



VUMA FM ANNUAL COMPLIANCE REPORT

MARCH 2018

2016/2017 ANNUAL COMPLIANCE REPORT

Vuma FM (Pty) Ltd broadcasting as VUMA FM

Licence Period: 25 May 2012 -24 May 2022

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution,¹ the ICASA Act of 2000,² the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority is to monitor compliance by broadcasters with the terms and conditions of their licence and any relevant legislation and regulations.

The purpose of the report is to give an account of Vuma FM'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 the Geographic Coverage, Language(s), Format, Local Content Obligations, General Programming Obligations, Training and Skills Development Obligations, Finances, South African Music Content Regulations, Regulations regarding Standard Terms and Conditions, Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund and General Licence Fees Regulations.

2. BACKGROUND

Vuma FM is an Individual Sound Broadcasting Service Licensee broadcasting from Durban in Kwa-Zulu Natal. The Authority issued Vuma FM with its first licence on 25 May 2012. According to the Broadcast Research Council of South Africa, the listenership figures for the last quarter of the period under review was 62000.⁵

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

² Act No. 13 of 2000, as amended.

³ Act No. 36 of 2005.

⁴ Act No. 4 of 1999.

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

3. COMPLIANCE ASSESSMENT

3.1. Ownership and Control

Clause 1.1 of the licence provides that:

"Name of the Company/Entity: Vuma FM (Pty) Ltd"⁶.

The radio station confirms that the name of the Licensee is Vuma FM (Pty) Ltd.

The Licensee complies with clause 1.1 of its licence.

Clause 1.2 of the licence states as follows:

"Shareholders:

KNI - 13%;

Sisulu Family Trust – 15%;

Rita Maud Motanyane – 4%;

Mr Lincoln Matjele – 2%;

Mr Muzi Majozi – 2%;

Pastor Sizwe Daphne Chili – 2%;

Reverend Abe Sibiyi – 2%; and

Times Media Pty (Ltd) – 60%"

In 2015/2016 financial year, the Licensee reported that Vuma FM's shareholding had changed to the following:

KNI - 13%;

Sisulu Family Trust – 15%;

Times Media Pty (Ltd) – 72%"⁷.

During the period under review, the Licensee states that Vuma FM is wholly owned by Times Media that is 100% owned by the Times Media. However, the notification was not submitted to the Authority as required by Standard Terms and Conditions.

The Licensee does not comply with the shareholding structure as stipulated above and failed to notify the Authority with the changes to its shareholding.

⁶ Appendix A: Vuma FM's Broadcasting Service Licence.

⁷ Appendix C: Vuma FM's Compliance Report.

Clause 1.3 of the licence provides as follows:

"Ownership held by persons from historically disadvantaged groups: 72%"

Vuma FM submits that ownership held by persons from historically disadvantaged groups has changed, since the ownership by persons from historically disadvantaged groups constitutes 58%.

The licensee complies with clause 1.3 above.

3.2. Geographic Coverage Area

Clause 2 of the schedule to the licence stipulates that the geographic coverage area is: *"Durban, Donnybrook, Eshowe, Glencoe, Kokstad and Newcastle in KwaZulu Natal, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence".*

The radio station states that the geographic coverage area has not changed. The radio station broadcasts in Durban, Donnybrook, Eshowe, Glencoe, Kokstad and Newcastle in KwaZulu Natal, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence.

The Licensee was found to be compliant with clause 2 of the schedule to the licence.

3.3. Broadcast Language(s)

Clause 3 of the schedule to the licence states that:

"The Licensee shall broadcast in 50% isiZulu and 50% English".

Vuma FM submits that there is a regular fluctuation of languages from show to show which are highly dependent on issues being discussed. Further the guests being brought in are interviewed in the language of their preference⁸.

⁸ Appendix C: Vuma FM's Compliance Report.

It was confirmed during monitoring exercise that the radio station broadcasts 50% in isiZulu and 50% in English. For example, the majority of the radio station's programmes are broadcast in both English and isiZulu.

The current affairs programme called "KZN in 60 Minutes" broadcast between 18h00 and 19h00 and "Kwasa Breakfast Show" are good examples. The programme focuses on topical news and current affairs.

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

3.2 Format

Clause 4 of the schedule to the licence provides that:

"The Licensee shall have a programming format that is exclusively and predominantly gospel music led. The Licensee shall broadcast 60% music and 40% talk. 10% of music will be inspirational and spiritual".

The monitoring exercised confirmed that Vuma FM's format is 40% talk and 60% music. Further, the recordings for April 2016 indicate that the radio station's programming format is not exclusively and predominantly gospel. The radio station plays different music genres which include gospel, RNB, house, kwaito, etc. Vuma FM changed its licensed format without Authority's permission.

The Licensee was found to be non-compliant with clause 4 of the schedule to its licence.

3.3 Local Content Obligations

Clause 5 of the schedule to the licence states that:

"The Licensee shall broadcast 50% of South African music on a weekly basis"

The Licensee's submission indicates that Vuma FM broadcasts less than 50% of South African music. This was further confirmed during the monitoring exercise. Vuma FM broadcasts less than 30% of South African music on a weekly basis.

The Licensee was found to be non-compliant with clause 5 of the schedule to its licence.

3.4 General Programming Obligations

3.4.1 General

Clause 6.2 of the schedule to the licence states that:

"The Licensee will broadcast its news in English and isiZulu".

The Licensee confirms that the radio station broadcasts news in both English and isiZulu bulletin per day.

The monitoring exercise revealed that the radio station broadcast news in both English and isiZulu. However, news bulletins broadcast in English are four (4) times less than isiZulu news bulletins. The news bulletins are four (4) to five (5) minutes in duration. The radio station broadcasts thirteen (13) news bulletins on weekdays and four news bulletins on weekends.

Among the news stories covered for the period under review were excerpts from certain broadcasts, as follows:

- *"I-African National Congress kuzwelonke ithi ayiphikisani nesinqumo senkantolo esigunyaza umengameli uJacob Zuma ukuthi akhokhe imali";*
- *"Loyo owabe engumengameli we-Pan Africanist Congress uMlami Clarence Makwetu usedlulile emhlabeni esibhedlela esizimele e-Kingstown, e-Eastern Cape";*
- *"Uphiko loklebe luthi udaba olithinta ukufaka imibuzo ungqongqoshe wezezimali u-Pravin Gordon angeke lusakhulunywa nabezindaba, lokho kulandela ukuthi uGordon eveze ukuthi usegcine eyiphendulile yonke imibuzo evela kuloluphiko ngehhovisi labakhokhibentela";*

- *"Unobhala weNational Freedom Party kuzwelonke, uNhlanhla Khubisa uthi umengameli waleliqembu uZanele kaMagwaza Msibi useluleme ngokuphelele ekuguleni obekumbambile";*
- *"Othisha ababili bakwesinye sezikole eKenya bazovela enkantolo ngecala lokushisa umfundi ebebemsola ngokukhonza uSathane"; and*
- *"Umgibeli wase-South Korea kulindeleke ukuthi avele enkantolo ngecala lokusabisa abasebenzi bendiza ebisuka e-Honolulu iya e-South Korea".*

The Licensee was found to be compliant with clause 6.2 of the schedule to its licence, save for broadcasting more isiZulu news than English news.

Clause 6.3 of the schedule to the licence states that:

"The Licensee shall broadcast news on a regular basis, a total of fifty-two (52) minutes each weekday and twenty-four (24) minutes on weekends between 05h00 and 23h00"

The Licensee confirms that the radio station broadcast news on a regular basis as required by clause 6.3 of the schedule to the licence⁹.

The monitoring revealed that the radio station broadcasts more than fifty-two (52) minutes of news during weekdays and twenty-four (24) minutes of news on weekends.

The Licensee was found to be compliant with clause 6.3 of the schedule to its licence.

Clause 6.4 of the schedule to the licence states that:

"The Licensee shall ensure that 55% of its news content is local, 35% national and 10% international news per day".

The Licensee's submission indicates that Vuma FM broadcasts 30.7% local news, 33.3% national news and 5.1% international news¹⁰.

⁹ Ibid.

¹⁰ Ibid.

The monitoring exercise confirmed that the radio station does not broadcast news as required by 6.4 above.

The Licensee was found to be non-compliant with clause 6.4 of the schedule to its licence.

Clause 6.5 of the schedule to the licence states that:

"Should the Licensee source news material from a news agency/source other than itself, the source(s) thereof shall be disclosed to the Authority".

The Licensee did not submit sources of its news. However, the monitoring exercise confirmed that Vuma FM does disclose its news sources during its broadcasts. The radio station's sources include Government Departments, Police, etc.

The Licensee was found to be compliant with clause 6.5 of the schedule to its licence.

Clause 6.6 of the schedule to the licence states that:

"The Licensee shall broadcast thirty (30) minutes of current affairs programming per week day. It will further ensure that the ninety per cent (90%) of current affairs be broadcast in isiZulu. Eighty per cent (80%) of the current affairs programming is to be generated from the coverage area".

The monitoring exercise revealed that Vuma FM broadcast a current affairs programme called "KZN in in 60 minutes" broadcast on weekdays from 18h00 to 19h00.

The Licensee was found to be compliant with clause 6.6 of the schedule to its licence.

3.4.2 Ownership and control structures of the Licensee

Clause 7 of the schedule to the licence stipulates that:

"The Licensee shall for the duration of this licence maintain at least thirty per cent (30%) ownership and control of the station by persons from historically disadvantaged groups".

Vuma FM submits that ownership held by persons from historically disadvantaged groups is 58%¹¹.

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

3.4.3 Special Conditions

Clause 8.1 of the schedule to the licence provides as follows:

"The Licensee must comply with the requirements of the Employment Equity Act 55 of 1998 and the Skills Development Act 97 of 1998".

The Licensee's submission indicates that it complies with the requirements of the Employment Equity Act 55 of 1998 and the Skills Development Act 97 of 1998.

The Licensee was found to be compliant with clause 8.1 of the schedule to its licence

Clause 8.2 of the schedule to the licence provides as follows:

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

The Licensee confirms that its news team is made up of local individuals.

The Licensee was found to be compliant with clause 8.2 of the schedule to its licence

Clause 8.3 of the schedule to the licence provides as follows:

"At least 80% of the employees employed of the Licensee shall be historically disadvantaged persons".

The Licensee confirms that 80% of its employees are from historically disadvantaged groups.

¹¹ Ibid.

The Licensee was found to be compliant with clause 8.3 of the schedule to its licence

4. REGULATIONS

4.1 Complaints Received

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A¹² which reports on all complaints received during the financial year under review.

The Licensee is a member of the National Association of Broadcasters (NAB).

Any complaint related to code of conduct it is dealt with by the Broadcasting Complaints Commission of South Africa (BCCSA).

For the year under review, the Licensee reports to have not received any complaint.

The Licensee was found to be compliant with the Compliance Procedure Manual Regulations.

4.2 Regulations on the Code for Persons With Disabilities

Clause 3.1(a) of the Regulations on the Code for Persons With Disabilities states that: *"Broadcasting service licensees must ensure that their services are made available and are accessible to people with disabilities"*.

Vuma FM states that its services are made available and accessible to people with disabilities. The radio station makes awareness about different types of disabilities and abolish myths. Vuma FM does this by allowing active participation with people with disabilities.

The Licensee was found to be compliant with clause 3.1(a) of Regulations on the Code on People with Disabilities.

¹² Ibid

Clause 3.1(c) of the Regulations on the Code on People with Disabilities states that:
"Broadcasting service licensees must monitor the effectiveness of their service through surveys as well as contact with organisations of and for people with disability and stakeholders".

The Licensee did not submit a report regarding surveys conducted by the radio station.

The Licensee was found to be non-compliant with clause 3.1(c) of the Regulations on the Code on People with Disabilities.

4.3 South African Music Content Regulations

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 after eighteen months of the gazetting of these regulations, 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 through the said period".

The monitoring conducted indicated that the radio station plays approximately 30% of South African music per week.

The Licensee was found to be compliant with the regulations on South African Music Content.

4.4 Regulations Regarding Standard Terms and Conditions for Individual Licences

During the year under review, the Licensee did not inform the Authority within seven (7) days about the change of its shareholding as required by the standard terms and conditions for individual licences.

The Licensee was was found to be non-compliant with the Standard Terms and Conditions for Individual Licences Regulations.

4.5 Universal Service and Access Fund Regulations

Regulation 3 of the USAF Regulations stipulates that:

- (1) *"Every holder of a licence granted in terms of Chapters 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of its Annual Turnover to the Fund".*
- (2) *"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".*

At the time of writing this report, the Licensee had still not submitted proof of payment of USAF. This was due to be submitted by end of September 2017, which is six months after the Licensee's financial year.

The Licensee was found to be non-compliant with the USAF Regulations.

4.6 General Licence Fees Regulations

Regulation 2(b) of the General Licence Fees Regulations provides for Licensees to pay annual licence fees.

Vuma FM has submitted its calculation for licence fees due. However, at the time of writing this report, the Licensee had still not submitted proof of payment.

The Licensee was found to be non-compliant with the General Licence Fees Regulations.

5. CONCLUSION

The Licensee has complied with most of its licence conditions save for non-compliance with clauses 1.3, 4, 5 and 6.4 of its licence conditions. Further, the Licensee failed to comply with the Standard Terms and Conditions for Individual Licences Regulations, USAF Regulations and General Licence Fees Regulations. The Licensee will also be

advised that late payment of General Licence Fees and USAF contributions will incur interest payment penalties.

The Licensee will need assistance in order to comply. A meeting will be scheduled with the Licensee to address non-compliance matters before alternative measures are explored.

6. TERMS OF REFERENCE

Appendix A: Vuma FM's broadcasting service,

Appendix B: Vuma FM's frequency spectrum licence;

Appendix C: Vuma FM's Report;

Appendix D: South African Music Content Regulations;

Appendix E: Regulations Regarding Standard Terms and Conditions;

Appendix F: Universal Service and Access Fund; and

Appendix G: General Licence Fees Regulations.