Independent Communications Authority of South Africa
350 Witch-Hazel Avenue,
Eco-Point Office Park
Centurion

COUNCIL DECISIONS– 26 May 2020

ITEM NO.	AGENDA ITEM	DECISION
1.	**Recommendation by Complaints and Compliance Committee to Council in the matter between Boitumelo Nkwe and Kurara FM.** The purpose of the submission was to table the recommendation of the Complaints and Compliance Committee in the matter between Boitumelo Nkwe and Kurara FM. Cllr Gongxeka-Seopa presented the item: **The following was noted:** 1.1 On 18 June 2019, the CCC received a complaint from Mr. Nkwe alleging that Kurara FM has contravened the Community Broadcasting Services Regulations of 2019 and its License Conditions. 1.2 Further that Kurara FM was in violation of clause 4.2.3 of its License Conditions for failure to elect a new Board of Directors since 2016 after the resignation of most of the Board of Directors. 1.3 That Kurara FM was in violation of the Regulation 13 of the Community Broadcasting Services Regulations of 2019 and clause 4.2.1 of its License Conditions by changing the Programming Schedule without consulting the	**The CCC recommendation was approved subject to it having a post lockdown recommendation and the elected board should institute criminal processes to investigate the missing R86 000.**

	community members. 1.4 That Kurara FM was in violation of clause 4.2.3.2 of its License Conditions through mismanagement of the Station's Funds. **Recommendations to Council**: 1.5 That the Annual General meeting be called by the Chairperson of the Board, to be held on Saturday afternoon before the end of August 2020, and that the board be elected-all positions including that of Chairperson be voted for as duly nominated as per the constitution of the Radio Station. The order was made prior to the Covid-19 Regulations; and thus, the said meeting must be held with the said notice as soon as the Covid-19 regulations allow for such meeting. 1.6 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 broadcast between 07:00 and 21:30 and that the electronic copies of such broadcast be filed with the Compliance and Consumer Affairs (CCA) division of ICASA within 20 calendar days before the meeting. 1.7 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 interverbal after 18:00. 1.8 That the CCA of ICASA be informed in writing at least 21 calendar days before the General meeting of the date, time and place of meeting.	

	1.9 As to the missing +R86 000, concern was raised that no efforts were made by the current board to recover the funds that are missing, citing reasons to the fact that the money referred to was lost before their term. However, the fact remains that the amount according to the Accountants was still not accounted for. The CCC was of the opinion that the present board had not taken enough steps to address the matter by investigating it. 1.10 That the board must undertake an investigation on this matter and file a report with ICASA within 60 working days from the date of the AGM. 1.11 If no meeting could be held because of Covid-19 Regulations, then that must be a report by 15 December 2020 to ICASA highlighting the challenges.	
2.	Request to Council to approve the Draft Regulations on Code for Persons with Disabilities and the Explanatory Memorandum on the Draft Regulations for Final Public Consultation. The purpose of the submission was to table the Draft Regulations on Code for Persons with Disabilities and the Explanatory Memorandum on the Draft Regulations for final public consultation. 2.1 The Committee was in the process of reviewing the Code for People with Disabilities Regulations published in Government Gazette No. 30441 of 2007. 2.2 The Committee requested assistance of the PRA division to provide a detailed cost benefit analysis on accessibility services that licensees were expected to	**The Draft Regulations on Code for Persons with Disabilities and the Explanatory Memorandum on the Draft Regulations for Final Public Consultation were approved.**

	implement in order for persons with disabilities to enjoy the same benefits as non-disabled persons. 2.3 The Committee was satisfied with information received from licensees and now intended to publish the Draft Regulations.	
3.	**Recommendation by the CCC to Council in the matter between Motlatsi Makhasane and Lejweleputswa FM** The purpose of the submission was to table the recommendation of the Complaints and Compliance Committee in the matter between Makhasane Motlatsi and Lejweleputswa FM (Rock FM). 3.1 On 05 August 2019, the CCC received a complaint from Mr Makhasane alleging that Rock FM has contravened the Community Broadcasting Services Regulations (the Regulations) and its License Conditions. 3.2 That Rock FM was in violation of Regulation 5 (3) (a) to (i) of the Regulations of March 2019, in that, the Board of Directors failed to implement resolutions taken at an AGM held on 07 May 2016 as well as a follow up meeting held on 02 March 2017. 3.3 That the Board of Directors failed to execute their fiduciary duties, in terms of clause 3.2.3 of its License Conditions, by not holding an AGM since 2017. 3.4 Failure to hold a general meeting for community participation in the affairs of the Station, in terms of clause 3.2 of its License Conditions.	**The recommendation by the CCC was approved.**

	3.5 That the Board of Directors have not applied for License Renewal of their license and this according to the Complainant is a contravention of Regulation 7 of the Regulations. 3.6 That Rock FM was in violation of Regulation 16(1)(a) to (n) of the Regulations, in that, there was lack or absence of record keeping. **Recommendation to Council** 3.7 The CCC recommended that the Special Elective Annual General meeting be called by the Chairperson of the Board, to be held on Saturday afternoon before the end of June 2020 and that the board be elected. 3.8 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 broadcast between 07:00 and 21:30 and that the electronic copies of such broadcast be filed with the Compliance and Consumer Affairs division of ICASA within 20 calendar days before the meeting. 3.9 That the Financial Statement be prepared by an Accountant for the previous financial year (2019) and that the Financial Statement of the preceding year in future be approved at every Annual General meeting or a Special General meeting.	

	3.10 All meetings must be held at readily accessible place. Views expressed by the meeting must be placed in the report by the Station Manager and considered by the Board at its meetings.	
4.	**Implementation of Virtual Classroom connectivity licence obligations for licensees awarded temporary Radio Frequency Spectrum in the 700,800,2600 and 3500 MHz bands.** The GM: licensing presented the item: The purpose of the submission was to request Council to consider and approve the process to be taken with respect to the virtual classroom and schools connectivity licence obligations to licensees that were awarded temporary radio frequency spectrum in the 700, 800, 2300, 2600 and 3500 MHz bands in response to the COVID-19 outbreak 4.1 On 5 May 2020 and 8 May 2020 respectively, the Authority received the list of Virtual Classroom Distance Learning sites identified by the Department of Basic Education for the implementation of its 2020 Grade-12 learner intervention program. 4.2 The Authority worked with the Department of Education since 2014 on the school connectivity project to allocate schools countrywide to Licensees in terms of Universal Service Obligations (USOs). 4.3 The Licensees (Cell C, MTN, Vodacom and Liquid Telecoms) successfully completed the school connectivity by 31 July 2019. This project was spearheaded by the (ICASA) Compliance department which will also take the lead on the	**The Implementation of Virtual Classroom connectivity licence obligations for licensees awarded temporary Radio Frequency Spectrum in the 700,800,2600 and 3500 MHz bands was approved.**

	current process. 4.4 The DCDT has to date, provided the Authority with a list of approximately 152 schools[1] across eight (9) provinces that had been identified for the virtual classroom solution. **It was recommended that Council**- 4.5 note the process to be taken with respect to the DBE Virtual Classroom Solution; 4.6 approve the proposed proportional basis for allocation of schools to the five (05) Licensees; 4.7 approve the allocation of the 152 schools as per the list received from DBE; and 4.8 approve the distribution of the received list of schools to the Licensees concerned. **The recommendation was approved**.	

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ISSUED BY: Secretariat Office
on behalf of Council