

COMPLAINTS AND COMPLIANCE COMMITTEE¹

Date heard: 2 October 2019

CASE: 345/2019

In the matter between:

NKWE

COMPLAINANT

KURARA FM

RESPONDENT

Tribunal

Prof JCW van Rooyen SC (Chairperson)
Councillor Nomonde Gongxeka-Seopa
Mr Peter Hlapolosa
Mr Mzimkulu Malunga
Dr Jacob Medupe
Mr Jack Tlokana

Complainants: Mr Boitumelo Nkwe and Mr Isaac Botselo

From the Respondent Mr Bradley Mmusi (Kurara FM Station Manager) and
Mr Patrick Mocumi (Chairperson)

From the Coordinator's Office: Mr Tami Mtolo and Mr Siyakha Plaatji

Coordinator of the CCC: Ms Lindisa Mabulu

JUDGMENT

JCW VAN ROOYEN

COMPLAINT

[1] The Complaint reads² as follows:

¹ The Complaints and Compliance Committee ("CCC") is an Independent Administrative Tribunal set up in terms of the Independent Communications Authority Act 13 of 2000. Its constitutionality as an independent Administrative Tribunal in terms of section 33 of the Constitution has been confirmed by the Constitutional Court. It, inter alia, decides disputes referred to it in terms of the Electronic Communications Act 2005. Such judgments: are referred to Council for noting and are, on application, subject to review by a Court of Law. The Tribunal also decides whether complaints (or internal references from the Compliance and Consumer Affairs Division at ICASA) which it receives against licensees in terms of the Electronic Communications Act 2005 or the Postal Services Act 1998 (where registered postal services are included) are justified. Where a complaint or reference is dismissed the matter is final and only subject to review by a Court of Law. Where a complaint or reference concerning non-compliance is upheld, the matter is referred to the Council of ICASA with a recommendation as to an order against the licensee. Council then considers a sanction in the light of the recommendation by the CCC. Once Council has decided, the final judgment is issued by the Complaints and Compliance Committee's Coordinator.

² Grammar and spelling errors mostly corrected (Chair).

[a] I am writing to make a formal complaint against the Board of Directors of Kurara FM 98.9. The relevant names as are as follows: Mr Patrick Mocumi as Chairperson, Mrs Sarah Mereyotlhe as Treasurer and Mrs Lerato Batshabane as Deputy Chairperson.

[b] My complaint is that since 2016, after majority of the Board resigned, we have been writing letters and asking the Board to call an early AGM. But they are ignoring us as community because, according to the law of South Africa, if a majority of the board resigns, the board does not exist anymore. It must then call an AGM which is an early AGM to add new board members, but nothing happened. On 11th May 2019 they invited some of their friends for re-opening of the studio, rather than calling an AGM. Our most important complaints are: Changing the program schedule without consulting listeners or community members and JTG District Municipality to come up with input on the new program schedule. They never submitted the resignation letter of the majority members that resigned from the board to ICASA. Also using some station funds (R86 600.00) according to the auditors, hiring station manager without adding new board members, failing to call AGM to get the financial statements for 2016-2017-2018 financial year approved. Whereby we engaged the Hawks to investigate a fraud case matter and on 6-7-8 February 2019 the Hawks were at Kurara FM building for questioning the three board members. The Kurara FM Board of Directors is not complying with the license conditions of community broadcast services regulation of 22 March 2019.

[c]In terms of the Law of South Africa on section 4(3)(1) of the Independent Communications Authority of South Africa Act 2000 (Act no 13 of 2000) as amended also sections 4(1) and 5(7) of the Electronic Communications Act 2005 (Act no 36 of 2005) as amended hereby prescribes the community broadcasting services regulations, and also referring to the roles and regulations as follows:

Rules and Regulations of License of 2019

- (1) Governance and Management: section 5(3)(a)(b)(c)(d)
- (2) Management Contract: section 12(2)(9)
- (3) Community participation: section 12(1)(2)(3)(4)(5)

The Regulation Draft by Kurara FM Submitted on 2015 at ICASA

- (1) Community participation section 4(4.2.1) (4.2.2) (4.2.3) (4.2.3.1) (4.2.3.2) (4.2.3.3)

[d] Its clear that Kurara FM Board of Directors are not complying with the rules and regulations of the licence and Constitution of South Africa, to the point that Kurara FM can lose a licence because of reckless trading of the Board.

[e] We love our radio station Kurara FM 98.9. The Ultimate Choice of the District: we don't want to lose the license of the station, we need urgent intervention from ICASA to put pressure on this so-called board to call AGM soon in two weeks.

RESPONSE BY THE STATION

[2] Violation of clause 4.2.3: According to clause 9.1 the term of office of Kurara FM Board is five years. Should a vacancy occur on the board of Directors by resignation, death or any other reason, the Board of Directors shall have the power to fill the vacancy by appointing a replacement. For the past few months the Board has been busy preparing the AGM, reporting AGM and a month after elective AGM. This has already been communicated to the ICASA Compliance Officer.

The following were appointed after the resigned members: Mr Kamogelo Difokoko and Mr Methlolo Tikane

[3] Violation of Regulation 13: The programming meeting to change the programme schedule was held on 16 June 2018. Further the programmes Manager and the Station Manager did an on air programmes audit prior to the schedule change whereby community members were given a chance to comment and there was no dispute of the changing of the programmes.

Violation of clause 4.2.3.2: From 2012 to 215 June the books of Kurara FM were not audited, however financial statements done by consultants, (Mimosa). With regards to the Hawks it was just an unfounded enquiry; no case has been opened and we are still waiting to hear from the Hawks to update us. The audit is currently underway for the year 2016/2017, 2017/2018, 2018/2019 which will be completed on or before 31 October 2019. Once the audit is done, the audited financial statements will be forwarded to ICASA as requested.³

[4] There was no AGM on the 11th May 2019 - it was the relaunch of the New Studio and all stakeholders and the community were invited to the launch.

³ The statements were all received by the CCC from 2012 to 2019 (Chair)

Mr Nkwe's conduct:

- (1) In all the Boards since 2012 to current, Mr Nkwe's conduct was not good.
- (2) He is always a complainant having conflict of interest e.g. Mr Nkwe wants to be a mediator/group executive director between the Board and the Management. According to him, he should be the one to hold meetings with the Board and thereafter convey the message to management or the Station Manager, which is unconstitutional, as the Station Manager is the Accounting Officer, *ex officio*, of the Board.
- (3) Mr Nkwe regularly disturbs the operation of the station, divides the staff and influences conflicts within the organisation.
- (4) He always portrays the station badly on social media - using the "so called" friends of Kurara FM.
- (5) Constitutionally we don't have any membership of a club called Friends of Kurara FM.
- (6) Mr Nkwe has clearly stated his interest in overthrowing the Board and the management of the station as he continually threatens the station manager.
- (7) He stated on Facebook that when he takes power in a few weeks at Kurara FM through the assistance of ICASA, he will fire some of the employees whom he cannot control or influence.

Here is the Agenda and Minutes of the **COMMUNITY STAKEHOLDERS PROGRAMMING MEETING:**

16 JUNE 2018

- Opening with prayer (by Principal of Baone disability centre)
- Introduction of Stakeholders
- Welcoming
- Kurara FM Programming Content Contribution
- Introduction of Kurara FM staff & Management
- On Air Language Data

(1) Opening and prayer was done by Mrs Ntwagae. The introduction of stakeholders and Kurara FM Staff and management was done by Goratamang Thango Acting Manager. Welcoming was made by Mrs Nkadimeng founding of Omang Youth Foundation.

The issue discussing around Kurara FM content contribution was first outlined by Mrs Nkadimeng, clearly stating how happy she is for being part of the meeting and also the foundation form part of the content. Mr Sechogela from Seoding Old Age Centre noted that it is a huge concern that it seems like the programs of the station do not cater for old people and they love our radio station; and programs should take their needs into consideration. Also stating that second on his concern is that young people speak too much English and the program names are mostly English and should be changed to cater for the Setswana speaking people in the district. Mr Kagiso Mosila from SAPS noted that the program names should be changed to Setswana and Mr Wandile Manie from Baone Disability Centre seconded the suggestion. Mr Wandile Manie then suggested that a reshuffling should be done to pad relevant presenters for relevant programs and Mr Takisho Malepe from Youth Against Crime seconded the suggestion. Pastor Bogodile from Holy of Holies suggested that religious programs is a need to change our communities and more should be done to bring different religions on the radio. One young person from Omang stated that she is happy on how educational programs is a priority and is making a huge impact. Mr Sebuasengwe from SAPS indicated that he is happy about news contents as it is local and informative. Mrs Nkadimeng indicated that time was not on their side as they had a youth activity that has to take place and have to adopt new measures to strengthen Kurara FM programming content.

Issues adopted were:

- (a) All stakeholders who attended should contribute towards content.
- (b) Name of certain programs to be changed and even suggested names like: Kgatelopele, Youth Connect, Tsosoloso ya Moya, Jou gemaksone and Atlega.
- (c) Kurara FM should have a huge platform to help local SMME's grow their business by creating a program.

- (d) More of different races to be recruited like Coloureds.
- (e) Teacher Unions to help interns of educational programs.
- (f) Young people and women to be active and leadership positions at the station.
- (g) Agreed that the on air language Quta should remain the same.

Mr Sebuasengwe officially closed the meeting with prayer.

SPECIAL ANNUAL GENERAL MEETING

A Special Annual General Meeting of the Kurara FM Community Radio Station may be convened by the Board of Directors at any time or at the request of majority Club members. The request should be done and signed by at least two thirds (2/3) of total membership in good standing.

- (1) Not less than one month's notice of such a Special Annual General Meeting shall be given.
- (2) The date, time and venue of the Special Annual General Meeting shall be determined by the Board of Directors and communicated to the members if deemed fit to call a meeting.
- (3) The Board of Directors may convene a Special General Meeting at any time, should the necessity arise.
- (4) A notice of at least seven (7) days shall be sufficient to convene Special Annual General meeting.

THE BOARD OF DIRECTORS

- (5) The Board of Directors shall be elected at an elective Annual meeting in line with clause 9.1 and 9.2 here above.
- (6) The Board of Directors shall compose of a minimum of five (5) and maximum of seven (7) members duly elected at an AGM.
- (7) The Radio Station Manager/Manageress shall be Ex-Officio member of the Board of Directors but shall have no voting rights.

- (8) An external accountant may be appointed on temporary basis by the Board of Directors to look after the VOTE, books and accounts; (The person) shall be an Ex-Officio (member) of the Board of meetings, but shall have no voting rights.
- (9) A legal adviser may be appointed on temporary basis by the Board of Directors to look after the VOTE legal matters [and] should be an ex-o officio member of the Board meetings, but shall have no voting rights.
- (10) The term of the office for the elected Board of Directors shall be sixty months from the date of their elections.
- (11) All the elected Board of Directors shall be immediately updated with ICASA in line with the license conditions.

POWERS OF BOARD OF DIRECTORS

- (12) The Board of Directors shall be responsible to formulate Policies, Rules and Regulations of the Kurara FM Community Radio Station.
- (13) Receive and scrutinise Kurara FM Community Radio Station's comprehensive reports from the Radio Station Manager / Managers.
- (14) Should a vacancy occur on the Board of Directors by resignation, death or any other reason, the Board of Directors shall have the power to fill the vacancy by appointing a replacement.
- (15) The replacement may be presented to the next Annual General to be approved / confirmed by the listeners Club members or simply co-opted by a fully quorate board.
- (16) Acquire movable and immovable property including investments of whatever nature and hold such property and invested funds in Trust and act as agents on behalf of the Kurara FM Community Radio Station.
- (17) By virtue of any member who serves on the non-profit organisation not re-elected on the Board of Directors, that member shall be deemed to have automatically resigned from the Board of Directors and excused him/herself from the day the new Board members are elected.

MEMBERSHIP

- (18) The board of Directors shall establish the Kurara FM Community Radio Station listeners' membership in line with the licence condition.
- (19) The Listeners Club members shall be issued with membership Cards upon joining.
- (20) The Listeners Membership Card shall always depict details of the member and expire date.
- (21) The Listeners membership shall comply with the Kurara FM Community Radio Constitution in terms of its operation.
- (22) The Board of Directors shall further develop in consultation with the Listeners members, policies which will assist govern the operation of the structure.
- (23) The Listeners Club membership shall be valid for a minimum period of twelve months and the amount is R30 per individual. Members shall have an option to subscribe for multiple months in batches of twelve months each.
- (24) The Organisation Club Membership shall be valid for a minimum period of twelve (12) months and the amount is R300 per Company / Organisation.
- (25) The club will send delegates at elective general at least 5.

CHAIRPERSON'S STATEMENT

[5] I wish to make the following statement in an attempt to clarify the position of the Board on matters raised by the complainant.

- (1) As it relates to the constituting of the Board, the constitution of Kurara FM states in clause 11.2 that "the board of directors shall compose of a minimum of 5 and maximum of 7 members". Currently Kurara FM has 5 members of the board and they are:
 - (a) Mr Patrick Mocumi
 - (b) Lorato Batshameki
 - (c) Sara Mereotlhe

- (d) Metlholo Tikane
- (e) Kamogelo Difoloko

- (2) We have received a Whatsapp communication from Mr K Difoloko stating his intention to resign from the board due to work commitments. The board is empowered by the constitution in clause 12(c) to co-opt in an event of a vacancy. Should it come to that stage that Mr Difoloko resigns, the board will go the route of co-optation to fill the vacancy?
- (3) Secondly, the term of service for the board is 5 years and the current board's term is expiring in June 2020, since it was elected in June 2015.
- (4) As it relates to the changing of the programming schedule, the board held a community meeting on 16 June 2018, at Baone Intellectual Disability Centre. The purpose of the meeting was to discuss the programming content of Kurara FM and get the view of the community on the relevance of content to them. There was a mistake that was made by the office in that they did not come ready with the attendance register and requested Baone Intellectual Disability Centre to assist with printing an attendance register. They had printed copies which carried the name of the organisation and the stamp. Kurara FM decided to use these copies in recording the attendance of members. In retrospect I believe this was a mistake and that we could have tried other means to get an attendance register which carries only the name of Kurara FM and its stamp. At the meeting, the community showed support for the content of Kurara FM and suggested that the board consider inclusion of a sport program and a business program. The board favourably considered the suggestions of the community as follows:
 - (a) The music show on a Saturday was converted into a mix of sports and music;
 - (b) The show called "Tsoholoso ya moya" on Sundays was 4 hours and it was reduced to 3 hours. 1 hour was dedicated to a business show.

- (5) The changes were effectively communicated by the programming and station manager on 31 January 2019 on the program “Youth Connect”. There were no complaints received after the introduction of these changes. The only complaint received was after 6 months of the changes, which was a complaint by Mr Nkwe through ICASA.
- (6) The impact of the programmes have been beneficial to the community in that, the business program was later supported by the Kumba Iron Ore Sishen Mine in Kuruman and the show supported local entrepreneurs. The Radio Station then created an incubation programme for local farmers and provided them with training and a start-up package for farming. More than 100 entrepreneurs received support from this program. The support varied in terms of the business activities of the supported farmers. Those farming sheep received sheep, broiler chicken received broiler chicken and so on and so forth. Currently there are 15 young people on the incubation programme for photography. Each participant received state of the art cameras and were already contracted to provide service for Kathu Town Festival for provision video or photography services. Boikgabiso Photography was awarded a tender by the mine to assist in the photography incubation programme.
- (7) The Radio Station will be starting a Learnership programme in partnership with Kumba Iron Ore Sishen Mine which will recruit about 45 young people to do media studies within the incubation.
- (8) The sport program was awarded the best sport programme by the Department of Sport, Arts and Culture in the Northern Cape. Overall, the station was awarded the best stakeholder of the year by the same department. I state these successes to indicate that the changes were not only procedurally correct, but also to indicate that there is greater benefit for the community. After

these changes, the station's listenership increased from 52 000 to 89 000 weekly cumulated listenership.

- (9) As it relates to the mismanagement of funds involving R86 000, there's an audit which we have handed over to the CCC on 2 October 2019. The audit was conducted by Mimoisa Business Solutions, Reg No: 2003/030373/23. The company was appointed by the previous board and conducted audits from years 2011 to February 2017.

(a) In 2014/2015 financial year there was a cash withdrawal of R59 750.00 with expenses of R36 429.00. There was a cash on hand of R23 321.00 + R23 169.00 (of previous financial years) = R46 490.00;

(b) In 2015/2016 financial year there was a cash withdrawal of R67 329 and expenses were R31 347. There was cash on hand of R35 982 + R46 490 (carried over from previous two financial years). The total cash on hand for the 3 financial years was R82 472.00.

- (10) Firstly, I need to indicate that the current board was in office on the first two financial years and was partly in office in the 2015/2016 financial year. The current board took over office in June 2015 and did not find any cash in hand as reported in the financial reports. The current board cannot provide accountability for the withdrawals reflected in the financial statements or the cash in hand for the period if it was not in office.
- (11) In the latest financial statement which is but only a draft at this stage, the amount categorised as cash in hand in previous statements, is explained under the heading "misstatements identified". It is also concern for the current board that this will have negative consequences including forming basis for qualified opinion for the new audits.

CONCLUSION BY THE CCC

[6] Hereby dealing with the complaints which are, in essence, repeated:

[1] The **complaint** is that since 2016, after the majority of the Board resigned, we have been writing letters and asking the Board to call an early AGM. But they are ignoring us as community because, according to the law of South Africa, if a majority of the board resigns, the board does not exist anymore. It must then call an AGM which is an early AGM to add new board members, but nothing happened. On 11th May 2019 they invited some of their friends for re-opening of the studio, rather than calling an AGM.

Finding: The Respondent has satisfactorily explained how vacancies in the Board are filled according to its Constitution.

[2] The most important complaints are: Changing the programme schedule without consulting listeners or community members and JTG District Municipality to come up with input on the new program schedule.

Finding: An answer was provided, as quoted above, by the Respondent as to its consultation in regard to programming in June 2018. It is, however, important that the Respondent bears the 2019 Community Broadcasting Regulations in mind. They provide as follows:

13. Community participation

(1) A licensee must ensure that ownership of the community broadcasting licensee remains with the community served.

(2) A licensee must involve the community members in the management of the community broadcasting licensee.

(3) A licensee must establish programming councils/committees to enable community members to participate in the selection and provision of programmes.

(4) The programming councils/committees must be representative of different interest groups within the community served, such as youth, women, or people with disabilities.

A licensee must submit proof of community participation at every annual general meeting, and other forums that require community participation.

Finding: It is noted that a community meeting was held in June 2018 and the Minutes thereof has been quoted above. However: the Respondent

must ensure that it complies fully with the above regulation and file a report as to its compliance with the above regulation in 2020 with the CCA of ICASA in this regard at the end February 2021.

[3] They never submitted the resignation letter of the majority members that resigned from the board to ICASA.

Finding: There is no such Regulation and the Chairperson has satisfactorily explained what the Constitution of the Respondent provides when Board Members resign: a system of co-option is applied as per the Constitution of the Station.

[4] Also using some station funds (R86 600.00) according to the auditors, hiring station manager without adding new board members, failing to call AGM to get the financial statements for 2016-2017-2018 financial year approved. Whereby we engaged the Hawks to investigate a fraud case matter and on 6-7-8 February 2019 the Hawks were at Kurara FM building for questioning the three board members. The Kurara FM Board of Directors is not complying with the license conditions of community broadcast services regulation of 22 March 2019.

Finding: Financial Reports as from the year ending 2012 were filed with the CCC. There is no finding by the Accountants that funds were stolen (the R86000). However, the Accountants are critical in their report of the inability to account for this amount. *It should, however, be noted that the current Board denies responsibility on the basis that it was not in office when the original alleged omission had taken place.* As to the reference to the “Hawks” the CCC has noted that they have not reported back and it is impossible to come to a conclusion in this regard. The fact, however, remains that an amount, according to the Accountants, was not accounted for. The present Board states that the loss had not taken place during its term. The CCC is, however, of the considered opinion that the present Board has not taken sufficient steps to address the matter. This omission was, in the view of the CCC, grossly negligent and a finding will be made against the Radio station as a result of this blatant omission.

[5] **Complaint** in terms of the Law of South Africa on section 4(3)(1) has not, in any manner,. Demonstrated of the Independent Communications Authority of South Africa Act 2000 (Act no 13 of 2000) also sections 4(1) and 5(7) of the Electronic Communications Act 2005 (Act no 36 of 2005) as amended hereby prescribes the community broadcasting services regulations, and also referring to the roles and regulations as follows:

Rules and Regulations of License of 2019

- (4) Governance and Management: section 5(3)(a)(b)(c)(d)
- (5) Management Contract: section 12(2)(9)
- (6) Community participation: section 12(1)(2)(3)(4)(5)

The Regulation Draft by Kurara FM Submitted on 2015 at ICASA

- (2) Community participation section 4(4.2.1) (4.2.2) (4.2.3) (4.2.3.1) (4.2.3.2) (4.2.3.3)

It is clear that Kurara FM Board of Directors are not complying with the rules and regulations of the licence and Constitution of South Africa, to the point that Kurara FM can lose a licence because of “reckless trading” of the Board.

Finding: *No case is made out for “reckless” trading. There is no reference to reckless trading in the 2018-2019 Report of the Accountants, even when dealing with the R86000, which was not accounted for and originated before the term of the present Board. A charge of reckless trading, in any case, falls within the jurisdiction of the Companies and Intellectual Property Commission established by section 185 of the Companies Act. We deal with Community Participation elsewhere in this judgment (see para 6 (2) above). The matter of the absence of a Management contract was not supported by sufficient evidence. In any case, this is a matter which the CCA at ICASA deals with and if there was no-compliance in this respect, it will be addressed by the CCA. The above reference to sections is generally too vague to come to definite conclusions.⁴ The matter of community contact will, however, be addressed.*

[6] The answers provided by the Respondent address the running of the Station well. Although the financial statements were not considered by

⁴ The Constitutional Court has cautioned that the inquisitorial powers of the CCC must not be exercised unfairly – *Islamic Unity Convention v Minister of Telecommunications* 2008 (3) SA 383 (CC).

auditors, the documentation handed in from the 2012 financial year up to the financial year 2019, as considered by accountants, was satisfactory. It should be borne in mind that neither the ECA nor the 2019 Community Broadcasting Regulations require an audit or even an accounting of the financial statements of community radio stations. In fact, the matter of financial statements is not addressed in the Regulations. The Non-Profit Organisations Act 1996 also does not require financial statements.⁵ Of course, financial statements will, in the ordinary course, be part of AGM's and SGM's. The CCC may, of course, as was done in the present case, require such statements. And this was essentially complied with by filing reports by accountants. ***As to the allegation that money was stolen from the radio station: this is not a matter into which the CCC can inquire - firstly given the paucity of the evidence and, secondly, theft is a crime which falls within the jurisdiction of the Criminal Courts. We will, however, provide Council with advice on this matter.***

[7] On the whole, there was at least substantial performance. Although the ideal would consistently be that the legislation and licence conditions must be complied with to the letter, Acting Chief Justice Moseneke stated as follows in *Ferris v FirstRand Bank Ltd* 2014 (3) SA 39 (CC):

“While our law recognises that *substantial compliance* with statutory requirements may be sufficient in certain circumstances, Mr and Mrs Ferris have not given compelling reasons why a substantial-compliance standard would be useful or appropriate in determining compliance with a debt-restructuring order.

[8] The CCC's impression of the radio station is a good one. The above quoted Response of the Station demonstrates that the Board is aware of its duties and that there was contact with the Community by the present Board. Its main aim is, however, to make sure that there are sufficient controls as to finances, regular contact with the community and making sure that news items and comment are dealt with in accordance the Broadcasting Code and, of course, that Children should - when it is likely that children are in the audience - be protected against crudities. The daily administration is in the hands of the Station Manager, who reports to the Board. The Financial Statements handed in are up to date.

⁵ *Duke and Others v Whale Coast NPO* (Case 277/2018).

[9] Given the detailed explanation provided by the Respondent it would be unfair, on the facts before the CCC to, to find against the radio station on all counts. Certain aspects, however, need attention or more attention and they will be included in our advice to Council. It should, however, be taken into consideration that the ECA provides in section 2 that the Authority must “(y) refrain from undue interference in the commercial activities of licencees while taking into account the electronic communication needs of the public;”

[10] A closing observation: Since a radio Station is a private place – especially for security reasons - the Manager is entitled to make rules as to entry. In fact, unless permission is granted by the Station Manager or her or his representative, no person is permitted entry. Board Members may, of course, enter for meetings, but may not interfere with the Management. The Station Manager reports to the Board. But that is done at Board Meetings. The Complainant should bear this I mind.

[11] The CCC was informed that an AGM will be held in 2020 for the election of the Board, the term of which comes to an end in 2020. So as to ensure that the AGM is satisfactorily brought to the notice of the Community, daily radio notice will be advised in the Advice to Council.

ADVICE TO COUNCIL

[1] So as to ensure that the community is sufficiently informed of the AGM, Council is advised to make the following order:

- (a) That the Annual General Meeting be called by the Chairperson of the Board, to be held on a Saturday afternoon before end August 2020 and that a Board be elected – all the positions, including that of Chairperson, be voted for as duly nominated as per the Constitution of the radio station. This order is subject to COVID 19 Regulations: thus the said meeting must be held with the said notice, as soon as the COVID 19 Regulations allow for such a meeting.
- (b) That the meeting and venue be advertised at least three times a day for 21 calendar days before the day of the meeting, by way of broadcasts between 07:00 and 21:30 and that electronic copies of such broadcasts be filed with

the Compliance and Consumer Affairs (“CCA”) at ICASA within 20 calendar days of the Meeting.

- (c) That one of the broadcasts per day must take place between 07:00 and 08:30 and the other two, with at least a one hour interval, after 18:00.
- (d) That the CCA at ICASA be informed in writing at least 21 calendar days before the General Meeting of the date, time and place of the meeting.

[2] As to the missing R86,600: Despite the defense of the present Board that the money referred to was lost before its term began, the fact remains that the amount, according to the Accountants, was not accounted for. The CCC is of the considered opinion that the present Board has not taken sufficient steps to address the matter by investigating it. This omission was, in the view of the CCC, grossly negligent and a finding is made against the Radio station as a result of this blatant omission by its Board.

THUS:

That the Board inquire into this omission and file a full Report with the Senior Manager CCA at ICASA within 60 working days from the above stated AGM—such Report having been approved by the Accountants referred to above.

That, if the Report remains unsatisfactory in the view of the CCA, this matter be brought before the CCC again by the CCA of ICASA.

[3] That there must be at least two meetings, well-advertised on air, with the community per year. A report must be filed by 15 December 2020 with the CCA at ICASA with the Minutes of these meetings. If no meeting could be held as a result of COVID 19 Regulations, then this must be reported by 15 December 2020 to the CCA of ICASA.



JCW VAN Rooyen SC
The Members agreed
26/03/2020