



KHANYA COMMUNITY RADIO ANNUAL COMPLIANCE REPORT

MARCH 2019

2017/2018 ANNUAL COMPLIANCE REPORT

BUTTERWORTH REGION COMMUNITY RADIO INITIATIVE BROADCASTING AS KHANYA COMMUNITY RADIO

Licence Period: 24 October 2013 to 23 October 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. 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 this report is to give an account of Khanya Community Radio's performance for the 2017/2018 financial year. Aspects of compliance that are measured comprise of the Geographic Coverage, Community Participation, Programming Obligations, Compliance Procedure Manual Regulations, South African Music Content Regulations and Regulations Regarding Standard Terms and Conditions.

2. BACKGROUND

Khanya Community Radio holds a Class Sound broadcasting service licence⁵. The radio station's mandate is to provide a sound broadcasting service to the community of Butterworth, Clarkbury, Idutywa, Centane, Kei Mouth, Nqamakwe, Tsomo and Willowvale areas in the Eastern Cape Province, as set out in the Licensee's frequency spectrum licence⁶.

3. COMPLIANCE ASSESSMENT

3.1 Control Structure

Clause 1 of the licence states that:

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 Appendix A: Khanya Community Radio's broadcasting service licence.

⁶ Ibid.

"The Licence is issued to:

- 1.1 Name of Entity: Butterworth Community Radio Initiative.*
- 1.2 Name of the Station: Khanya Community Radio Station.*
- 1.3 Control of the Licensee: Control shall vest in the Board of Directors of Butterworth Community Radio Initiative."*

There were no changes reported by the Licensee to its control structure during the period under review. However, the Board of Directors are no longer active. Further, the Authority received minutes of the Annual General Meeting from a Municipality official. The minutes indicated that there was political interference as a result of the Board being in-active. This indicated that the radio station is no longer in the hands of the Board of Directors of Butterworth Community Radio Initiative.

The Licensee is not compliant with clauses 1.1 to 1.3 of its licence.

3.2 Licence Period

Clause 2 of the schedule to the licence states that:

"2.1 The effective date of the licence is 24 October 2013.

2.2 The licence shall expire on 23 October 2018."

Khanya Community Radio's licence was effective from 24 October 2013 to 23 October 2018.

The Licensee complies with clause 2 of its licence.

3.3 Geographic Coverage Area

Clause 3 of the schedule to the licence stipulates that:

"The Licensee shall provide a sound broadcasting service to the Butterworth, Clarkbury, Idutywa, Centane, Kei Mouth, Nqamakwe, Tsomo and Willowvale areas in the Eastern Cape Province, as set out in the Licensee's frequency spectrum licence".

Khanya Community Radio covers the areas stipulated in its licence.

The Licensee complies with clause 3 of its licence.

3.4 Community

Clause 4.1 of the schedule to the licence states that:

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

Khanya Community Radio provides a sound broadcasting service to the community of Butterworth, Clarkbury, Idutywa, Centane, Kei Mouth, Nqamakwe, Tsomo and Willowvale areas in the Eastern Cape Province, as set out in the Licensee's frequency spectrum licence.

The Licensee complies with clause 4.1 of the licence.

Clause 4.2 of the schedule to the licence provides that:

"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 two (2) meetings annually with its community focusing on programming and programme-related matters for the selection and provision of programmes.

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; and

4.2.3 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 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".

During the year under review, the Licensee failed to provide the Authority with proof of two (2) meetings with community and AGM.

The Licensee does not comply with clause 4.2 and its sub-clauses of the licence.

3.5 Programming

Clause 5.1 of the schedule to the licence states that the Licensee shall provide programming as follows:

"5.1.1 News and Information: The Licensee shall broadcast a total of thirty (30) minutes of news per day, of which seventeen (17) minutes shall be local, seven (7) minutes national and six (6) minutes international news.

5.1.2 South African Music Content: 50%

5.1.3 Talk vs Music: 45% Talk and 55% Music

5.1.4 Language(s) of broadcast:

5.1.4.1 IsiXhosa – 90%; and

5.1.4.2 English – 10%.

The Licensee's recordings were not submitted, making it impossible to monitor content.

The Licensee does not comply with clause 5 of the licence.

Clause 5.2 of the schedule to the licence states 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 Licensee does not submit log of programmes broadcast to the Authority as required by clause 5.2.

The Licensee does not comply with clause 5.2 of the licence.

Clause 6.1 of the schedule to the licence states that:

" The Contact person of the Licensee shall be:

6.1.1 Name: Manduleli Vutula

6.1.2 Tel: 047 491 0466

6.1.3 Fax:

6.1.4 Email: kido2007@ananzi.co.za"

Further clause 6.2 of the schedule to the licence states 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 did not follow the correct process when changing contact details after Mr Vutula's death. The Acting Station Manager was informed about updating contact details but failed to comply.

The Licensee does not comply with clauses 6.1 and 6.2 of the the licence.

Clause 8.1 of the schedule to the licence provides that:

"60% of the Licensee's talk programme content shall be aimed at education, entertainment, current affairs and nation-building".

The Licensee did not submit programme recordings requested by the Authority.

The Licensee does not comply with clause 8.1 of the licence.

Clause 8.2 of the schedule to the licence provides that:

"The Licensee shall broadcast programmes relating to children, youth, adults, women and the disabled".

The Licensee did not submit programme recordings requested by the Authority.

The Licensee does not comply with clause 8.1 of the licence.

4. REGULATIONS

4.1 Complaints Received

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

For the year under review, the Licensee did not submit a complaints report and other submissions as required by Compliance Procedure Mannual Regulations.

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

4.2 South African Music Content Regulations⁷

Regulation 3.3 of the Regulations on South African Music Content as published on 31 January 2006 provides that:

"Every holder of a community 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".

The Licensee does not submit information to the Authority when requested. Therefore, the monitoring of recordings was not conducted.

The Licensee does not comply with the Regulations on South African Music Content.

4.3 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences⁸

During the year under review, the Licensee did not comply with the standard terms and conditions for class licences.

Khanya Community Radio does not comply with Standard Terms and Conditions for Class Broadcasting Licences.

5. CONCLUSION

Khanya Community Radio does not comply with most provisions of its licence conditions and applicable regulations. The non-compliance by the Licensee indicates that the radio station does not take compliance seriously. The Compliance and Consumer Affairs (CCA) will lodge a formal complaint against Khanya Community Radio with Compliance and Complaints Committee (CCC) and recommend that the Licensee's licence be suspended, revoked or not be renewed.

6. TERMS OF REFERENCE

Appendix A: Khanya Community Radio's broadcasting service licence;

Appendix B: South African Music Content Regulations; and

⁷ Appendix B: South African Music Content Regulations.

⁸ Appendix C: Regulations regarding Standard Terms and Conditions for Class Licences

Appendix C: Regulations Regarding Standard Terms and Conditions for Class Licensees.