



## Press Statement

# Exposing NCA's Deception and Discrimination in the Closure of Radio Stations

September 23, 2020

Colleague Journalists, we have invited you this afternoon to share with you, what we consider to be a worrying development that has significant implications for the fundamental right of access to information, media freedom and freedom of expression in Ghana.

Colleagues, as you will recall, not too long ago, specifically in 2017, the National Communication Authority (NCA) announced that following what it called spectrum audit of granted FM radio frequencies, it had found that several radio stations were broadcasting with expired frequency authorisations. Subsequently, the Authority announced various crippling sanctions against offending media houses including the impositions of millions of cedis in fines. In some cases, the fines were in tens of millions of cedis.

Later, NCA shutdown some radio stations in line with the audit and a decision by the Electronics Communication Tribunal. Some of the stations that were well known to be aligned with the opposition, were raided and shut down 2019 with armed security men.

Concerns of discrimination in the shutdown of radio stations were raised. The MFWA for example, had described the shutting down of the pro-opposition Radio Gold and Radio XYZ as arbitrary and capricious. The Ghana Journalists Association (GJA) also at the time said that the action of the NCA had the potential to undermine media freedom in the country. In expressing its concern over the shutdown of specifically the two pro-opposition radio stations, the GJA further stated:

*“First, the decision by the NCA to close down the two radio stations for operating without authorisation suggests that all other broadcasting stations in the country have valid authorisation to operate. Without casting doubt on such possibility, it would be prudent for the NCA to, in the interest of transparency, and in order to elevate its decision above reproach, publish the authorisation status of all broadcast operators in the country.”*

The NCA has always denied accusations of politically-motivated discrimination in its decision to shut down some radio stations by claiming that it had shut down several other radio stations as part of the spectrum audit and the Court's decision. **But the Authority has since failed to provide the public with the full list of radio stations it had shut down since the exercise began.**

As part of the MFWA’s routine media monitoring and analysis, the organisation decided to do an analysis of the radio sector in the country in order to provide the public factual information about the sector as required of us.

Thus, in early July, 2020 a team at the MFWA was assigned to analyse the radio landscape in Ghana based on the NCA’s published data on its website. The NCA’s data that was being studied was the full list of authorised FM stations in the country as of second quarter 2020 and other data published earlier by the Authority.

At the time, the data published by the NCA for second quarter 2020, contained the following information in different columns: Company name and address; date of first authorisation; date of last authorisation renewal; assigned frequency; status; location; and type of station.

While analysing the data, the team came across a very curious phenomenon. While some of the stations captured as authorised by the NCA had dates of last authorisation renewal stated, others had no such information indicated. The same was found in the NCA’s data as of the last quarter of 2019 as can be seen in the screenshot of a page from the data below:

S/N	NAME AND ADDRESS OF COMPANY	DATE OF FIRST AUTHORISATION	DATE OF LAST RENEWAL AUTHORISATION	ASSIGNED FREQUENCY	STATUS	LOCATION (TOWN /CITY)	TYPE OF STATION
24.	OMAN FM LIMITED (OMAN FM) P.O.BOX 191 BURMA CAMP ACCRA	6-12-06		107.1MHZ	ON AIR	ACCRA	COMMERCIAL FM
25.	SWEET MELODIES FM LTD. (SWEET MELODIES FM) P.O. BOX 3903 ACCRA	31-03-08		94.3MHZ	ON AIR	ACCRA	COMMERCIAL FM
26.	MULTIMEDIA BROADCASTING CO. LTD. (JOY FM) P.O.BOX GP17207, ACCRA TEL :0302-233558/9,7011999 FAX : 0302-224405 EMAIL :INFO@MYJOYONLINE.COM	13-01-95  Through Partnership with GBC		99.7MHZ	ON AIR	ACCRA	COMMERCIAL FM
27.	SENA RADIO LIMITED (ATINKA FM) P.O.BOX 582 ASHIAMAN,TEMA TEL: 0303 301026 FAX: 0303 301026	04-06-08		104.7MHZ	ON AIR	ACCRA	COMMERCIAL FM
28.	K & N INVESTMENTS LTD. (Y-FM) P.O.BOX CT 5976 CANTONMENTS, ACCRA TEL: 0302 254856 FAX: 0302 254855 EMAIL: INFO@GMAWORLD.COM	18-03-08	26-10-15	107.9MHZ	ON AIR	ACCRA	COMMERCIAL FM
29.	TOWER FM LIMITED (NEAT FM) BOX 17470, ACCRA TEL: 0302 406767/406669 FAX: 0302 406531	17-09-08	29-06-16	100.9MHZ	ON AIR	ACCRA	COMMERCIAL FM
30.	DEAR MAMA JOINT LIMITED (PLUZZ FM) P. O. BOX MS 446 MILE 7 NEW ACHIMOTA, ACCRA	5-07-10		89.9MHZ	ON AIR	WEST HILLS MALL, ACCRA	COMMERCIAL FM

The team was operating with the conviction that following the spectrum audit, the decision of the ECT and the NCA’s claim that all unauthorised FM stations had been shut down, all the stations in the 2020 list would have had valid dates of last authorisation renewal indicated in the data. But that was not the case. Just as the NCA data for last quarter of 2019, the data for second quarter of 2020, contained blank spots for dates of last authorisation renewal for dozens of the radio stations that the NCA had presented as authorised FM stations.

With a deep sense of surprise and curiosity, we called the Director of Consumer and Corporate Affairs at the NCA. Our question was simple: We see that several radio stations in your 2020 data do not have dates of last authorisation renewal while others have. If those that have renewed had the dates of renewals indicated, with some as recent as 2020, should we consider

those that are blank as stations that have not renewed, and if so why have they also not been shut down just as others?

We were given some incoherent explanations and we kept probing on phone. In the end, the explanations offered did not provide an answer to our questions. So, we decided we were going to follow-up with a formal letter the following week.

To our utter shock and surprise, the following week, the NCA had altered the data, taking away the vital information on dates of first authorisation and dates of last authorisation renewal for all stations. Below is a screenshot of one page of the changed data with the vital information removed:

**GREATER ACCRA REGION**

S/N	NAME AND ADDRESS OF COMPANY	ASSIGNED FREQUENCY	STATUS	LOCATION (TOWN /CITY)	TYPE OF STATION
1.	MASCOTT MULTI-SERVICES LIMITED. <b>(ATLANTIS RADIO)</b> BOX PMB CT 106, ACCRA TEL: 0302 7011212/233308 FAX:0302 230871 EMAIL:	<b>87.9MHZ</b>	ON AIR	ACCRA	COMMERCIAL FM
2.	QUEST FINE LIMITED. <b>(LIVE FM)</b> BOX PMB CT 183, ACCRA TEL:0302-7011444/7011306 FAX: 2271 EMAIL: VIBEFM@GMAIL.COM62	<b>91.9MHZ</b>	ON AIR	ACCRA	COMMERCIAL FM
3.	SUNSHINE RADIO LIMITED. <b>(KASAPA FM)</b> BOX 18167, K.I.A TEL: 0302 - 761668/69 FAX:0302 - 763609	<b>102.5MHZ</b>	ON AIR	ACCRA	COMMERCIAL FM
4.	UNIVERSITY OF GHANA. <b>(RADIO UNIVERSE)</b> BOX 25, LEGON TEL: 0302 - 500782 FAX:0302 - 500788	<b>105.7MHZ</b>	ON AIR	ACCRA	CAMPUS FM
5.	AERO COMMUNICATIONS LTD. <b>(ADOM FM)</b> P.O.BOX GP17207, ACCRA TEL : 0303-204354 EMAIL : INFO@ADOMONLINE.COM	<b>106.3MHZ</b>	ON AIR	ACCRA	COMMERCIAL FM
6.	GHANA COMMUNITY BROADCASTING SERVICES. <b>(RADIO ADA)</b> BOX KA 9482, K.I.A TEL: 0302-516441/2 FAX: 0302-516442 EMAIL: RADIOADA@GHANA.COM	<b>93.3MHZ</b>	ON AIR	ADA	COMMUNITY FM

Of course, with those dates removed, one cannot detect that there are stations whose authorisation have expired and yet are captured as authorised by the NCA while others in the same situation have been shut down. But while changing the data to remove the critical information on dates, they may have forgotten to changes all such they had produced and published on the Authority's website since 2017. All such reports still contained the columns for the dates as reflected the 2019 example above.

Following this dramatic action by the NCA, we decided to continue our probe for transparency formally. So, on July 22, 2020, the MFWA filed an access to information request to the NCA. We did so in exercise of our right under Article 21(1)(f) of Ghana's 1992 Constitution and under Ghana's Right to Information Act, 2019, Act 989.

Our request sought three main pieces of information, which ordinarily should have been proactively publicised by the NCA. For purposes of clarity and understanding by the public, below is the set of information we requested:

1. The full list of all FM radio stations (indicating name of company, name of radio station, location and frequency number) that were shut down by the NCA following the Authority's 2017 FM spectrum audit and in line with the 2018 decision of the Electronic Communications Tribunal.
2. The full list of all authorised FM stations as of the second quarter of 2020, indicating the dates of first authorisation, dates of last authorization renewals, locations, and operational status that is whether they are on air or off air.
3. An explanation for the sudden replacement of its published 2020 second quarter report titled: "List of Authorised VHF-FM Radio Stations in Ghana as at Second Quarter 2020" which contained columns for date of first authorisation and date for last authorisation renewals, with one that now excludes the dates of first authorisation and dates of last authorisation renewals.
4. The full list of all authorised television stations as of the second quarter of 2020, indicating dates of first authorisation, dates of last authorisation renewals, locations and operational status.

In our request letter, we indicated we would like "the requested information compiled in PDF format and delivered to me through email or I should be invited to pick up hard copies or any other format." We also added that "Pursuant to the provisions of Act 989, I would be grateful to receive the requested information within Fourteen (14) days on the receipt of this letter."

The NCA acknowledged receipt of our letter on July 22. It, however, ignored our request as the 14 days passed and there was no word from the Authority. Keen on asserting our rights under the law, we followed up on our request with another letter on August 18.

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On the same day of our follow-up letter, the NCA responded in two different letters via email. The first letter, signed by the Director-General, Mr. Joe Anokye, basically said the Authority was not going to provide the explanations requested in point (3) above and that in respect of the other requests, the Authority was in the process of assessing the requests for further action.

The second letter, which was signed for the Director General by the Acting Director (Legal), Dr. Poku Adusei, requested that we pay the whopping amount of GHC2,000 "as per Section 82 (1) (b) of the Electronic Communications Act, 2008, Act 775, to enable us generate the Search Report."

We found the demand for as high as GHC2,000 very exorbitant, unaffordable and quite contrary to the provisions on fees in the law under which we had made the request, the Right to Information Act, 2019, Act 989. Besides, we found the amount to be exorbitant because the information requested is or should already be in the custody of the Authority and we had indicated our preference for soft copies to be sent to us through a provided email address.

Subsequently, however, the NCA's Acting Legal Director, told the public via social media publications that the Authority was even lenient to have charged GHC2,000 for the requested information. According to him, this was because, per our request, we were seeking to "turn the NCA into its research unit," because as he put it, what we were seeking was a search report from the NCA to answer questions on company names, location, operational status etc. He ended by indicating that producing what we had requested involves "research and sweat."

Read his Facebook post below:



**Poku Adusei**

Both Section 75 of RTI Act and Section 82(1)(b) of ECA empower NCA to levy fees for such requests. The quantum of fees is dependent on the nature of the request. In this case, the request requires NCA to do research and compile data for MFWA. This goes beyond a request for a list as the list is already published on our website. The tenor of MFWA's request is to turn NCA into its research unit. We are therefore very lenient in asking for the payment of 2000ghc. Precedents from the Courts in the cases of the request for information in the bus branding saga and the recent EC procurement matter confirm that the request for information must attract fees. In the present request, it is not just information that MFWA wants, but rather a search report from NCA to answer questions on: company names, location, operational status etc Let's differentiate request for information from request for search report. Whereas the former doesn't involve research the latter involves research and sweat!

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Contrary to the assertions by the Acting Legal Director of the NCA and perhaps unknown to him, the Authority has on its website, the full list of authorised FM stations as of the second quarter 2020. That data as shown in the page above contains the names and address of companies, locations, frequencies, operational status of all the authorised FM stations in the country.

Note that it does not provide information on dates of first authorisation and dates of last authorisation renewal, which is the only additional information we sought in our request in relation to the list of authorised FM stations. The NCA has on its website, a similar data in the same format, for list of authorised TV stations in the country as of second quarter 2020.

So, if the NCA has the data published on its website, why will their Director of Legal, Dr. Poku Adusei, be telling the public that providing the information the MFWA requested will involve “research and sweat?” If the data, as shown above, contains the names and address of companies, location, frequency, and status, why will the NCA have to engage in research that will make them sweat before they produce the same information? The only additional thing we asked for was the inclusion of the dates of first authorisation and dates of last renewal authorisation, which is critical for the purpose of our request and which the NCA had removed following our call and questions.



Is it the case that the information that the NCA has published on its website containing the names and address of companies of all authorised FM and TV stations, their frequencies, locations etc, is not authentic and they will need to do research and sweat to find the correct information? If that were to be the case then we are in trouble with the management of our spectrum. Or is it that the NCA can't find the dates on which the stations were first authorised and the dates on which they renewed their authorisation? If that were to be the case, then again, we are in trouble. But if none of the above is the case, then why should it cost the MFWA a whopping GHC2,000 under an RTI law, to receive the information requested via email? Or is it the cost of data for sending the email?

The other piece of information we requested for was the full list of radio stations that the NCA has shut down following its 2017 FM spectrum audit and in line with the 2018 decision of the Electronic Communications Tribunal. How and why will it require research and sweat on the part of the NCA to have this list? Does it mean the NCA does not have a record of radio stations that the Authority itself had shut down? If this were to be the case then, once again, we are in trouble with how our frequencies are being managed. And we ask again, if the NCA has the list, why should it cost MFWA a whopping GHC2,000 under an RTI law, to receive the list via email? Or is it the cost of data for sending the email?

Let's remember that we made our request under Ghana's RTI Law. Yes, the law makes provisions for payment of fees. But even so, as observed by the RTI Coalition in a recent statement: "Exercising a fundamental human right such as the Right to Information should not be costly; otherwise it is no more a right. It is important for Public Institutions to bear in mind that, public information is already paid for by taxpayers and therefore charging requesters to search for public information is tantamount to double charging."

This is why section 23(3)(d) of the RTI Act provides that "*Where the Information Officer decides to give access; the notice shall state the prescribed fee for the **REPRODUCTION** of information*". The Act goes ahead to provide under section 75(2)(c) that "*Despite subsection (1), a fee or charge shall not be payable for the **REPRODUCTION** of information which is in the public interest.*"

Ladies and Gentlemen of the media, from the above account, it is clear that the NCA's shutting down of radio stations may have been inspired, motivated and driven by other factors other than a fair and transparent management of our radio frequencies. That can be the only explanation for the NCA's claim that it will take them research and sweat to produce the full list of radio stations that it had shut down.

What else could explain why the NCA will dramatically remove vital information from its published data after just a simple call from the MFWA?

What else can explain why the NCA will now want the public to see information on dates of first authorisation and the dates of last authorisation renewal of the FM frequencies?

What else can explain why they are hiding the data from the public?

In defence of our right to access public information and in the interest of the public's right to know and assert their right to access public information same, the MFWA will continue the struggle to access the information requested even if it will mean going to the Court of law to assert this right. Money should not be a barrier to public access to information. The RTI law must be respected by all. The purpose of the RTI law is not to enable public institutions to make money.

Thank you for your attention and we invite you to join us in this important struggle for demand the respect for a fundamental right.

