



BARBETON COMMUNITY RADIO 104.1 FM ANNUAL COMPLIANCE REPORT

MARCH 2018

2016/2017 ANNUAL COMPLIANCE REPORT

BARBERTON COMMUNITY RADIO 104.1 FM

LICENCE PERIOD: 17 OCTOBER 2013 TO 17 OCTOBER 2018

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution¹, the Independent Communications Authority of South Africa Act no 13 of 2000² (ICASA Act) and the Electronics Communications Act no 36 of 2005³ (ECA) and the Broadcast Act no 4 of 1999⁴ 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/or Regulations.

The purpose of the report is to give account of Barberton community radio station's performance 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 Licence Area, Community Participation, Annual General Meeting (AGM), Local News and Information, Programming, Languages, Broadcast Hours, Promises of Performance, South African Music Content Regulations, and Regulations on Standard Terms and Conditions.

2. BACKGROUND

Barberton Community Radio Forum is a community radio broadcasting to Barberton and surrounding areas in the Mpumalanga Province. It was issued a licence to broadcast by the Authority in 2013.

3. COMPLIANCE ASSESSMENT

3.1 LICENSEE

Clause 1 of the licence terms and conditions stipulates that:

¹ The Constitution of the Republic of South Africa Act No 108, 1996

² ICASA Act No: 13, 2000 as amended

³ EC Act No: 36 of 2005

⁴ Broadcasting Act No:4 of 1999

"The Licence is issued to:

- 1.1 Name of the Entity: Barberton Community Radio Forum.*
- 1.2 Name of the Station: Barberton Community Radio Station.*
- 1.3 Control of the Licensee: Control shall vest in the Board of Barberton Community Radio Forum.*

The Licensee confirmed that the name of the radio station is still as stipulated in the licence and that control is still with the Board of Barberton Community Radio Forum.

The Licensee has complied with clauses 1.1, 1.2 and 1.3 respectively.

3.2 Licence Period

Clause 2 of the licence stipulates that:

2.1 The effective date of the Licence is 17 October 2013.

2.2 The licence shall expire on 17 October 2018.

At the time of writing this report, the licence was up to date and they are due for renewal before October 2018.

The Licensee has complied with the clauses 2.1 and 2.2 respectively.

3.3 Licence Area

Clause 3 of the licence stipulates that:

"The Licensee shall provide services to Barberton and surrounding areas in Mpumalanga Province as set out in the Licensee's radio frequency spectrum licence⁵".

The Licensee confirmed that the radio station is still broadcasting in the areas as stipulated in the licence.

The Licensee has complied with clause 3 of its licence.

3.4 Community Participation

Clause 4.1 of the licence stipulates that:

⁵ <http://www.brcsa.org.za/brc-ram-radio-listening-jul-16-dec-16-oct-16-mar-17/>

"The Licensee shall provide services to a geographic community residing within the geographic coverage area specified herein".

The Licensee confirmed that it provides its services to the community as mentioned above. The Authority also confirms the above as it was identified in the programme recordings submitted by the Licensee.

The Licence has complied with clause 4.1 of its licence.

Clause 4.2 of the licence stipulates as follows:

"The Licensee shall provide for the participation of community members in the affairs of the station in the following ways".

"4.2.1 The Licensee shall hold at least 2 (two) meetings annually with its community on programming and programme-related matters for the selection and provisioning of programmes"; and

"4.2.2 The Licensee shall furnish the Authority with proof of such meetings as well as the attendance thereof by members of the community."

During the period under review, the Licensee did not hold any meetings with the community regarding programming and programme related matters. The Licensee is fully aware of the requirements stated in the above clauses, through previous compliance inductions that the Authority conducted, the last induction meeting with the Licensee was on 12 September 2014.

The Licensee did not comply with clause 4.2.1 and 4.2.2 respectively.

Clause 4.2.3 of the licence stipulates as follows:

"The Licensee shall hold Annual General Meetings (AGM) for the following purposes:

4.2.3.1 To provide feedback on the Licensee's compliance with the licence conditions;

4.2.3.2 To provide feedback on the Licensee's operational and financial performance; and

4.2.3.3 To elect members of the controlling structure e.g. Board of Directors, Trustees etc. subject to the licensee's founding documents".

The Licensee convened its Annual General Meeting on 30 September 2017, this was a reporting AGM. In the minutes submitted⁶, the Licensee reported on, amongst other things, compliance with the licence terms and conditions and operational matters. However, emphasis was placed

⁶ Minutes of the Annual General Meeting held 30 September 2017

on coverage area challenges, that the Licensee is facing. The Licensee has since submitted to the Authority the relevant application forms requesting an extension of the coverage area to allow them to cover the entire Barberton area, as stipulated in the licence. The Licensee also informed the community about the intention to remove Afrikaans as one of the language(s) of broadcast due to the fact that there is already a neighbouring radio station, which provides for the needs of the Afrikaans speaking community.

The Licensee has complied with clauses 4.3.1, 4.3.2 and 4.3.3 respectively.

3.5 PROGRAMMING

Clause 5.1 of the licence stipulates that the Licensee shall provide programming as follows:

3.5.1 Local News and Information

Clause 5.1.1 of the licence stipulates that:

"The Licensee shall broadcast a total of 24 minutes of local news per day."

The Authority's monitoring exercise revealed that the radio station broadcast news bulletins in siSwati and English languages. Each news bulletin is for a maximum of five (5) minutes and the total number of minutes of local news monitored for the period under review is approximately twenty-six (26) minutes. Broadcast of National news was also detected, the topics covered include the State of the Nation Address (SONA) by President Zuma and the tragedy surrounding the deaths of psychiatric patients who were moved to NGO's from 'Life Esidimeni'.

The following are some of the news extracts identified during monitoring:

"The police of White River in Mpumalanga are on the lookout of 3 suspect who are wanted for robbing a family at the nearby farm in White River. Police spokesperson, Cynthia Mbokodo said that the 3 suspect invaded the house in the farm and pointed the family who were preparing for work and school with a gun and demanded the key of the safe. Mbokodo says that the family was all tied with a robe at the back and the thieves opened the safe and took an undisclosed amount with. They are reported to also taking their cell phones and TV screen. Mbokodo has appealed to the community to be on the lookout for these thieves and that they should report anything that they are suspicious of".

"The body of a 10 year old boy who went missing after being beaten by a crocodile from the local river in Bushbuckridge, Mpumalanga was found by the police. The police reported that the boy was with his friends watching over the livestock of their family in a nearby river when

the crocodile attacked him. The other boys managed to escape and he was unfortunately captured by this wild animal.

The Kruger National Park spokesperson mentioned that the recent heavy rains has caused the rivers to be full and as result of that, some of the crocodiles were swept away by the waters”.

The Licensee has complied with clause 5.1.1 of its licence.

3.5.2 South African Music Content

Clause 5.1.2 of the licence stipulates that:

"The Licensee shall broadcast 40% South African music content".

The Authority's monitoring exercise revealed that the radio station broadcasts a maximum of 65% of South African music content which exceed the quota mentioned above. The radio station plays different genres of music such as Kwaito, traditional, Gospel, House, R&B and others.

The following South African Artists were identified amongst others during the period under review: *Black Coffee featuring Ringo Mandlingozi- 'Ndiyabulela'; Kelly Khumalo - 'Thol'uthando'; Magesh - 'Sgubhu'; Busi - 'Easy to love'; Babes Wodumo - 'Wololo'; Black Motion - Omodudu'; Mzambiya and Percy - 'Kwaito'; Lundi Tamara - Ngiyahlanzwa'; Noluthando - 'Invuselelo' amongst others.*

The Licensee has complied with clause 5.1.2 of its licence.

3.5.3 Talk vs Music

Clause 5.1.3 of the licence stipulates that:

"The Licensee shall have a programming format of talk (60%) and music (40%)

The Authority's monitoring exercise revealed that the Licensee is providing a community driven broadcasting service in a talk and music format as required by the licence. The findings from the programme recordings show that the Licensee has maintained the format of talk (60%) and music (40%).

The Licensee has complied with clause 5.1.3 of its licence.

3.5.4 Language(s) of broadcast

Clause 5.1.4 of the licence stipulates that the languages of broadcast are as follows:

5.1.3.1 siSwati – 60%;

5.1.4.2 Afrikaans – 20%; and

5.1.4.3 English – 20%.

The Authority's monitoring exercise observed that the radio station broadcast mostly in siSwati and English. The monitoring exercise did not detect any programmes in the Afrikaans language. As mentioned above, at the AGM the Licensee did inform the community that the radio station does not need to broadcast in Afrikaans due to the fact that there is a neighbouring radio station, which caters for the Afrikaans speaking community. However, the Licensee has not submitted an application to amend the languages of broadcast to the Authority. The Licensee is fully aware that they should have submitted an application to amend as prescribed in the Process and Procedure Regulations for Class licences. The Licensee has been informed of the relevant process it needs to follow to make the necessary changes to its licence.

The Licensee did not fully comply with clause 5.1.4 of its licence.

3.6 Log sheets

Clause 5.2 of the licence stipulates that:

"The Licensee shall keep a log of programmes broadcast which must be submitted on a monthly basis to the Authority. A pro-forma of the log to be kept will be supplied by the Authority".

The Authority confirms that the Licensee has not been submitting the log sheets as stipulated above.

As mentioned previously, the Authority has conducted a compliance induction with the Licensee previously and therefore the Licensee is fully aware of its obligations regarding all licence terms and conditions.

The Licensee did not comply with clause 5.2 of its licence.

3.7 CONTACT DETAILS

6.1 "The contact person for the Licensee shall be:

6.1.1 Name: Mduduzi Zulu

6.1.2 Tel: 013 712 6596

6.1.3 Fax: 013 712 6591

6.1.4 Cell: 072 539 5901

6.1.5 Email: bcr104.1fm@mweb.co.za

Clause 6.2 of the licence stipulates that:

"Should the Licensee propose to replace the person so designated, the Licensee shall notify the Authority in writing within seven (7) days after appointing the new designate person.

The Licensee confirmed that the contact details has not changed and the Authority also confirms that the details are still the same. This was verified with communications between the Authority and the Licensee.

The Licensee has complied with clause 6.2 of its licence.

3.8 NOTICES AND ADDRESSES

7.1 The Licensee chooses the following as its principal addresses:

7.1.1. *Postal Address:* P.O. Box 9163
Barberton
1300

7.1.2 *Physical Address:* No 2 Nagpur Street
Catheville Area
Barberton
1300

The Licensee confirmed that there has not been any change with regard to contact details, notices and addresses as per clause 6 and 7 respectively. This was also confirmed during the previous station compliance visits.

The Licensee has complied with clause 6 and 7 respectively.

3.9 BROADCAST HOURS

Clause 6 (1) and 10A (3) of the Standard Terms and Conditions stipulates that:

"A Licensee must provide broadcast services for twenty four (24) hours per day unless the Authority has been notified of a shorter schedule of daily broadcast operations".

"A Licensee must clearly identify itself at intervals of not more than thirty (30) minutes".

The Authority's monitoring exercise through the perusal of the programme recordings reveals that the radio station broadcast for 24 hours. The performance period which the Authority

monitors compliance is from 05h00 to 23h00. The radio station clearly identifies itself regularly on all the programmes.

The Licensee has complied with Regulations 6 (1) and 10A (3) of the Standard Terms and Conditions Regulations.

4. REGULATIONS

4.1 Code For Persons With Disabilities

Clause 3.1 (a) of the Code For Persons With Disability of 2007 provides as follows:

"Broadcasting service Licensees must ensure that their services are made available and accessible to people with disability."

During the station visit, the Authority observed that the premises of the radio station are accessible to people with disabilities. Further, the programming content does not discriminate against people with disability.

The Licensee complies with regulation 3.1(a) of the Code For Persons With Disabilities.

4.2 Compliance Procedure Manual – Form 12A

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A which reports on all complaints received during each financial year. During the period under review, the Authority has not received any complaints from both the Board, station management and the community of Barberton.

The Licensee did not comply with the Compliance Procedure Manual Regulations.

4.3 PROHIBITION of GRANTING SERVICE LICENCE TO PARTY POLITICAL ENTITIES

Section 52 of the ECA stipulates that:

"Prohibition on granting of broadcasting service licence to party-political entities – No broadcasting service licence may be granted to any party, movement, organisation, body or alliance which is of a party political nature".

Regulation 7 (a) of the Standard Terms and Conditions Regulations stipulates that:

"A Class Licence must be owned by community members with the Board of Directors as custodian of the licence".

The Licensee confirmed that the control of the radio station is with the Board of Directors as stipulated on the licence.

The Licensee also confirmed that the Board of Directors members are not office-bearers of any political party.

The Licensee has complied with all section 52 of the ECA and the Standard Terms and Conditions respectively.

5. CONCLUSION

The Licensee has complied with most of the requirements as set out in its licence however the Licensee must improve in the following clauses:

1. Clause 4.1 – Community participation
2. Clause 5.1.4 – Languages
3. Clause 5.2 – Log sheets

The Authority will continue monitoring the Licensee's compliance to ensure that it fully complies with its licence terms and conditions. The Authority will also ensure that the Licensee follows the correct procedures to amend certain clauses in its licence.

6. TERMS OF REFERENCE

Appendix A: Sound broadcasting service licence;

Appendix B: AGM minutes and attendance register;

Appendix C: Regulations on Standard Terms and Conditions for Class Licences; and

Appendix D: Code For Persons With Disabilities.