



## Independent Communications Authority of South Africa

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Ref No: 17/2/2/1 - Case 457/2023

**Mr. Gumani Malebusha**

**Manager: Consumer Complaints**

350 Witch-Hazel Avenue

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Eco Park, Centurion

**PER EMAIL: [GMalebusha@icasa.org.za](mailto:GMalebusha@icasa.org.za)**

Dear Mr. Malebusha

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**REGIONS AND CONSUMER AFFAIRS OF ICASA AND DIHLABENG FM**

**CASE NUMBER: 457/2023**

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The above matter has reference.

1. This is to advise the Complainant in the matter between Regions and Consumer Affairs of ICASA and Dihlabeng FM held on 19 October 2023 by the Complaints and Compliance Committee ("CCC") that:

1.1 On 5 March 2024, the Council of ICASA approved the recommendations of the CCC relating to the allegations lodged by the Complainant in terms of s17B(a) of the Independent Communications Authority of South Africa ("ICASA") Act No. 13 of 2000 against the Respondent. The Complainant alleged that the Respondent has contravened the following:

- 1.1.1. Regulation 3(2) of the Code of Conduct for Broadcasters ("Code") of 2009 which states that: "*Broadcast Service Licensees must not broadcast material which, judged within context, sanctions, promotes or glamorises violence or unlawful conduct based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age or mental or physical disability*".
- 1.1.2. Regulation 3(3)(c) of the Code, which states that - "*broadcast service licensees, must not broadcast material which, judged within context, amounts to the advocacy of hatred that is based on race, ethnicity, religion or gender and that constitutes incitement to cause harm*". The Complainant is alleging that the Respondent broadcast South African Police Services' (SAPS) internal and confidential matters between Mr. Tsotetsi and some police officers with the intent to incite violence in the community members over allegations which were untrue.
- 1.1.3. Section 53(1)(a) of the Electronic Communications Act of 2005 which states that: "*A Broadcast Service Licensee must (a) on demand by the Authority, produce to the Authority any recording of every programme broadcast in the course of his or her broadcasting for examination or reproduction, within 60 days from the date of the broadcast*". The Complainant is alleging that on 21 April 2023, the Respondent was requested to submit recordings of the current affairs programme broadcast on 28 February 2023 and that the Respondent failed to do so.

2. The Council of ICASA approved all the recommendations of the CCC in the matter between *ICASA Regions and Consumer Affairs Division and Dihlabeng FM* subject to the editorial amendment of the apology in paragraph 61(e)(i) of the recommended CCC order to read as follows:

*"The Independent Communications Authority of South Africa (ICASA) has found that this station, Dihlabeng FM, has contravened Regulation 3(2) and 3(3) of the Code of Conduct for Broadcasters in that Dihlabeng FM conducted several interviews on air, during which individuals were given an opportunity to air their views with regards to General JJ Tsotetsi, without giving General Tsotetsi the right of reply.*

*In addition, Dihlabeng FM has been found to have contravened Section 53 of the Electronic Communications Act No 36 of 2003 in that it failed to submit recordings of the discussions concerned when it was called upon to do so by ICASA.*

*Dihlabeng apologises unreservedly to General Tsotetsi for violating his human rights, and for any harm that this broadcast may have caused to General Tsotetsi and his family.*

*Dihlabeng further extends its apology to the SA Police Service, where General Tsotetsi holds the position of District Commissioner of Thabo Mofutsanyana.*

*Finally, Dihlabeng also apologises to its listeners, to the community of Bethlehem, and to ICASA for having committed these contraventions."*

3. Therefore, Dihlabeng FM must read the apology as substituted by the Council of ICASA in paragraph 2 above.
4. The Judgment of the CCC is attached hereto and marked as **Annexure "A"**.

Yours Sincerely,



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**Cllr. Catherine Mushi**

**Acting Chairperson**

**Date: 30/04/2024**

<p><b>CC:</b> Mr. Thamsanqa Mtolo Assessor of the CCC <b>PER EMAIL:</b> <a href="mailto:TMtolo@icasa.org.za">TMtolo@icasa.org.za</a></p>	<p><b>CC:</b> Ms. Meera Lalla Acting CCC Coordinator <b>PER EMAIL:</b> <a href="mailto:MLalla@icasa.org.za">MLalla@icasa.org.za</a></p>
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