



# **HEART 104.9 FM ANNUAL COMPLIANCE REPORT**

**MARCH 2019**

## **2017/2018 ANNUAL COMPLIANCE REPORT**

### **RADIO HEART 104.9 (PTY) LTD BROADCASTING AS HEART 104.9 FM**

**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<sup>1</sup>, the Independent Communications Authority of South Africa Act<sup>2</sup> (ICASA Act), the Electronic Communications Act<sup>3</sup> (ECA) and the Broadcasting Act<sup>4</sup> 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.

This report is intended to give account of Radio Heart 104.9 (Pty) Ltd compliance for the 2017/2018 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, languages, Format, Local Content Obligations, General programming Obligations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations, General Licence Fees regulations and the Code on People with Disabilities.

#### **2. BACKGROUND**

Radio Heart 104.9 (Pty) Ltd, broadcasting as Heart 104.9 FM (Heart 104.9 FM) is an Individual Commercial Sound Broadcasting Service Licensee providing a programming mix of music and information to the Cape Town, Cape Town Fringe, Overberg and West Coast areas in the Western Cape Province<sup>5</sup>.

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<sup>1</sup> The Constitution of the Republic of South Africa, No 108 of 1996

<sup>2</sup> Act No. 13 of 2000, as amended

<sup>3</sup> Act No. 36 of 2005

<sup>4</sup> Act No. 4 of 1999

<sup>5</sup> Appendix A: Heart 104.9 FM's Broadcasting Service License.

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Licensee**

Clause 1 of the licence provides that:

- "1.1 Name of Company/Entity: Radio Heart 104.9 (Pty) Ltd.*
- 1.2 Shareholders: Makana Radio Communications (Pty) Ltd (100%)*
- 1.3 Ownership held by persons from historically disadvantaged groups:  
Tsiya Radio – 59.96%  
Kagiso Media Investments (Proprietary) Limited – 20.02%  
Victory Parade 55 (Proprietary) Limited – 20.02%"*

The Licensee confirms that no changes regarding the information above have taken place.

**The Licensee complies with clause 1 to its licence.**

#### **3.2 Name of Station**

Clause 1 of the schedule to the licence provides:

***"Name of Station: Heart 104.9 FM"***

The Licensee submits that no changes to its name has occurred. This was confirmed during the monitoring exercise as the Licensee broadcasts under the name of Heart 104.9 FM.

**The Licensee complies with clause 1 of the schedule to its licence.**

#### **3.3 Geographic Coverage Area**

Clause 2 of the schedule to the licence provides that:

***"Coverage Area: Cape Town, Cape Town Fringe, Overberg and West Coast areas as defined on the coverage map attached to the Licensee's Frequency Spectrum Licence."***

The Licensee confirms that it offers services to the geographic coverage area as specified by the Licensee's radio frequency spectrum licence. Further, the Authority received no complaints that the Licensee is operational outside of its geographic coverage area.

**The Licensee complies with clause 2 of the schedule to its licence.**

### **3.4 Broadcast Language**

Clause 3 of the schedule to the licence provides that:

***"Broadcast Language: Principal Language: English"***

The monitoring exercise confirms that the principal of the Licensee is English.

**The Licensee complies with clause 3 of the schedule to its licence.**

### **3.5 Format**

Clause 4 of the Schedule to the licence states that:

***"The format of the station is an adult contemporary jazz format."***

The monitoring exercise found that the Licensee does not deviate from its prescribed format. The music that was broadcast by the Licensee is classified as adult contemporary jazz.

Some of the artists that were featured include *Mango Groove, Dr Victor, Sketchy Bongo, Ne-Yo, Liquid Deep, The Greg Dean Project, Sean Paul, Dua Lipa, Justin Bieber and Mariechan amongst others.*

**The Licensee complies with clause 4 of the schedule to its licence.**

### **3.6 General Programming Obligations**

Clause 5.1 of the schedule to the licence states:

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

The monitoring exercise confirmed that news is broadcast from 05h00 and 23h00. The duration of the news in general, throughout the day is three (3) to four (4) minutes on the hour and one (1) minute headlines during the breakfast and late afternoon show on the half hour. On average the Licensee broadcasts forty five (45) minutes of news per day during the performance period. The Licensee exceeds the requirement of a daily total news broadcast of thirty (30) minutes.

Some of the news items found during the monitoring exercise include:

- *"Deputy Police Minister, Bongi Mkongi, has announced a new strategy to battle gang violence in the Western Cape. There has been a surge in deadly gang shootings in the Cape Flats in recent months and the Mother City was also recently reminded in a study that it remains the murder capital while firearms have gone missing from two police stations in the city."*
- *"Students, workers and UCT management are expected to hold talks this morning in an attempt to resolve outstanding issues. Students and workers had planned to shut down the institution today over issues of in-sourcing and student debt but that has been suspended, at least for now."*
- *"Police are investigating two cases of murder after two bodies were found in Delft. The bodies were found separately yesterday afternoon. It is understood the body of an unidentified man was discovered in an open field and later the body of a 19-year-old was found in a shack in the area."*
- *"An ANC NEC member, Bheki Cele, has revealed an alleged plan to remove Cyril Ramaphosa as deputy president and replace him with Nkosazan Dlamini Zuma. Speaking at a COSATU shop steward's council in Durban, Cele also says elements in the party want to create enough chaos for December's elective conference to have to be postponed."*

**The Licensee is compliant with clause 5.1 of the schedule of its licence.**

Clause 5.2 of the schedule of the licence states:

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

The Licensee submits that over seventy percent (70%) of its news is self-originated. The monitoring exercise found that the Licensee discloses news sources where the news is not self-originated.

**The Licensee complies with clause 5.2 of the schedule of its licence.**

Clause 5.3 of the schedule to the licence reads as follows:

*"The Licensee shall broadcast news for an average of six minutes every hour between 06h00 – 09h00 on all weekdays mornings."*

The monitoring exercise found that the total news per hour between 06h00 and 09h00 average six minutes.

**The Licensee complies with clause 5.3 of the schedule to its licence.**

Clause 5.4 of the schedule to the licence reads:

*"In compiling news, the Licensee shall include news from the African continent."*

The monitoring exercise confirms that the Licensee during its news broadcast, includes news from the African continent. Some of the news items found during the monitoring exercise include:

- *"A Kenyan court has reportedly told police officials they have seven (7) days to hold a teenager being investigated for arson and murder. This after she started a fire in a school dormitory that killed nine (9) of her classmates."*

- *"The Chairperson of Kenya's Election Commission has questioned a host of failings and the conduct of last month's presidential poll. It was annulled by the Supreme Court."*
- *"Nigeria's former President, Olusegun Obasanjo, has called on Togo's President to re-establish limits on presidential terms. Obasanjo was being interviewed by the BBC. That interview follows three (3) days of opposition protests on the streets of the capital and other major centres in Togo."*

**The Licensee complies with clause 5.4 of the schedule to its licence.**

Clause 5.5 of the schedule to the licence states:

*"In compiling information programmes, the Licensee shall give due regard to the character of its audience."*

The general character of the radio station is upbeat. The manner in which the Licensee imparts information to its audience is relatable to all age groups. The presenters represent different sections of the coverage area, young and old, male and female. As per the report of the Licensee, majority of its audience are coloured people and the Licensee has a distinct coloured character without alienating other race groups.

**The Licensee complies with clause 5.5 of the schedule to its licence.**

**3.6 Training and skills development**

Clause 6.1 of the schedule to the licence reads:

*"The Licensee shall put particular emphasis on the training and development of staff from historically disadvantaged groups."*

As per the submission of the Licensee, the majority of its staff consist of people from historically disadvantaged groups. During the period under review, staff were trained on marketing, social media values, general performance management and

project management amongst other. The Licensee invested one million, two hundred thousand rand (R1 200 000.00) towards its skills development strategy, which forms part of the overall B-BBEE drive and initiative of the Licensee.

**The Licensee complies with clause 6.1 of the schedule to its licence.**

Clause 6.2 of the schedule to the licence states:

*"The Licensee shall establish an employee training programme and shall spend a minimum of one million, one hundred and sixteen thousand rand (R1 116 000.00) over the licence period."*

The Licensee for the period under review invested one million, five hundred seventy-seven thousand, two hundred and fifty-two rand (R1 577 252.00) in various training and development programmes. The Licensee has thus exceeded the required for training and skills development over the licence period.

**The Licensee complies with clause 6.2 of the schedule to its licence.**

Clause 6.3 of the schedule to the licence reads:

*"The Licensee shall actively pursue the appointment of more women on-air presenters"*

The Licensee submits that it is committed to the appointment of more women on-air presenters. The Licensee under the period of review had women on-air presenters that lead various programmes such as "9-12 with Tracey Lange", "Drive 326 with Suga" and "Nightshift with Irma G".

**The Licensee complies with clause 6.3 of the schedule to its licence.**

Clause 6.4 of the schedule to the licence states:

*"The Licensee shall regularly receive and train interns and students from tertiary institutions across South Africa."*



The Licensee confirms that it has a dedicated internship programme that continuously trains and develops graduates. Further, the internship has resulted in the permanent employment for two (2) out of five (5) students who were absorbed into the business.

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

#### **4. REGULATIONS**

##### **4.1 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.

In the year under review, the Licensee submitted the required Form 12A<sup>6</sup>. As per the submission, the Licensee received no complaints during the period under review.

**The Licensee complies with the Compliance Procedure Manual.**

##### **4.2 Regulations regarding Standard Terms and Conditions for Individual Licensees**

The Authority is satisfied that during the period under review the Licensee did not contravene the regulation in respect of the Standard Terms and Conditions for Individual Licensees<sup>7</sup>.

**The Licensee complies with the Standard Terms and Conditions for Individual Broadcasting Service Licensees.**

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<sup>6</sup> Ibid.

<sup>7</sup> Appendix C: Regulations regarding Standard Terms and Conditions for Individual Licensees.

### **4.3 Regulations on South African Music**

Regulation 2 of the Regulations on South African Music as published on 23 March 2016 provides that:

*"A holder of a commercial sound broadcasting service licence must ensure that after eighteen (18) months of the gazetting of these regulations, a minimum of 35% of the musical works broadcast in the performance period, consist of South African music and that such South African music is spread evenly throughout the performance period"*<sup>8</sup>.

The Licensee submits that it broadcast an average of thirty-four (34%) percent of South African music tracks. Further the Licensee regularly holds interviews with South African music artist, covers live music and promotes new releases. The before-mentioned format factors contribute to the Licensee's South African music content and takes the Licensee's compliance to over thirty-five (35%) percent.

Some of the live music from South African artists that were featured, for an average duration of thirty (30) minutes, during the period under review include: *Sasha-Lee Davids, Chad Saaiman, Emo Adams, Prime Circle, Die Heuwels Fantasties, Marc Alex, nasty C, and Jimmy Nevis* amongst others.

Some of the interviews that were held during the period include: *Jarrad, Tresor, Sketchy Bongo, AKA, Casper Nyovest, Dr Victor & Rasta Rebels* amongst others.

**The Licensee complies the Regulations on South African Music.**

### **4.4 Universal Service and Access Fund**

Regulation 3 (1) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund, 2011<sup>9</sup> state that:

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<sup>8</sup> Appendix D: Regulations on South African Music.

<sup>9</sup> As published in Government Gazette no. 31499.

*"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 its Annual Turnover to the fund (USAF)."*<sup>10</sup>

Further, Regulation 3 (3) states 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."*

The Licensee made the required payment and submitted the proof thereof to the Authority.

### **The Licensee complies with the USAF Regulations.**

#### **4.5 General Licence Fees**

Regulation 3 (1) of the General Licence Fees Regulations state 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 Broadcasting Service licences."*<sup>11</sup>

Schedule 2 of the Annual Licence Fees regulations provide for Individual Commercial Broadcasting Services Licensees to pay an annual licence fee of 1.5% of gross profit to the Authority.

Regulation 4(b) and (c) of Schedule 3 state that:

*"(b) In respect of payment, such are due and payable within 6 months from 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."*<sup>12</sup>

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<sup>10</sup> Appendix E: USAF Regulations

<sup>11</sup> Appendix F: General Licence Fees Regulations.

<sup>12</sup> Appendix F: General Licence Fees Regulations

The Licensee made its general licence fees payment and submitted the proof thereof to the Authority.

**The Licensee complies with the General Licence Fees Regulations.**

**4.6 Code for People with Disabilities**

The premises and services of the Licensee is accessible to people living with disabilities. The Licensee further brings awareness to issues affecting people with disabilities.

**The Licensee complies with the Code for People with Disabilities.**

**5. CONCLUSION**

During the period under review, it was found that the Licensee has been compliant with all the obligations and Regulations. The Authority will, however, continue to monitor the Licensee in the next financial year.

**6. TERMS OF REFERENCE:**

- 6.1 Appendix A: Heart 104.9's Licence
- 6.2 Appendix B: Heart 104.9's Report
- 6.3 Appendix C: Regulations Regarding Standard Terms and Conditions for Individual Licensees
- 6.4 Appendix D: South African Music Regulations
- 6.5 Appendix E: USAF Regulations
- 6.6 Appendix F: General Licence Fees Regulations
- 6.7 Appendix G: Code on People with Disabilities