



COMPLAINTS AND COMPLIANCE COMMITTEE

DATE OF HEARING: 17 FEBRUARY 2025

CASE NO: 487/2024

LICENSING AND COMPLIANCE DEPARTMENTS

COMPLAINANT

V

**SOUTH AFRICAN BROADCASTING
CORPORATION (RSG AND SAFM)**

RESPONDENT

CCC MEMBERS:

Judge Thokozile Masipa – Chairperson
Councillor Catherine Mushi - 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 CCC Coordinator
Thamsanqa Mtolo - CCC Assessor
Amukelani Vukeya – CCC Administrator

LEGAL REPRESENTATION FOR PARTIES

For the Complainant – Ms. Busisiwe Mashigo

For the Respondent - Mr. Muziwakhe Ngozo

JUDGMENT

Judge Thokozile Masipa

INTRODUCTION

- [1] This is an Elections complaint referred to the CCC to investigate the complaint in terms of section 17 of the ICASA Act. It was alleged that the Respondent failed to comply with the National and Provincial Elections Broadcasts and Political Advertisements Amendment Regulations, 2024.

THE PARTIES

- [2] The Complainant is the Licensing and Compliance Divisions of ICASA.
- [3] The Respondent is the South African Broadcasting Corporation ("SABC") which boasts of several stations in its stable. In the present case, two of its radio stations are involved

THE CHARGE SHEET

- [4] The charge sheet refers to "*non-compliance with the National and Provincial Elections Broadcasts and Political Advertisements Amendment Regulations, 2024 (Election Regulations 2024)*" by the SABC sound broadcasting services.
- [5] The Charge Sheet, alleging several contraventions of election regulations, by two of its radio stations, is dated 05 November 2024.

SUMMARY OF THE COMPLAINT

- [6] "*The Licensee has, during the election period, through SAFM and RSG, contravened regulation 4(14)(b). In addition, the Licensee has, during the election period, through RSG, contravened regulation 4(17), of the above-mentioned Election Regulations 2024.*"

SAFM'S ALLEGED CONTRAVENTION

[7] Regulation 4(14)(b) stipulates that:

" A Broadcasting Service Licensee ("BSL") that broadcasts a PEB must do so in accordance with the sequence and timing prescribed by the Authority in terms of these Regulations."

Table 1 reflects that SAFM did not comply with the regulation above, not once, but several times.

[8] Between the 12 May 2024 and 26 May 2024, SAFM broadcast PEBs of various political parties in a manner that was inconsistent with the sequence and timing prescribed by the Authority.

[9] On 12 May 2024, the independent candidate involved was **Zackie Achmat**. That evening, at 21:53:01, SAFM **broadcast PEB for Zackie Achmat when the schedule was for the Economic Freedom Party**.

[10] On 13 May 2025, at 17:09:14 SAFM **broadcast an All Citizens PEB in a manner that is inconsistent with the sequence and timing of the Authority in that the schedule, at the time, reflected Alliance of All Citizens for Change**.

[11] On 14 May at 17:07:10, SAFM **broadcast a Rise Mzansi PEB when the PEB schedule was for Forum 4 Service Delivery**. This was inconsistent with the prescribed sequence and timing of the Authority.

[12] On 15 May 2024 at 14:05:54, SAFM **broadcast a Ramotswabodi PEB when the PEB schedule was for Lehlohonolo Blessing Answer Ramoba**. This was inconsistent with the prescribed sequence and timing of the Authority.

[13] On 16 May 2024 at 14:13:10 and 14:16:34, SAFM **broadcast an African Independent Congress twice in one slot when the PEB schedule was for one slot for the African Independent Congress**. This was inconsistent with

the prescribed sequence and timing of the Authority.

- [14] On 17 May 2024 at 14h00 - 15h00, SAFM **failed to transmit a PEB when the PEB schedule was for the African National Congress**. This was inconsistent with the prescribed sequence and timing of the Authority.
- [15] On 19 May 2024 at 14h00 - 15h00, SAFM **failed to transmit any PEB when the schedule was for the Economic Freedom Fighters PEB**. This was inconsistent with the prescribed sequence and timing of the Authority.
- [16] On 19 May 2024 at 07:35:31, SAFM **broadcast an African People's Convention PEB when the PEB schedule was for the African People's Movement PEB**. This was inconsistent with the prescribed sequence and timing of the Authority.
- [17] On 19 May 2024 at 21:54:55, SAFM **broadcast an African Transformation Movement PEB when the PEB schedule was for Lovemore Ray Ndou PEB**. This was inconsistent with the prescribed sequence and timing of the Authority.
- [18] On 20 May 2024 at 11:20:09, SAFM **broadcast an Economic Freedom Fighter PEB when there was no PEB scheduled at the time**. This was inconsistent with the prescribed sequence and timing of the Authority.
- [19] On 25 May 2024 at 15h00 - 16h00, SAFM **failed to transmit a PEB when the PEB schedule was for the Democratic Alliance PEB**. This was inconsistent with the prescribed sequence and timing of the Authority.
- [20] On 26 May v 2024 at 07:09:47, SAFM **broadcast an African People's Convention PEB when the PEB schedule was for African People's Movement PEB**. This was inconsistent with the prescribed sequence and timing of the Authority.

RSG FM'S ALLEGED CONTRAVENTIONS

First Non Compliance

- [21] Regulation 4(14(b) stipulates that "*A Broadcasting Service Licensee that broadcasts a PEB must do so in accordance with the sequence and timing prescribed by the Authority in terms of these regulations.*"
- [22] RSG FM allegedly failed to comply with the Regulations as set out in table 2 hereunder. The allegations set out are as follows:
- [23] On 15 May 2024 at 18:13:28, RSG **transmitted an Al Jama-AH PEB when there was no PEB scheduled at the time.** This was inconsistent with the prescribed sequence and timing of the Authority.
- [24] On 17 May 2024 at 11:26:05, RSG **transmitted an Economic Freedom Fighters PEB when there was no PEB scheduled at the time.** This was inconsistent with the prescribed sequence and timing of the Authority.
- [25] On 18 May 2024 at 08:20:21, RSG **transmitted a United Democratic Movement PEB when there was no PEB scheduled at the time.** This was inconsistent with the prescribed sequence and timing of the Authority.
- [26] On 18 May 2024 at 15:03:16, RSG **broadcast a Democratic Alliance PEB when the PEB schedule was for Xiluva.** This was inconsistent with the prescribed sequence and timing of the Authority.
- [27] On 18 May 2024 at 19:04:53, RSG **broadcast an African Christian Democracy Party PEB when the PEB schedule was for Free Democrats.** This was inconsistent with the prescribed sequence and timing of the Authority.
- [28] On 18 May 2024 at 21:06:18, RSG broadcast an **Action SA PEB when the PEB schedule was for African National Congress.** This was inconsistent with the prescribed sequence and timing of the Authority.
- [29] On 18 May 2024 at 22:30:31, RSG **broadcast an African National Congress PEB when the PEB schedule was for Good Party.** This was inconsistent with the prescribed sequence and timing of the Authority.

Second Non compliance

[30] Regulation 4(17) stipulates that:

“A Broadcasting Service Licensee must not broadcast a PEB immediately before or after another PEB or immediately before or after a PA”.

[31] Details of RSG FM’s alleged non compliance are set out in Table 2 hereunder.

[32] On 18 May 2024 at 17:03:43, RSG **broadcast an ACDP PEB immediately before a DA PA** in contravention of Regulation 4(17).

RELIEF SOUGHT

[33] The relief sought is that the CCC impose appropriate penalties for the contravention of the Elections Regulations 2024, as prescribed by section 17E (2) of the ICASA Act.

THE RESPONDENT’S RESPONSE

[34] The Respondent’s response is captured in its letter that reassured the CCC of its commitment to complying with its regulatory obligations. The Respondent also took the opportunity to outline the steps it took to prepare its staff for the coverage of the elections.

[35] What also came to light was that shortly before the elections, the Respondent experienced a number of resignations and early retirements. In addition, it implemented a section 189 process which had an impact on the quality of its work.

DISCUSSION AND ANALYSIS

[36] In the discussion and analysis of the submissions, made on behalf of the parties, the CCC took into account the nature and seriousness of the non compliances, the impact or consequences of the non compliances, circumstances under which

the contraventions occurred, steps taken to remedy the non compliances, and steps taken to ensure that similar contraventions did not occur in the future.

The Nature and Seriousness of the Non Compliances

- [37] Non compliance with election regulations is always a serious issue. In the present case, what made the matter even more serious was that the Respondent was not even aware of the non compliances until the Complainant brought the issue to its attention.
- [38] The fact the Respondent knew of the non compliances, for the first time, only when alerted to it by the Complainant, is a strong indication that its monitoring system is nonexistent or, at best, temporarily not functioning properly. This is worrisome especially since the Respondent failed to provide any information in this regard.
- [39] The CCC was, therefore, left in the dark as to the nature and extent of the shortcomings related to monitoring, and what the Respondent intends to do about the matter, if anything. This also made it difficult for the CCC to see whether this is an area that needs ICASA's attention and assistance, as well as the nature and extent of such assistance.

Circumstances Under Which The Non Compliances Occurred

- [40] According to the Respondent, numerous challenges beset it during the election period, which significantly contributed to its dismal performance leading to the contraventions of the Regulations.
- [41] Among these, it listed resignations, staff transfers and early retirements which all happened shortly before the elections. The Respondent also had to contend with the consequences of the section 189 process which was introduced and implemented about three years earlier.
- [42] At the time of the elections, the Respondent was not only under staffed, but also had to make do with inexperienced staff who were ill equipped to handle huge

volumes of Political Advertisements and Party Election Broadcasts. These were estimated to be about 10 000 or so.

The Consequences of the Non Compliances

[43] The CCC cannot say what the consequences of the non compliances are, as it lacks tools with which to measure the consequences. Suffice to say that in general, consequences of non compliances by a licensee, are always serious as they may encourage other licensees to flout the law with impunity, if not nipped in the bud.

Steps Taken by the Respondent to Remedy the Non Compliances

[44] No steps were taken. In any event, none could have been taken to remedy the non-compliances since the Respondent didn't even know that it had committed any contraventions. The first time the Respondent learned that it had failed to comply with the regulations, was long after the event, and, by then, it was too late for any remedial action.

Steps Taken by the Respondent to Ensure that Similar Non Compliances Were Not Repeated in the Future

[45] No submissions were made in this regard. Hopefully the Respondent has learned its lesson and will think carefully in future before it implements any changes close to an election period.

[46] The Complainant made no submissions in regard to aggravating circumstances. The CCC, however, noted that the SABC was to blame for the section 189 process which was put in place shortly before the election period and which had a significant negative impact on the performance of its stations. This was clearly an aggravating factor as to points to negligence on the part of those who took the decision.

FINDINGS

[47] The CCC finds that the Respondent was negligent in its conduct. Specifically, the CCC, makes the following finding, in respect of SAFM:

47.1 That the Licensee failed to comply with Regulation 4(14)(b) which stipulates

" a Broadcasting Service Licensee ("BSL") that broadcasts a PEB, must do so, in accordance with the sequence and timing prescribed by the Authority in terms of these Regulations."

47.1.1 Between the 12 May and 26 May 2024, in broadcasting PEBs, the Respondent failed to do so in accordance with the sequence and timing prescribed by the Authority.

[48] The CCC makes the following finding in respect of RSG FM:

48.1 That the Licensee failed to comply with Regulation 4(14)(b) which stipulates:

"a Broadcasting Service Licensee ("BSL") that broadcasts a PEB must do so in the with the sequence and timing prescribed by the Authority in terms of these Regulations."

First Non Compliance

48.2 In that between 16 May and 28 May 2024, in broadcasting PEBs, the Licensee failed to do so in accordance with the sequence and timing prescribed by the Authority.

Second Non Compliance

48.3 That the Licensee failed to comply with Regulation 4(17) which stipulates that:

"A Broadcasting Service Licensee must not broadcast a PEB immediately before or after another PEB or immediately before or after a PA".

48.3.1 In that, between the 18 May 2024, Respondent failed to ensure that it did not broadcast a PEB immediately before or after another PEB or immediately before or after a PA.

RECOMMENDATIONS IN TERMS OF SECTION 17E(2) OF THE ICASA ACT

ORDER

[49] In terms of Section 17E(2) of the ICASA Act the CCC recommends the following orders to be issued by the Authority, namely -

49.1 Direct the Licensee to desist from any further contravention of the said regulation.

49.2 Direct the licensee to take the following remedial actions:

49.2.1 The CCC recommends that each station, that is, RSG FM and SAFM, broadcasts a public apology during the first week after this order is issued.

49.2.1.1 The apology must be phrased thus:

"The Independent Communications Authority of South Africa has found that this station was negligent in not having abided by the National and Provincial Elections Regulations 2024. This station failed to comply with regulations concerning the broadcast of Political Advertisements. It also failed to broadcast Party Elections Broadcasts in accordance with the sequence and timing prescribed by the Authority.

The conduct of the station was in conflict with the ICASA

Election Regulations which require that Political Advertisements and Party Election Broadcasts be broadcasts in terms of the Regulations. This station further extends its apology to ICASA and to its listeners for having committed these contraventions”.

49.2.2 In respect of RSG FM, the apology is to be broadcast once per day for five consecutive days as its first item on its news service between 7h00 and 20.10 in Afrikaans.

49.2.3 On the first two days the broadcast must take place in the first newscast after 7h00. The times of the broadcast must be notified by email to the LCD of ICASA at the latest 48 hours before the broadcast.

49.2.4 The broadcast may not be accompanied by any background music or sounds and the item must be read formally by the Station Manager or his or her representative, who must declare on air that he or she is the station manager or acting on behalf of the Station Manager.

49.2.5 In respect of SAFM, the apology is to be broadcast in English, once per day for five consecutive days, as its first item on its news service between 7h00 and 20:10.

49.2.6 On the first two days the broadcast must take place in the first newscast after 7h00. The times of the broadcast must be notified by email to the CCA of ICASA at the latest 48 hours before the broadcast.

49.3 The broadcast may not be accompanied by any background music or sounds and the item must be read formally by the Station Manager or his/her representative, who must declare that he/she is the Station Manager or acting on behalf of the Station Manager.

49.4 An electronic copy of each broadcast stating the date and the time of the broadcast, must be sent to the LCD at ICASA by email within 48 hours from

the last broadcast in the said five days.

[50] In respect of RSG a fine of R50000 (Fifty Thousand Rand) of which R30000 (Thirty Thousand Rand) is suspended until after the next National and Provincial Elections is recommended. The remaining amount of R20000 (Twenty Thousand Rand) must be paid to ICASA within 90 calendar days from when this judgment is issued.

[51] In respect of SAFM, a fine of R50000 (Fifty Thousand Rand) of which R30000 (Thirty Thousand Rand) is suspended until after the next National and Provincial Elections is recommended. The remaining amount of R20000 (Twenty Thousand Rand) must be paid to ICASA within 90 calendar days from when this judgment is issued.

[52] The total amount is a fine of R100000 of which R60000 is suspended until after the National and Provincial Elections. The total remaining amount of R40000 must be paid to ICASA within 90 calendar days from when this judgment is issued.

[53] In all instances, the CEO of ICASA or his nominee must be copied with proof of payment within 24 hours from when payment was made.



Judge Thokozile Masipa
Chairperson of the CCC

Date: 25 August 2025