



XK FM ANNUAL COMPLIANCE REPORT

MARCH 2018

2016/2017 ANNUAL COMPLIANCE REPORT

XK FM

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 Constitution¹, the ICASA Act², the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ to regulate broadcasting activities in South Africa in the public interest. Among the responsibilities of the Authority is the task to ensure compliance by broadcasting service Licensees with the terms and conditions of their licence and any relevant legislation and/or Regulations.

The purpose of the report is to give an account of XK 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 Format, Local Content Obligations, General Programming Obligations, Training and Skills Development, Finances, Complaints, South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund (USAF) Regulations, Regulations on the Code on People with Disabilities and Licence Fees Regulations.

2. BACKGROUND

XK FM is an Individual Sound Broadcasting Service Licensee of the South African Broadcasting Corporation (SABC). The radio station's language of broadcast are !Xun and Khwe. The radio station's mandate is to provide a full spectrum service to the geographic areas of Northern Cape, together with parts of Platorand and surrounding areas. The radio station is located in Kimberly, in the Northern Cape Province. According to the Broadcast Research Council of South Africa (BRC), the listenership figures for the last quarter of the period under review was 13 000⁵.

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 of the licence stipulates that:

- 1.1 Name of company/entity: The South African Broadcasting Corporation.*
- 1.2 Shareholders: The State shall hold one hundred (100%) percent of the shares of the Corporation.*
- 1.3 Ownership by persons from historically disadvantaged groups: N/A.*

There were no changes on the name and shareholding of the Licensee. XK FM forms part of the public service division of the SABC and is 100% owned by the State.

The Licensee complies with clauses 1.1, 1.2 and 1.3 of the schedule to its licence.

3.2 Geographic Coverage Area

Clause 2 of the schedule to the licence states that:

"The geographic coverage area is as defined in the map attached to the radio frequency spectrum licence".

According to the frequency spectrum licence, the radio station's coverage area is Kimberly, an area in the Northern Cape, together with parts of Platorand and surrounding areas. The Licensee maintains that its coverage area is as defined in the frequency spectrum licence. No complaints were received by the Authority regarding the radio station's non-compliance with clause 2 above.

The Licensee has, during the period under review, complied with clause 2 of the schedule to its licence.

3.3 Language(s)

Clause 3 of the schedule to licence states that the language of broadcast is as follows:

"Principal Language: !Xun and Khwe".

The Authority's monitoring exercise of the radio station's programmes confirmed that XK FM's principal languages of broadcast are !Xun and Khwe, with a mixture of Afrikaans content as a bridging language as well as syndication from Radio Sonder Grense (RSG) news items.

The Licensee complies with clause 3 above.

3.4 Format

Clause 4.1 of the schedule to the licence states that:

"The service authorised by this licence forms part of the public service division of the Licensee".

Clause 4.2 of the schedule to the licence stipulates that:

"The licensed service shall be a full-spectrum service".

XK FM forms part of the public service station of the SABC and offers a full-spectrum service to its audience as outlined in the licence. This was confirmed during the Authority's monitoring exercise which found that the station broadcasts different topical issues of national interest.

The Licensee was found to be in compliance with clause 4.1 and 4.2 of the schedule to its licence.

3.4 Local Content Obligations

Clause 5 of the schedule to the licence stipulates that:

"In each licence year, the Licensee shall, within thirty (30) days of end of the quarter, submit to the Authority written records indicating the extent of:

Clause 5.1 different genres; and

Clause 5.2 South African Music Content in programme material broadcast in the licensed service during that quarter, in each instance, distinguishing between genres, providing the relevant details in relation to prime time and the period between 05h00 and 23h00 daily ("the South African broadcast period"), and expressing relevant details both as an aggregate in minutes and as a percentage of the total of all such programming material".

The SABC's XK FM submitted its quarterly reports for the period under review as reflected in the tables below in line with the Compliance Procedure Manual Regulations. The figures show XK FM's compliance with the quotas set out by the Authority. These figures were verified during the Authority's monitoring exercise.

First Quarter April – June 2016

Content/ Genre	ICASA Quota (Minutes Daily/Weekly)	XK FM's Provision (Minutes Daily/Weekly)	XK FM's Compliance (%)
News	30min (Daily)	70min (Weekly) 50min (Saturday) 50min (Sunday)	233%
Current Affairs	30min (Daily)	110min (Weekly) 55min (Saturday) 55min (Sunday)	366%
IKB	180min (Weekly)	210min (Weekly)	116%
Education	300min (Weekly)	640min (Weekly)	213%
Children	15 min (Weekly)	600min (Weekly)	4000%

Second Quarter July – September 2016

Content/ Genre	ICASA Quota (Minutes Daily/Weekly)	XK FM's Provision in (Minutes Daily/Weekly)	XK FM's Compliance (%)
News	30min (Daily)	70min (Weekly) 50min (Saturday) 50min (Sunday)	233%
Current Affairs	30min (Daily)	110min (Weekly) 55min (Saturday) 55min (Sunday)	366%
IKB	180min (Weekly)	210min (Weekly)	116%
Education	300min (Weekly)	640min (Weekly)	213%
Children	15 min (Weekly)	600min (Weekly)	4000%

Third Quarter October – December 2016

Content/ Genre	ICASA Quota (Minutes Daily/Weekly)	XK FM's Provision in (Minutes Daily/Weekly)	XK FM's Compliance (%)
News	30min (Daily)	70min (Weekly) 50min (Saturday) 50min (Sunday)	233%
Current Affairs	30min (Daily)	110min (Weekly) 55min (Saturday) 55min (Sunday)	366%
IKB	180min (Weekly)	210min (Weekly)	116%
Education	300min (Weekly)	640min (Weekly)	213%
Children	15 min (Weekly)	600min (Weekly)	4000%

Fourth Quarter January – March 2017

Content/ Genre	ICASA Quota (Minutes Daily/Weekly)	XK FM's Provision in (Minutes Daily/Weekly)	XK FM's Compliance (%)
News	30min (Daily)	70min (Weekly) 50min (Saturday) 50min (Sunday)	233%
Current Affairs	30min (Daily)	110min (Weekly) 55min (Saturday) 55min (Sunday)	366%
IKB	180min (Weekly)	210min (Weekly)	116%
Education	300min (Weekly)	640min (Weekly)	213%
Children	15 min (Weekly)	600min (Weekly)	4000%

The above quarterly submissions indicate compliance by XK FM with the set quotas during the 2016/2017 financial year.

3.5 General programming obligations

3.5.1 General

Clause 6.1.1 stipulates that:

"The Licensee shall ensure that its programming adequately reflects the diversity of South Africa's Religions".

The SABC's editorial policy⁶ stipulates that:

"Religious programmes should take account of regional factors, target audiences, language and cultural preferences, and the devotional needs of specific groups."

During the period under review, the monitoring exercise revealed that XK FM programmes contained religious content suitable to the iXun and Khwe speaking community. The Licensee catered for different cultures in the iXun and Khwe community and different religious groups.

The Authority's monitoring exercise further found that Sunday programming was dominated by gospel music of various South Africa languages including Setswana and traditional iXun and Khwe religious songs.

The Licensee complies with clause 6.1.1 of the schedule to its licence.

Clause 6.1.2 of the schedule to the licence stipulates that:

"The Licensee shall take reasonable steps to provide programming that reflects the cultural and tradition needs of the audience".

XK FM's programming is reflective of the cultures and traditions of the Platorand community, particularly the iXun and Khwe speaking people. The language used by the radio station bears testimony of the Licensee's compliance with this clause.

The Licensee was found to be in compliance with clause 6.1.2 of the schedule to its licence.

Clause 6.1.3 of the schedule to the licence stipulates that:

"The Licensee shall during the South African performance period, provide programme material that caters and has due regard for the interests of all sectors of South African

⁶ An extract from the Licensee's Editorial Policy

society and shall provide programming on health-related issues, gender issues relevant to all age groups”.

Monitoring of XK FM’s programming profile confirmed that the radio station caters for the interests of all sectors of South Africa. The following programmes, among others, were monitored:

- *“Brothers for life”*: a weekly programme between 11:00 – 11:30 focusing on family values; lifestyle issues such as drugs and alcohol abuse.
- *“Boriku”*: A daily current affairs programme that tackles topical issues of the day broadcast between 17:00 – 18:00.
- *“Hope For Disability”*: A weekly programme that raises awareness on the rights and challenges of people with disabilities. The show airs between 19:00 – 20:00.

The Licensee was found to be in compliance with clause 6.1.3 of the schedule to its licence.

3.5.2 News and Current Affairs

Clause 6.2.1 of the schedule attached to the licence stipulates that:

“The Licensee shall broadcast at least thirty (30) minutes of news programming each day during the South African performance period”.

The SABC’s quarterly submissions report that the Licensee broadcasts at least 70 minutes of news on each day. The monitoring exercise identified at least 30 minutes of news on each day of the week. The following were some of the news excerpts monitored:

- *“Die hofsaak van die DA LP, Glynnis Breytenbach en haar voormalige regsverteenwoordiger, Gerhard Wagenaar sal vandag in die Pretoria-Noord Landdroshof begin. Hulle word aangekla van regsverdeling. Klagtes van bedrog en meened is by Breytenbach se klagstaat gevoeg. Hulle is uit op borgtog van tienduisend rand elk. Die saak hou verband met 'n NVG-ondersoek in 2012 waarin Breytenbach vir wangedrag ondersoek is.”;*
- *“Adjunkpresident Cyril Ramaphosa het voormalige staatshoofde en sakeleiers in Afrika uitgedaag om oudpresident Nelson Mandela se voorbeeld te volg in die stryd teen MIV/Vigs. Hy het by 'n sakeberaad in Umhlanga, noord van Durban, gepraat. Ramaphosa sê terwyl die wêreld Internasionale Mandeladag vier op*

dieselfde dag wat die Vigskonferensie begin, moet Madiba se voorbeeld nagestreef word”;

- *“Die minister in die Presidensie, Jeff Radebe het die versekering gegee dat spesiale veiligheidsmaatreëls ingestel is om afgevaardigdes by die 21ste Internasionale Vigskonferensie te beskerm. Sowat agtienduisend afgevaardigdes en joernaliste van oor die wêreld woon van vandag af die konferensie in Durban by. Radebe het by 'n mediasessie gesê veiligheidsagentskappe het gebeurlikheidsplanne ingestel om die uitwerking van enige voorval te beperk”; and*
- *“Die huis van oudpresident, Nelson Mandela sal vandag in Mathatha in die Oos-Kaap heropen word. Dit vorm deel van Internasionale Mandeladagvieringe. Die museum het 'n transformasie ondergaan en beeld die lewensreis van die staatsman uit. 'n Woordvoerder van die museum, Nokuzola Tetani sê die wêreld sal die museum saam met Suid-Afrikaners besoek, omdat Mandela bekend was as 'n vegter vir menseregte.”.*

The Licensee complied with clause 6.2.1 of the schedule to its licence.

Clause 6.2.2 of the schedule to the licence stipulates that:

“The Licensee shall broadcast at least thirty (30) minutes of current affairs programming each day during the South African performance period”.

The Licensee’s quarterly reports indicate that XK FM broadcasts at least 110 minutes of current affairs programming per week during the South African performance period.

The monitoring exercise identified at least 100 minutes of current affairs programming each day from Mondays to Fridays. Topics discussed during the current affairs shows include topical issues reflecting the South African landscape. On the current affairs programme, *Morosani*, a topic on the life and times of Nelson Mandela was reflected on in line with Mandela Day celebrations across the country.

The Licensee complies with clause 6.2.2 of of the schedule to its licence.

Clause 6.2.3 stipulates that:

“The Licensee shall in the production of its news and current affairs programming:

- (i) Exercise full editorial control in respect of the contents of such programming;*

- (ii) Include matters of international, national, regional and where appropriate, local significance;*
- (iii) Meet the highest standards of journalistic professionalism;*
- (iv) Provide fair, unbiased, impartial and balanced coverage independent from governmental, commercial or other interference; and*
- (v) Provide reasonable opportunity for the public to receive a variety of points of view on matters of public concern”.*

The Licensee’s editorial policies indicate that the Licensee exercises full editorial control in respect of contents of its programming. The editorial policies further indicate that the Licensee endeavours to meet the highest standards of journalistic professionalism. Furthermore, it provides fair, unbiased and impartial coverage independent from government, commercial or other interference.

During the period under review, the monitoring exercise revealed that XK FM broadcasts matters of national and international significance.

In its current affairs programmes, the radio station provides an opportunity for the public to receive a plurality of views on matters of public concern. The Licensee’s Editorial Policies form part of the SABC’s Charter and monitoring of XK FM’s news and current affairs programmes during the year under review not only demonstrated compliance with clause 6.2.3 of its licence but the Charter as contained in the Broadcasting Act of 1999.

The Licensee was found to be in compliance with clause 6.2.3 of the schedule to its licence.

3.5.3 Programming targeted at Children

Clause 6.3.1 of the schedule to the licence stipulates that:

“The Licensee shall, in the provision of the licensed service, broadcast at least one (1) hour programming targeted at children (as contemplated in section 10(1) (g) of the Broadcasting Act) per week during the South African performance period”.

The Licensee submitted that it broadcasts at least 600 minutes of children’s programming per week. The monitoring exercise confirmed that children’s programmes are broadcast on weekdays between 09:00 and 16:00.

The Licensee complies with clause 6.3.1 of the schedule to its licence.

Clause 6.3.2 of the schedule to the licence stipulates that:

"In the production of its children's programming, the Licensee shall ensure that children's programming is:

- (i) broadcast at the times in the day when children are available to listen ;*
- (ii) targeted at and appropriate for children between the ages of nought (0) to six (6) years and seven (7) to twelve (12) years respectively; and*
- (iii) educational and is made from children's point of view".*

The following programme was among children's programming identified:

- *Nali Bali*, an educational programme on Early Childhood Development, broadcast between 09:00 and 09:15.

This programme was broadcast from a child's point of view and catered for the age groups as mentioned above. The programme was broadcast at the times when children were expected to be home.

The Licensee complies with clause 6.3.2 of the schedule to its licence.

3.5.4 Educational Programming

Clause 6.4 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least five (5) hours of educational programming (as contemplated in section 10(1) (e) of the Broadcasting Act) per week within the South African performance period".

The Licensee's quarterly submissions indicate XK FM achieves on average 640 minutes of educational programming weekly.

The Authority's monitoring exercise confirmed that the Licensee broadcasts educational programmes such as *"Educator Support"* which is a pre-recorded interview with local teachers on school progress and various responsibilities of educators in general. The programme is broadcast between 16:00 – 16:30.

The Licensee complies with clause 6.4 of the schedule to its licence.

3.5.5 Informal Knowledge-Building (IKB) Programmes

Clause 6.5 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least three (3) hours of informal knowledge building programming per week within the South African performance period".

The Licensee's quarterly submission reports that XK FM broadcast at least 3.5 hours of Informal Knowledge Building programming per week within the South African Performance Period.

The monitoring exercise found the following IKB program amongst others:

- *"What the San must know"* broadcast between 12:00 and 13:00 weekdays.

This is a show that discuss local issues of community importance with emphasis on the San communities.

The Licensee complies with clause 6.5 of the schedule to its licence.

3.6 Training and Skills Development Obligations

Clause 7 of schedule attached to the licence stipulates as follows:

7.1 "The licensee must adopt and implement equal opportunity employment practices;

7.2 The licensee must ensure that its management and staff are representative of South African society and that its human resource policies takes into account the development of managerial, production, technical and other skills and expertise, particularly with regard to the historically disadvantaged persons;and

7.2 The licensee shall endeavour to achieve fair and reasonable participation by historically disadvantaged persons with respect to:

- (a) its management and control structures;*
- (b) skills development;*
- (c) enterprise development; and*
- (d) Procurement.*

7.4 The licensee must, within thirty (30) days of the end of each financial year, provide the Authority with written information regarding its compliance with the above requirements”.

The SABC submitted a training and skills development report indicating that its management and staff is representative of South African society. Further, for the period under review there was reasonable participation by historically disadvantaged people with respect to its management and skills development.

The SABC ensured that the learning and development needs are strategically aligned to business needs so as to bring about positive business impact and increase in the productivity level at large.

According to the Licensee’s report on its Annual Employment Equity and Skills Development plan, the Licensee strives for the creation of an “equitable working environment, in which the dignity of all individuals is respected and the diversity of all employees are valued.” In this report, the SABC further advances that at least 86% of their overall staff complement are Black people; while 78% of its management are people from historically disadvantaged backgrounds.

The Licensee submits that it has exceeded most of the quotas prescribed by licence conditions. However, the Licensee submits that it is unable to reach their 50% target of females in the organisation. The Licensee fell short by less than 1% from reaching this target as it is currently sitting on 49.14%. Although 78% of females in management are black.

The Licensee further submits that it intends to adhere to its BBBEE obligations and remains committed to contributing to the growth of the South African Economy through the empowerment of previously disadvantaged individuals.

The Licensee submitted its Training and Skills Development to the Authority for the period under review.

The Licensee complies with clause 7 of the schedule to its licence.

3.7 Provision of Audited Financial statements to the Authority

Clause 8 of the schedule to the licence stipulates that:

"The Licensee shall provide the Authority with the audited annual financial statements of the licensed service within four (4) months of the end of the licensee's financial year, provided that the licensee may on good cause apply to the Authority for extension".

The Licensee submitted its Audited Financial Statements for the 2016/2017 financial year within the stipulated timeframe.

The Licensee has complied with clause 8 of the schedule to its licence.

4. REGULATIONS

4.1 South African Music Content Regulations

Regulation 3.1 of the South African Music Content Regulations as published on 31 January 2006 stipulates that:

"Every holder of a public sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 40% 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."

During the period under review, XK FM's music content constituted at least 80% of South African Music. XK FM's playlist was dominated by South African artists during the period under review. Among those enjoying air play on XK FM's music schedule are: *Mandoza; DJ Dino Bravo; Lucky Mereki; DJ What What; Kelly Khumalo and Morale.*

The Licensee complies with regulation 3.2 of the South African Music Content Regulations.

4.2 Regulations regarding Standard Terms and Conditions for individual licences

Regulation 11 (3) of the standard terms and conditions⁷ stipulates that:

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

⁷ Regulations regarding the Standard Terms and Conditions for Individual Licensee's

XK FM's promos were identified during the period under review and these were broadcast at regular intervals. The promos carried the name of the station and frequency details.

Furthermore, there was no incident of non-compliance with the Standard Terms and Conditions for Individual Licences found.

The Licensee has complied with the above Regulation.

4.3 Universal Service and Access Fund Regulations

Regulation 3 of the USAF Regulations⁸ 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".*

The Authority received confirmation of payment in a form of a Section 18A certificate from the MDDA and the Licensee submitted proof of payment⁹ to the Authority.

The Licensee has complied with the regulations in respect of Universal Service and Access Fund.

4.4 Regulations on the Code For Persons With Disabilities

Form 7C: Code For Persons With Disabilities contained in the Compliance Procedure Manual Regulations requires broadcasting licensees to annually complete the form in accordance with the Licensee's financial year end.

The SABC submitted these forms consistently throughout the year in review.

Further, Regulation 3.1 (a) of the Code For Persons With Disabilities as published in the *Government Gazette*, no 30441, 7 November 2007, states that:

⁸ Universal Service and Access Fund Regulations

⁹ Proof of SABC's contribution to the USAF

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

Regulation 3.1 (b) stipulates that:

"Options for making broadcasting services more accessible may include the following:

- i. Improve and/or increase subtitles and sign language;*
- ii. Expand knowledge on various adjustments such as induction loops, Mincom/text phones and alternatives computer software;*
- iii. Access to programme support such as fact sheet;*
- iv. Website to offer a range of formats (such as electronic versions, Braille and audiotape);*
- v. Use of spoken languages where economic indicators, weather details, telephone numbers and addresses or details of goods and services are shown on-screen; and*
- vi. Use of non-scheduled services such as access via Personal Video Digital Recorders (PVR's) and TV anytime".*

Regulation 3.1 (c) 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".

During the period under review, the Licensee conducted the SABC National Disability Committee quarterly meetings to monitor and evaluate progress against its Disability mainstreaming objectives. The Licensee also conducted disability audits that provides an indication of the physical changes necessary to ensure an accessible workplace. From 03 November 2016 to 03 December 2016, the Licensee hosted the National Disability Rights Awareness Month campaign, at which awareness was created internally around issues related to disabilities. The campaign included disability awareness clips; a disability declaration campaign as well as a *Breakfast in the Dark* session for the SABC KZN management teams.

The following are the other disability awareness campaigns hosted by the Licensee:

- National Blind Buddy Day;
- Autism Awareness;
- Albinism Awareness;
- Deaf Awareness; and

- Casual day

The Licensee further conducted verifications of all declared disabilities and identification of reasonable accommodation needs, as well as participation in career exposure initiatives for scholars with disabilities.

The SABC also reported that Employees with disabilities represent 2.13% of the entire workforce. During the reporting period, the Licensee met its target of 2% of employees with disabilities and intends to focus on this aspect where the aim is to reach 4% of employees with disabilities by 2019. Furthermore, the Licensee reports that at least 77% of its employees with disabilities are black and of those, 60% are women. Gauteng has the highest number of employees with disabilities with the Auckland Park office housing 62% of them.

Producers are encouraged to establish relationships with organisations for people with disabilities to use for content when the need arises.

The Licensee has demonstrated compliance with the 4.3 Code For Persons With Disabilities.

4.5 COMPLAINTS

Form 12A: Complaints Report of the Compliance Procedure Manual Regulations read with the Code of Conduct for Broadcasters requires that broadcasters complete the form bi-annually in accordance with the Licensees' Financial Year.

There were no complaints submitted to ICASA on the SABC's compliance with its licence terms and conditions for the year under review.

5. CONCLUSION

During the period under review, the Licensee has complied with its licence terms and conditions and related Regulations that govern public broadcasters.

6. TERMS OF REFERENCE

Attachment 1 : XK FM's Broadcasting Service Licence;

Attachment 2 : XK FM's Frequency Spectrum Licence;

- Attachment 3 : Extract from the Licensee's Editorial Policy;
- Attachment 4 : Training & Skills Development Report;
- Attachment 5 : Standard terms and conditions for Individual Licensees;
- Attachment 6 : Universal Service and Access Fund Regulations;
- Attachment 7 : Regulations on the code for people with disabilities; and
- Attachment 8 : Proof of SABC's Contribution to USAF.