

# COMPLAINTS AND COMPLIANCE COMMITTEE<sup>1</sup>

Date of hearing: 28 May 2008

Case number: 16/ 2008

**Monitoring and Complaints Unit of  
the Independent Communications  
Authority of South Africa**

**Complainant**

**vs**

**Radio Graaff-Reinet**

**Respondent**

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## Complaints and Compliance Committee

IWB De Villiers J (Acting Chairperson)  
S. Thakur (Member)  
T. Matshoba (Member)  
J.C.W. Van Rooyen SC (Councillor)

### For the Complainant

For the Monitoring and Complaints Unit: Ms Fikile Hlongwane (Manager)

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### For the Respondent

Ms Christelle Pretorius (Deputy Chair of the Board) assisted by Dr Flip Loots and Mr André Schwartz from Triple M Productions.

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*Community radio station – not having broadcast from July 2007 as a result of financial circumstances, lack of proper administration and poor management by Board of section 21 Company. Financial assistance of MDDA, however, now probably available plus managing skills of experts. Experts, in any case, available for two months. CCC recommending revocation of licence, but suspending revocation subject to the station's being on air for 12 hours a day at the latest 31 July and 24 hours a day, at the latest 31 October 2008.*

*Procedure – splitting of charges not permissible*

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<sup>1</sup> In terms of s 17C of the ICASA Act 13 of 2000 as amended

## **JUDGMENT**

### **JCW van Rooyen**

[1] Radio Graaff-Reinet is a community Radio station which was granted a licence in 2006. As a result of financial circumstances and lack of management by the majority of the Board, broadcasting ceased in July 2007 since Sentech, which provides its signal distribution, ceased to provide the service based on the station's not having paid its fees. The Radio Station is now charged for not having abided by its licence conditions, which requires it to broadcast 24 hours a day, unless the Authority grants it permission not to do so. It is also charged for not having paid its signal distributor and that it has ceased to abide by all its licence conditions.

[2] The last two charges are struck from the charge sheet since they are intrinsically bound to the charge that the station has not been broadcasting since July 2007. It is a cardinal principle of Common law and Constitutional law, that multiple charges may not be based on facts which are substantially the same.

[3] Ms Pretorius, the deputy chair of the Board who, admirably, has become the only active member, explained to the CCC that she had suffered financially in her efforts to keep the station on the air. Had it not been for the offer of Dr Loots, the CEO of Triple M Productions, she would have abandoned her ideals to get the station back on the air. Dr Loots testified that his company would most probably obtain a grant from the Media Development & Diversity Agency to resuscitate the station. His company would then train the station's personnel and Board and get the station back on air by the end of July. At first it would be for 12 hours a day but by November, possibly, September, it would be back on air for 24 hours. I need not dwell on the detail of the presentation which he made to the CCC. It suffices to say that Dr Loots, assisted by Mr André Schwartz, a technical engineer, impressed us as reliable. Even in the unlikely event of the grant from the MDDA not being made available, Triple M Productions would assist the station for two months.

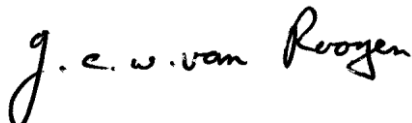
[4] In the light of the impressive presentation by Dr Loots and the dedication of Ms Pretorius, the CCC decided to grant the station a last opportunity.

[5] Radio Graaff-Reinet is found to have contravened its licence conditions by having been off the air from July 2007. This is a serious contravention which justifies the withdrawal of the licence. The CCC, however, recommends to Council that the station be granted a last opportunity, as will appear from the recommendation to Council hereunder.

[6] Recommendation to Council:

1. That the licence of Radio Graaff-Reinet be withdrawn.
2. The revocation is, however, suspended subject to the following conditions:  
that Radio Graaff-Reinet at the latest by 31 July 2008 commences broadcasting for at least 12 hours a day; and that Radio Graaff-Reinet commences broadcasting for 24 hours a day from at the latest 31 October 2008.

[7] It is placed on record that Radio Graaff-Reinet will notify the Monitoring and Compliance Unit and the Coordinator of the CCC in writing when they commence broadcasting. Such notices must, in any case, be sent within a week from the two dates mentioned above.



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JCW Van Rooyen SC

29 May 2008

The Acting Chairperson, Mr Thakur and Ms Matshoba concurred with the above judgment.