witch-Hazel Avenue,  
Eco-Point Office Park  
Centurion

### COUNCIL DECISIONS– 13 APRIL 2021

ITEM NO.	AGENDA ITEM	DECISION
1.	<p><b>Recommendation by CCC to Council in the matter between Matlotlo Moloi and QwaQwa Radio</b></p> <p>The purpose of the submission was to table the recommendation of the Complaints and Compliance Committee (CCC) in the matter between Matlotlo Moloi and QwaQwa Radio.</p> <p>1.1. On 20 January 2020, Mr Matlotlo Moloi (the Complainant) lodged a complaint for investigation by the CCC in terms of Section 17B(a) of the ICASA Act.</p> <p>1.2. The charges levelled against QwaQwa Radio were as follows:</p> <p>1.2.1 That QwaQwa Radio had contravened article 5 of its Constitution, read with clause 5.1.4 of the Licence Terms and Conditions, which provides for the languages of broadcast: Sesotho - 56%; and English - 44%.</p> <p>1.2.2 The allegation was that almost all programmes are broadcast in Sesotho, and it is in violation of the above Licence Terms and Conditions.</p>	<p><b>The recommendation was approved by Council.</b></p>

	<p>1.2.3 The Complainant alleged that the designated person as stated in the licence, was no longer in the employ of QwaQwa Radio, and that the licensee had failed to notify the Authority in terms of clause 6.2 of QwaQwa's Licence Terms and Conditions.</p> <p>1.2.4 The Complainant alleged that QwaQwa Radio had relocated from its principal address, without notifying ICASA of its new address and in violation of clause 7 of QwaQwa's Licence Terms and Conditions.</p> <p>1.2.5 The Complainant alleged that there was no single show or programme, which invited local artists to promote their music, arts and culture in terms of clause 8.3 of QwaQwa's Licence Terms and Conditions.</p> <p>1.2.6 The Complainant alleged that the Constitution was undated and unsigned by the Secretary and Chairperson of the board of directors to confirm that indeed the Constitution was amended and approved by general members or listenership of QwaQwa Radio, during an AGM, in terms of Article 11 of QwaQwa's Constitution.</p>	
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	<p>1.3. On 22 January 2021, the CCC heard oral arguments from the Complainant and the Respondent relating to the complaint.</p> <p>Recommendation to Council</p> <p>1.4. The CCC's finding was that the Respondent was found not to have contravened the allegations as set out above in 7.2.3; 7.2.4; and 7.2.5.</p> <p>1.5. However, QwaQwa Radio was found to have contravened Clause 5.1.4 of the Licence Terms and Conditions which provides for the Languages of Broadcasts: Sesotho at 56% and English at 44%.</p> <p>1.6. The evidence and argument before the CCC indicated that the conditions were not being met by the Radio Station, although attempts were constantly made to try to attain the English broadcast requirement.</p> <p>1.7. The CCC recommended that Council issue an order that QwaQwa Radio comply with Clause 5.1.4 of its Licence Terms and Conditions by 31 January 2022.</p> <p>1.8. Further, it was recommended that Council directs the Compliance and Consumer Affairs Division of ICASA (CCA) to undertake an inspection, to ensure compliance with the order.</p> <p>1.9. The CCC recommended that the Respondent be directed to desist from further contravening its Licence Terms and Conditions.</p> <p><b><u>Comment made:</u></b></p>	
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	<p>Council was of the view that the language recommendation (7.5 – 7.9) was an area of importance, as it paves a way forward for the future. It should be assessed why a radio station that is in a predominantly Sesotho-speaking area would have a high programme language requirement of English.</p> <p><b>The recommendation of the CCC was approved.</b></p>	
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**ISSUED BY: Secretariat Office**  
**on behalf of Council**