



94.5 KFM ANNUAL COMPLIANCE REPORT

MARCH 2018

2016/17 ANNUAL COMPLIANCE REPORT

PRIMEDIA (PTY) Ltd BROADCASTING AS 94.5 KFM

LICENCE PERIOD: 18 December 2008 – 17 December 2018

1. PREFACE

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution, the ICASA Act and the Electronic Communications Act of 2005 ("ECA") to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority is to ensure compliance by broadcasters with the terms and conditions of their licence and any relevant legislation and regulations.

The following report is intended to give account of 94.5 KFM's compliance with the terms and conditions as set out in its licence for the 2016/2017 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Broadcasting Languages, Format, General Programming Obligations, Training and Skills Development, Community-Related Obligations, Ownership and Control, South African Music Regulations, Regulations Regarding Standard Terms and Conditions and Universal Service and Access Fund (USAF) Regulations.

2. BACKGROUND

In December 2008, the Authority issued Primedia (Pty) Ltd ("the Licensee") with an Individual Commercial Sound Broadcasting Service licence¹ and a Radio Frequency Spectrum licence² in terms of the ECA.

The Licensee broadcasts as 94.5 KFM and provides a service in the Greater Western and Southern Cape. The radio station is broadcasting from the studios situated in Cape Town and have a central business office at 5 Gwen Lane, Sandown in Gauteng.

¹ 94.5 KFM Broadcasting Service Licence

² 94.5 KFM Radio Frequency Spectrum Licence

According to the Broadcast Research Council of South Africa, the listenership figures ending March 2017 were 726 000³.

3. COMPLIANCE ASSESSMENT

3.1. Control Structure

3.1.1. Ownership and Control

Clause 1 of 94.5 KFM's licence provides that:

"The licence is issued to:

1.1 Name of Company/Entity: Primedia (Pty) Ltd

1.2 Shareholders: Primedia Holdings III Limited

1.3 Ownership held by persons from historically disadvantaged groups: 49.1%"

During the period under review, there were no changes reported by the Licensee to its name, shareholding and HDG structure.

The Licensee was found to be in compliance with clause 1 of its licence.

3.2. Contact Details

Clause 2 of the licence provides details of the contact person for the Licensee. There were no changes reported by the Licensee to its contact details during the period under review.

The Licensee was found to be in compliance with clause 2 of its licence.

3.3 Notices and Addresses

Clause 3 of the licence provides for postal and physical address of the Licensee.

³ <http://www.brcsa.org.za/brc-ram-radio-listening-jul-16-dec-16-oct-16-mar-17/>

There were no changes reported by the Licensee to its principal addresses during the period under review.

The Licensee was found to be in compliance with clause 3 of its licence.

3.4 Name of Station

Clause 1 of the schedule to 94.5 KFM's licence provides that:

"Name of Station: 94.5 KFM".

There were no changes reported by the Licensee to its name during the period under review.

The Licensee was found to be in compliance with clause 1 of the schedule to its licence.

3.5 Geographic Coverage Area

Clause 2 of the schedule to 94.5 KFM's frequency spectrum licence provides that 94.5 KFM's geographic coverage area to be as follows:

"Greater part of in the Western and Southern Cape, as defined in the coverage map attached to the Licensee's radio frequency licence".

The Authority did not received reports suggesting deviance with the defined coverage area. The signal distribution service is conducted by Sentech (Pty) Ltd.

The Licensee was found to be in compliance with clause 2 of the schedule to its licence.

3.6 Broadcast Language (s)

Clause 3 of the schedule to the licence provides that the language of broadcast shall be Afrikaans and English.

94.5 KFM broadcasts in Afrikaans and English as its primary languages. Most of the presenters at the radio stations are conversant in both languages and are also able to engage listeners in both languages of broadcast.

The Licensee was found to be in compliance with its language of broadcast obligation.

3.7 Format

Clause 4 of the schedule to the licence provides that:

"The Licensee shall have programming format of talk and music in an adult contemporary format providing a programming mix of music and information (including coverage of community affairs)".

The Authority's monitoring exercise confirmed that 94.5 KFM broadcasts an adult contemporary programming format of talk and music. Programmes identified also include a mix of music and information of community affairs in and around the Western and Southern Cape.

The Licensee was found to be in compliance with clause 4 of the schedule to its licence.

3.8 Local Content Obligations

Clause 5 of the schedule to 94.5 KFM's licence provides that:

"The Licensee shall ensure at least thirty percent (30%) local content in its music output".

The monitoring exercise revealed that 94.5 KFM plays approximately thirty five percent (35%) of South African Music. The South African artists featured included among others, AKA, Shekinah, Micasa, DJ Zinhle, Lloyd Cele, Prime Circle, Kentphonic, etc.

The Licensee was found to be in compliance with clause 5 of the schedule to its licence.

3.9 General Programming Obligations

Clause 6 of the schedule to the licence provides that:

"6.1 The Licensee shall broadcast a minimum of thirty (30) minutes of news per day between 05h00 and 23h00 during weekdays.

6.2 The Licensee shall include news from the African continent and the related coverage area".

94.5 KFM broadcast news at the top of every hour between 06h00 and 19h00. The Licensee's news bulletins are broadcast for approximately three and half minutes each. The Licensee broadcast approximately forty (40) minutes of news each day during the South African performance period. The following were among the news items identified during the period under review:

- *"It is still unclear whether the embattled ANC Western Cape Chairperson, Marius Fransman, will be prosecuted more than a year after assault claims were levelled against him. The party suspended Fransman for five (5) years after he was accused of sexually harassing a woman while on their way to an ANC event in North West in January 2016";*
- *"The trial of the triple murder accused, Henri van Breda, began in the Western Cape High Court today. The twenty two (22) year old is accused of the murder of his father, Martin, his mother, Theresa and his brother in 2015";*
- *"Die polisie vra die publiek moet hulle help met hulle ondersoek na die dood van 'n twaalfjarige seun van Bonteheuwel. Die leerder aan die Bramble Way Laerskool se lyk is Vrydag naby Netreg-stasie gevind het, met sy hande en bene wat vasgebind is".*

- *"Seventeen (17) people are feared dead in Zimbabwe after a South Africa bound bus crashed into a truck and burst into flames. At least forty three (43) people have been injured, some of them critically, after last night's crash";*
-

The Licensee was found to be in compliance with clause 6 of the schedule to its licence.

3.10 Training and Skills Development Obligations

Clause 7 of the schedule to the licence provides that:

"The Licensee shall spend one percent (1%) of its annual salary payroll over its licence period on staff training and development, particularly on staff from historically disadvantaged groups".

The Licensee reports that, for the period under review, its total annual payroll amounted to twenty-eight million four hundred and fifty two thousand three hundred and forty seven rand ninety-eight cents (R28 452 347.98) with one percent (1%) of the annual payroll amounts to two hundred and eighty four thousand five hundred and twenty three rand forty-eight cents (R284 523.48).

94.5 KFM's training report reflects training which was provided to eighty eight (88) staff members at a cost of four hundred and three thousand seven hundred and sixty rand seventy six cents (R403 760.76), which far exceed the required amount.

The Licensee was found to be in compliance with clause 7 of the schedule to its licence.

3.11 Community - related Obligations

Clause 8.1 of the schedule to the licence provides that:

"The Licensee shall offer community sound broadcasters the following:

8.1.1 programme presenting and production, news, sales, marketing and sound engineering through mentoring and on-the-job training that is, having such staff "shadow" 94.5 KFM's presenters, producers, news reporters, sales representatives, marketing staff and sound engineers while at work.

8.1.2 In-house training by way of internships to cover sales marketing, traffic news, and broadcasting and presentation".

94.5 KFM, together with Cape Talk, reports to have conducted training session for fifteen (15) UCT Radio representatives on 30 August 2016. The session included topics covering programming, news gathering and production, aimed at sharing the licensee's experience in these fields. The Licensee submitted an attendance register⁴ as proof.

The Licensee also reported that they partnered with Cape Talk and hosted City Varsity Students on 08 June 2017. The purpose of the session was to provide students with experience of day to day running of a radio station.

Further, 94.5 KFM hired four (4) interns who received training in areas of IT technical, production, administration and brand marketing.

The Licensee was found to be in compliance with clauses 8.1.1 and 8.1.2 of the schedule to its licence.

Clause 8.2 of the schedule to the licence provides that:

"The Licensee shall:

8.2.1 raise at least R250 000 (two hundred and fifty thousand Rand) in cash and goods annually".

94.5 KFM reports to have raised R500 000 (five hundred thousand rand) in cash and goods which was used to support various community organisations in its coverage area

⁴ Attendance register for training sessions

through initiatives such as the Random Acts of Kindness. The Licensee provided a list of donors and beneficiaries⁵, in its report.

The Licensee was found to be in compliance with clauses 8.2.1 of the schedule to its licence.

8.2.2 provide airtime worth R250 000 (two hundred and fifty thousand Rand) annually, towards supporting community organisations such as those benefiting:

- a) people infected or affected by HIV & AIDS;*
- b) the terminally ill and/or the elderly;*
- c) schools;*
- d) women;*
- e) children;*
- f) animal welfare; and or*
- g) natural/environmental disasters such as fires and floods”.*

94.5 KFM reports to have allocated airtime to the value of R2 878 221.65 (two million eight hundred and seventy-eight thousand two hundred and twenty-one rand sixty five cents) to various organisations through the broadcasting of Public Service Announcements. The airtime was allocated to organization such as those supporting children, schools, terminally ill and animal welfare. The Licensee provided a list of all organizations⁶ that were beneficiaries, in its report.

The Licensee was found to be in compliance with clauses 8.2.2 of the schedule to its licence.

3.12 Ownership and Control

Clause 9.1 of the schedule to 94.5 KFM’s licence provides that:

“The Licensee shall ensure that at least fifty percent (50%) of its board of directors are persons from historically disadvantaged groups”.

⁵ List of Beneficiaries of cash and goods

⁶ List of Organisations allocated airtime

94.5 KFM submits that its Board of Directors comprises of 9 (nine) directors, 5 (five) of whom are from previously disadvantaged groups constituting more than half of the Board of the Directors.

The Licensee was found to be in compliance with clauses 9.1 of the schedule to its licence.

Clause 9.2 of the schedule to 94.5 KFM's licence provides that:

"The Licensee shall ensure that the majority of all senior management and staff are persons from historically disadvantaged groups".

94.5 KFM reports that it is part of Primedia Broadcasting which owns 4 (four) radio stations. The Licensee's senior management has a responsibility over all 4 (four) radio stations. The senior management is made up of Executive Committee and Management Committee which operates across all four radio stations, and a Senior Management team for 2 (two) stations in each city, except for Programme Managers who are station specific.

The Executive Committee and Management Committee is made up of 12 (twelve) people, 5 (five) of which are female constituting 42% (forty two percent) and 5 (five) are black constituting 42% (forty two percent).

For the period under review, 94.5 KFM's senior management was made up of 8 (eight) managers, 4 (four) of which are female constituting 50% (fifty percent) and 4 (four) black constituting 50% (fifty percent).

Of the 20 (twenty) executives and managers, 13 (thirteen) constituting 65% (sixty five percent) are persons from historically disadvantaged groups.

For the period under review, the Licensee's staff compliment was standing at 90 (ninety) people, 60 (sixty) of which were persons from historically disadvantaged groups constituting 78% (seventy eight percent).

The Licensee was found to be in compliance with clauses 9.2 of the schedule to its licence.

4. REGULATIONS

4.1 Compliance Procedure Manual Regulations

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A which reports on all complaints received during the period under review.

94.5 KFM submitted a complaints report in Form 12A as required by the regulations. For the period under review, the Licensee reported to have received 2 (two) complaints, 1 (one) complaint about offensive language in a song, and the other for hate speech. The Licensee reported to have resolved all complaints within 5 (five) days to the satisfaction of the complainants.

The Licensee was found to be in compliance with Compliance Procedure Manual Regulations.

4.2 SA Music Content

Regulation 3.2 of the Regulations on South African Music Content, as published on 31 January 2006, stipulates that:

"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that a minimum of 25% of the musical works broadcast in the performance period consist of South African music and that such South African music is spread reasonably evenly throughout the said period".

The Licensee submitted programme log sheets as required by the Compliance Procedure Manual Regulations and recorded that of the music played during the period under review, an average of 35% (thirty five) was South African.

The monitoring exercise revealed that 94.5 KFM plays approximately thirty five percent (35%) of South African Music. The South African artists featured included among others, AKA, Shekinah, Micasa, DJ Zinhle, Lloyd Cele, Prime Circle, Kentphonic, etc.

The Licensee was found to be in compliance with regulation 3.2 above.

4.3 Standard Terms and Conditions

During the year under review, the Authority did not identify instances of non-compliance by the Licensee with the Regulations regarding Standard Terms and Conditions for Individual Licensees⁷.

The Licensee was found to be in compliance with the above regulations.

4.4 Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund

Regulation 3 (1) of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF)⁸, as published in the Government Gazette, No. 31499 of April 2009, stipulates that:

"Every holder of a Licence granted in terms of Chapter 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of the annual turnover, derived from the licensee's licence activity, to the Fund (the Fund)".

Further, Regulation 3 (3) stipulates that:

"A broadcasting service licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution against its prescribed annual contribution to the Fund"

94.5 KFM's financial year ends on 30 June and they paid their contribution to the Universal Service and Access Fund on 16 August 2017 and submitted proof of payment⁹ thereof. The payment was within the six months after the financial year end as prescribed in the regulations.

⁷ Regulations Regarding Standard Terms and Conditions for Individual Licences

⁸ USAF Regulations

⁹ Proof of USAF contribution

The Licensee was found to be in compliance with the above regulations.

4.5 General Licence Fees Regulations

Regulation 3 (1) of the General Licence Fees Regulations¹⁰ provides that:

"The annual Licence fees prescribed in these regulations and as set out in schedule 2 apply to holders of individual and class ECS Licences, individual and class ECNS Licences and individual commercial BS Licences".

Schedule 2 of the General Licence Fees regulations provides for Licensees to pay an annual licence fee in accordance with their licensed revenue and to be calculated using the set formula, read with the applicable percentages.

Regulation 7(a), 7(b) and 7(c) of Schedule 3 provides that:

- a) Are due annually based on the licensee financial year;
- b) Are due and payable within 6 months from the end of the licensee's financial year;
- c) May only be paid by way of an electronic transfer or via direct deposit into the Authority's bank account".

94.5 KFM's financial year ends on 30 June and they made their licence fees payment on 28 September 2017 and submitted proof of payment¹¹ thereof, as required by the regulations. The payment was within the six months after the financial year end as prescribed in the regulations.

The Licensee was found to be in compliance with the above regulations.

¹⁰ General Licence Fees Regulations

¹¹ Proof of Licence Fees payment

5. CONCLUSION

The Licensee has complied with the relevant regulations and its licence terms and conditions.

6. TERMS OF REFERENCE

Appendix A: 94.5 KFM's broadcasting service licence

Appendix B: 94.5 KFM's frequency spectrum licence

Appendix C: Attendance register for training sessions

Appendix D: List of Beneficiaries of cash and goods

Appendix E: List of Organisations allocated airtime

Appendix F: SA Music Content Regulations

Appendix G: Regulations Regarding Standard Terms and Conditions for Individual Licensees

Appendix H: Universal Service and Access Fund Regulations

Appendix I: Proof of USAF Contribution

Appendix J: General Licence Fees Regulations

Appendix K: Proof of Licence Fees Payment