



EAST COAST RADIO ANNUAL COMPLIANCE REPORT

MARCH 2018

2016/17 ANNUAL COMPLIANCE REPORT

East Coast Radio (Pty) Ltd

Licence Period: 17 December 2008 – 16 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, the Electronic Communications Act (ECA) and the Broadcasting Act to regulate broadcasting activities in South Africa in the public interest. Among the responsibilities of the Authority is the task to ensure compliance by broadcasters with the terms and conditions of their licence, the ECA, the ICASA Act, the Broadcasting Act and any other relevant legislation or regulation.

The following report discusses East Coast Radio (Pty) Ltd's (East Coast Radio, the Licensee) 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 participation by Historically Disadvantaged Individuals (HDI), programming, format, news and information, local content obligations, language(s), South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions, Code on People with Disabilities, Universal Service and Access Fund (USAF) Regulations and the General Licence Fee Regulations

2. BACKGROUND

East Coast Radio started out as Radio Port Natal (RPN Stereo) back in 1967. In 1994, what was then rebranded as RPN Stereo was sold to the Kagiso Media Group. During the 2008 licence conversion, the Authority converted the Individual Broadcasting Service Licence belonging to Kagiso Media group into a 10-year service licence and this Licensee has gone from strength to strength since those days. To date, East Coast Radio boasts a listenership estimated at almost 1.5 million listeners. The Licensee's success has been enjoyed by a lot of locally (KwaZulu-Natal) based musicians and charity organisations throughout its coverage area.

3. COMPLIANCE ASSESSMENT

3.1 Licensee

Clause 1 of East Coast Radio's licence¹ reads as follows:

- "1.1 Name of Company/Entity: *KTH Media Investments (Pty) Ltd.*
- 1.2 Shareholders: *KTH Media Holdings (Pty) Ltd 100%*
- 1.3 Ownership held by persons from historically disadvantaged groups: *60.07%*

The Licensee confirms that East Coast Radio is a wholly owned subsidiary of KTH Media Holdings (Pty) Ltd.

The Licensee was found to be in compliance with clause 1.1, 1.2 and 1.3 of its licence.

3.2 Name of Station

Clause 1 of East Coast Radio's schedule to the licence prescribes that the name of the station shall be:

"East Coast Radio"

All communication submitted by the Licensee indicates that name of the station is East Coast Radio. The Licensee's on air profile also features jingles that confirm that the name of the radio station is East Coast Radio.

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

3.3 Geographic coverage area

Clause 2 of East Coast Radio's schedule to the licence provides that the coverage area shall be as follows:

"KwaZulu-Natal, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence²".

¹ Appendix A: East Coast Radio's Service Licence

² Appendix B: East Coast Radio's Frequency Spectrum Licence

The Licensee maintains that it broadcasts in KwaZulu-Natal and as specified in their radio frequency spectrum licence. In the year under review, the Authority received no complaints indicating interference by the Licensee in areas outside its footprint.

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

3.4 Broadcast Language

According to clause 3 of East Coast Radio's schedule to the licence; the Licensee's language of broadcast shall be:

"Principal Language: English"

The Authority's monitoring exercise found that East Coast Radio broadcasts all its programmes in English.

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

3.5 Format

Clause 4 of East Coast Radio's schedule to the licence contains the following obligation:

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

East Coast Radio submits that its programming format is in an adult contemporary manner. The Licensee adds that it mostly lines up adult contemporary music artists like *UB40, Celine Dion, Lionel Richie, Phil Collins* and others.

The monitoring exercise carried out on the Licensee's programming profile confirms that East Coast Radio's music line up is as reported by the Licensee and that information is the primary purpose of its existence. From its news offerings and information sessions to its music only programmes, it becomes evident that the Licensee conforms to its prescribed format.

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

3.6 Local Content Obligations

Clause 5.1 of East Coast Radio's schedule to the licence stipulates that:

"The Licensee shall adhere to a four-point plan namely:

- 5.1.1 supporting live music performances;*
- 5.1.2 profiling South African Composers;*
- 5.1.3 engaging in joint promotions and competitions with record companies and advertisers; and*
- 5.1.4 playing and promoting local music demonstration tapes."*

East Coast Radio gave its support to live music performances by featuring local artists in their music event. In the year under review, East Coast Radio reports to have profiled seventy-seven (77) South African composers and musicians among whom was:

- Apple Gulle,
- Majozi,
- Nasty C,
- Mi Casa and many others.

According to the Licensee, this success was achieved through various interviews, concerts and special features at the Licensee's events.

Furthermore, the Licensee's attempts to comply with the obligation to engage record companies and advertisers resulted in East Coast Radio profiling various artists and videos on the digital platforms of East Coast Radio.

Lastly, East Coast Radio's weekly offering of "Play Local" serves as a platform wherein the Licensee features new artists. This is done by way of in studio music teasers and in-depth interviews on the new artists. The programme "Play Local" features every Sunday between 18h00 and 21h00. More interviews were observed on other shows such as East Coast Radio Urban between 18h00 and 21h00 from Monday to Thursday.

East Coast Radio was found to have complied with clause 5.1 and the sub clauses of its licence.

Clause 5.2 further stipulates that:

"The Licensee shall host:

- 5.2.1 at least one East Coast Radio live music concert; and*
- 5.2.2 an event to showcase South African musicians, at least one of whom must be from KwaZulu-Natal".*

In the year under review, East Coast Radio hosted the Durban Day on 23 October 2016 (clause 5.2.1).

According to East Coast Radio's submissions, the Licensee hosted several music events and in some instances partnered with various promoters in its quest to comply with this clause. The following music events were hosted by East Coast Radio either solely or with the event promoters:

Music Event	Date	KZN Musician(s) Featured
1. Mother of All Parties	2 July 2016	Emtee
2. Durban Day	23 October 2016	NA
3. Essence Festival	12-13 November 2016	Babes Wodumo, Ntokozo Mbambo, Thobekile, DJ Tira, DJ Zintle and others.
4. Durban Braai Day	26 December 2016	Gangs of Ballet, K.O and DJ Sox
5. Music at the Lake	28 January 2017	Jeremy Loops
6. Splashy Fen OB	15-16 April 2017	Babes Wodumo, Proffessor, Lvovo and others

East Coast Radio was found to have complied with clause 5.2 and the sub clauses of its licence.

3.7 General Programming Obligations

Clause 6.1 of the Licensee's schedule to the licence provides that:

"The Licensee shall spend a minimum of R1 000 000 (one million Rand) per annum on the production and presentation of news".

East Coast Radio reports to have spent at least R4 069 531.00 in its efforts to comply with clause 6.1 of the licence. According to the Licensee's reporting, at least R2 768 650.00 (68% of the overall spent) was spent on payments of salaries of persons working in the news team which included interns, while the balance was spent on external sources and correspondents for the production of local news.

The Licensee complied with clause 6.1 of the Licence.

Clause 6.2 of the licence stipulates that:

"The Licensee shall emphasise local and regional news".

According to the Licensee's submissions, East Coast Radio's local and regional news was at an average of 42% of the licensee's overall news output. This then presupposes that the bulk measured against national, African and international news stories of the Licensee's news output is local and regional news.

The monitoring exercise conducted indicated that the Licensee's local and regional news output is at an average of 51% against the origin of other news items.

Among the local and regional news items monitored were the following excerpts:

- *"Three children have died in the fire in [audio unclear], west of Durban. KZN Emergency Officials say the fire broke out at [audio unclear] Road informal settlement this morning. The EMS's, Robert McKenzie, said the girls were aged 2, 3 and 6.*
- *The rape survivor has made a plea to men who rape. [Cross over to a clip of Mandisa]. Mandisa Madikane was raped at the age of 6 and then again at the age of 21 when her drink was spiked. Relaying her own experience during the closing plenary of the HIV Aids Conference in the Durban ICC; the HIV Aids activist encouraged rape survivors to speak out. [Cross over to another clip of Mandisa Madikane] Madikane who is also a film maker has just finished her second documentary about being a pregnant lesbian in the township.*
- *A nine month old baby who was kidnapped in Phoenix North of Durban last week has been found alive and his alleged abductor arrested. The baby boy disappeared with his mother's friend last week Saturday. Police say she had asked the child's mother if she could "borrow" the child for her trip to the mall. SAPS Spokesperson, Nqobile Gwala, said the suspect was arrested yesterday and charged with kidnapping. Gwala said the boy is unharmed and currently in a place of safety.*

East Coast Radio was found to be in compliance with clause 6.2 of its licence.

Clause 6.3 of the licence provides:

"The Licensee shall employ a news team specifically for the production of local news."

According to East Coast Radio's annual report; the Licensee employs at least fourteen (14) individuals in the news team as follows:

- 1x News Editor

- 1x Senior News Anchor
- 1x News Anchor
- 3x Journalists
- 2x Interns
- 3x News Freelancers
- 1x News Admin Assistant
- 1x Online Journalist
- 1x Head of Sport

East Coast Radio was found to be in compliance with clause 6.3 of its licence.

While Clause 6.4 of the licence prescribes as follows:

"The Licensee shall broadcast news on a regular basis for a minimum of thirty (30) minutes each day between 05h00 and 23h00."

According to the Licensee's report, East Coast Radio schedules at least fifty-four (54) minutes per day including sports news.

The Authority's monitoring exercise found that the Licensee programmes thirteen (13) full news bulletins per day and each bulletin has a duration of approximately three (3) minutes. The calculations in this regard concluded that the Licensees broadcasts approximately forty (40) minutes of news each day between 05h00 and 23h00.

The monitoring of the Licensee's programming profile found the following news excerpts:

- *"Limpopo police have taken a 17 year old girl into custody after she allegedly stabbed to death a man who tried to rape her. According to police, the alleged would be rapist accosted the teenage girl while she was walking to a tavern in Sophia Village in the early hours of yesterday morning. They say, when the man tried to overpower her, she fought back and stabbed him with a knife the man had on him. The girl later handed herself over to police and is due in court today."*
- *The Caribbean Island of Puerto Rico, an unincorporated US territory, has voted overwhelmingly in favour of Statehood in a referendum. US President, Donald Trump, indicated in his presidential campaign that he was open to Puerto Rico officially becoming one of the states of the United States of America. Ninety Seven Percent of the vote favoured statehood, but voting participation was only 23 percent."*

- *Three children have died in the fire in [audio unclear], west of Durban. KZN Emergency Officials say the fire broke out at [audio unclear] Road informal settlement this morning. The EMS's, Robert McKenzie, said the girls were aged 2, 3 and 6.*
- *The rape survivor has made a plea to men who rape. [Cross over to a clip of Mandisa]. Mandisa Madikane was raped at the age of 6 and then again at the age of 21 when her drink was spiked. Relaying her own experience during the closing plenary of the HE Aids Conference in the Durban ICC; the HIV Aids activist encouraged rape survivors to speak out. [Cross over to another clip of Mandisa Madikane] Madikane who is also a film maker has just finished her second documentary about being a pregnant lesbian in the township.*
- *A nine-month old baby who was kidnapped in Phoenix North of Durban last week has been found alive and his alleged abductor arrested. The baby boy disappeared with his mother's friend last week Saturday. Police say she had asked the child's mother if she could "borrow" the child for her trip to the mall. SAPS Spokesperson, Nqobile Gwala, said the suspect was arrested yesterday and charged with kidnapping. Gwala said the boy is unharmed and currently in a place of safety.*

The Licensee complied with clause 6.4 of its licence.

Clause 6.5 of the licence provides that:

"Should the Licensee source news material from a source other than itself, the source(s) thereof shall be disclosed during the news broadcast".

East Coast Radio discloses news material that it obtains from sources other than its journalists during the relevant news broadcasts. The Licensee's news sources are reported to be:

- Online Newswires;
- Sky News
- Local and International News correspondents

East Coast Radio was found to be in compliance with clause 6.5 of its licence.

3.8 Training and Skills Development Obligations

Clause 7.1 of the Licensee's schedule to the licence prescribes the following:

"The Licensee shall spend at least R300 000 (three hundred thousand Rand) on training and skills development for persons from historically disadvantaged groups."

East Coast Radio cites its commitment to the development of the individuals in its personnel. In this regard, the Licensee reports paying out in excess of the required amount by R309 324.00 in its training of "persons from historically disadvantaged groups".

Accordingly, the Licensee was found to be in compliance with clause 7.1 of its licence.

Clause 7.2 adds the following obligation:

"The Licensee shall budget R335 000 (three hundred and thirty-five thousand Rand) for staff development annually over the licence period of which five percent (5%) must be spent on training."

The table below illustrates East Coast Radio's compliance with the clause above:

Area of Training	Expenditure Per Training Field (as at end June 2017)
1. Sales	R291 343
2. News	R70 078
3. Marketing	R73 691
4. Programming	R267 870
5. Engineers	R6 500
6. Finance and Administration	R34 401
Overall Training Spend	R743 883

Accordingly, East Coast was found to be in compliance with clause 7.2 of its licence.

Clause 7.3 of the licence provides as follows:

"The Licensee shall provide funding for at least two (2) employees to obtain international training and exposure, with at least one (1) of whom must be a historically disadvantaged person".

In the year under review, East Coast Radio submits to have sourced the services of an international consultant for training of its employees. Phil Dowse was stated as the International Consultant, he provided training to thirty-two (32) employees at East Coast

Radio and at least 72% of the trained personnel were individuals from historically disadvantaged groups.

Accordingly, the Authority needs to explain its interpretation of this obligation and put forth such an interpretation to the Licensee; otherwise the provisions of clause may be lost in translation. As it is, the clause could be translated to mean that two (2) of the employees within the Licensee, should travel abroad for training and at the least one (1) must be a Historically Disadvantage Person.

In the absence of the Authority's distinct interpretation of the clause and on the basis of the Licensee's interpretation **the Authority concludes that East Coast Radio has complied with clause 7.3 of its licence.**

Clause 7.4 of the licence stipulates that:

"The Licensee shall budget R1 000 000 (one million Rand) annually for news, at least five percent (5%) of which must be spent on journalism training and news gathering within the news department."

In the year under review East Coast Radio reports to have spent R4 069 531.00 on the production and presentation of news. East Coast Radio also spent at least 37.5% of the budgeted amount for training on journalism training and news gathering with the news department. In total, at least R375 207 was used by this department in accordance with the requirement of this clause.

East Coast Radio was found to have complied with clause 7.4 of its licence.

Clause 7.5 of the licence prescribes that:

"The Licensee shall provide at least R128 000 (one hundred and twenty-eight thousand Rand) annually to be used for the annual broadcasting engineering internship(s) to persons from historically disadvantaged groups."

In the year under review, the Licensee report to have spent at least R199 190 on engineering internships for persons from historically disadvantaged groups.

The Licensee was found to be in compliance with clause 7.5 of its licence.

Clause 7.6 of the licence stipulates that:

"The Licensee shall provide an annual internship in the news department to the value of R100 000 (one hundred thousand Rand) to:

- a) A person from a historically disadvantaged group; and*
- b) A person from a KwaZulu-Natal based community sound broadcasting service Licensee.*

In terms of East Coast Radio's submission; the Licensee spent R216 251.00 in payment of interns and their mentors in the news department. The Licensee's report gave no details of having had an intern who is a person as described in clause 7.6(b) of the licence. Accordingly, this omission is regarded as the Licensee's way of reporting that in the year under review, East Coast Radio did not train any person who is from a KwaZulu-Natal based community sound broadcasting service Licensee.

On the basis that there is no report on the Licensee housing of an intern from a KwaZulu-Natal based community sound broadcasting service Licensee; the **Licensee failed to comply with Clause 7.6 (b).**

3.9 Ownership and control structures of the Licensee

Clause 8.1 of East Coast Radio's schedule to the licence provides:

"The Licensee shall maintain at least thirty-five percent (35%) control of the station within the geographic coverage area."

Clause 8.1 is no longer applicable as the Authority approved the Licensee's exemption on 24 March 2005.

Clause 8.2 stipulates the following obligation:

"The Licensee shall ensure that there are [at] least two (2) women on its Board of Directors, at least one of whom is an independent Black woman with no relationship to the shareholders."

East Coast Radio submits that it has only one woman serving on its Board of Directors and that she is an independent Black woman with no relationship to the shareholders.

The directors of Kagiso Media (Pty) Ltd are as follows:

Name	Position with the BoD	Gender	Race
1. Mr V. Nkonyeni	Chairman (Non-Executive)	Male	Black

2. Mr MJ Harris	Chief Executive Officer	Male	Black
3. Mr TS Setshedi	Chief Financial Officer	Male	Black
4. Mr HI Applebaum	Independent Director	Male	White
5. Ms MR Motanyane-Welch	Independent Director	Female	Black
6. Mr R Govender	Non Executive Member	Male	Black
7. Mr AF Paruk	Independent Director	Male	Black
8. Mr DS Mtshali	Company Secretary	Male	Black

The clause prescribes that “the Licensee shall ensure that [at] least two (2) women...” serve in the directorship of East Coast Radio.

On the basis of the Licensee’s reports, the Authority concludes that East Coast Radio failed to comply with clause 8.2 of its licence.

Clause 8.3 of the licence provides:

“Until the publication of the ownership and control regulations, the Licensee shall maintain at least fifty percent (50%) ownership and control of the station by persons from historically disadvantaged groups.”

According to the Licensee’s annual submissions; East Coast Radio is a division of Kagiso Media (Pty) Ltd and the entity owns 100% of KTH Media Holdings (Pty) Ltd).

The Licensee was found to be in compliance with clause 8.3 of its licence.

4. REGULATIONS

4.1 Compliance Procedure Manual Regulations

4.1.1 Form 12A: Complaints Report

East Coast Radio is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A which reports on all complaints received in the course of each financial year. In December 2017, the East Coast Radio submitted its complaints report in accordance with this regulation.

The Licensee was found be in compliance with the above mentioned regulation.

4.2 Code for Persons People with Disabilities

Clause 3.1(a) of the Code for Persons with Disability of 2007 stipulates that:

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

East Coast Radio's services were observed as available and accessible to people with disabilities except for the hearing impaired. The nature of the service is audio and it may mostly be a challenge for the hearing impaired to access.

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

4.3 South African Music Content Regulations

Regulation 3.2 of the Regulations on South African Music Content³ 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".

According to East Coast Radio's programming log sheets⁴, the Licensee plays at least 26% South African music in its profile. The Authority's monitoring exercise found that East Coast Radio's on air profile carries a fair amount of South African music. Among those found during monitoring were: *Shekhinah, AKA, Casper Nyovest, Micasa, Donald, Elvis Blue, DJ Chinaman, Anathi, Freshly Ground, Mafikizolo, Bongo Muffin* and others.

The Licensee was found to be in compliance with regulation 3.2 of the Regulations on South African Music Content.

4.4 Universal Service and Access Fund

Regulation 3(1) stipulates that:

³ Appendix C: South African Music Regulations

⁴ Appendix D: East Coast Radio's Programming Log Sheets

"Every holder of the 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, to the Fund". (See appendix G)⁵.

Regulation 3(2) stipulates that:

"A BS licensee who has paid an annual contribution to the MDDA must set off that contribution against its USAF contribution, provided that the MDDA contribution and the USAF contribution against which it is set off are for the same financial year".

East Coast Radio paid its contribution to the Universal Service and Access fund as prescribed by the Regulations Regarding the Universal Service and Access Fund.

The Licensee was found to be in compliance with Universal Service and Access Fund Regulations.

4.5 ICASA General Licence Fees Regulations⁶

Regulation 2 of Schedule 3 of the ICASA General Licence Fees Regulations as published in the Government Gazette No. 36323 in March 2013 states as follows:

"All licence holders must submit within six (6) months of their financial year end:

- a) audited Annual Financial Statements, or*
- b) financial statements signed by the accounting officer of the licensee where the licensee is not legally obliged to provide audited financial."*

According to the Authority's records, East Coast Radio failed to submit its Audited Financial Statements within the stipulated time frame. In terms of the above regulatory obligation East Coast Radio was supposed to have submitted its financial statements – for the year ended June 2017 on 31 December 2017. To this end and at the time of the finalization of this report the Licensee's Audited Financial Statements were not received by the Authority as per the provisions of this Regulation.

East Coast Radio failed to comply with Regulation 2 of Schedule 3 of the ICASA Licence Fee Regulations.

Regulation 3(1) of the ICASA General Licence Fees Regulations provides as follows:

⁵ Appendix E: Universal Service and Access Fund Regulations

⁶Appendix F: ICASA General Licence Fee Regulations

"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 Licences, Individual and Class ECNS licences and Individual Commercial BS licences".

Regulation 5 of Schedule 3 of the Regulations further provides as follows:

"Where a legal entity holds any combination of a BS Licence, ECS Licence and or/or ECNS Licence, such entity may calculate the licence fee based on the information contained:
a) On the audited Annual Financial Statements of the licensed entity."

While Regulation 7 of Schedule 3 makes the following prescriptions:

"Annual Payments

- a) are due annually based on the Licensee's 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."*

East Coast Radio paid its annual licence fee as per the provisions made by this regulation.

The Licensee was found to be in compliance with the ICASA General Licence Fee Regulations.

5. CONCLUSION

East Coast Radio failed to comply with clause 7.6(b) and 8.2 of its licence. East Coast Radio also failed to comply with Regulation 2 of Schedule 3 of the ICASA General Licence Fee Regulations. The Licensee will be advised of the Authority's findings in this regard and will be given a deadline to comply, failing which alternative measure will be employed.

6. TERMS OF REFERENCE

Appendix A: East Coast Radio's broadcasting service licence;

Appendix B: East Coast Radio's Frequency Spectrum Licence;

Appendix C: South African Music Content Regulations;

Appendix D: East Coast Radio's General Log Sheets;

Appendix E: Universal Service and Access Fund Regulations; and

Appendix F: General Licence Fee Regulations.