



# **NEWCASTLE COMMUNITY RADIO ANNUAL COMPLIANCE REPORT**

**MARCH 2019**

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

### **NEWCASTLE COMMUNITY RADIO**

**Licence Period: 27 October 2013 to 26 October 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 ICASA Act<sup>2</sup>, 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. 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 intended to give an account of Newcastle Community Radio's performance for the 2017/2018 financial year. Aspects of compliance that are measured comprise of the Geographic Coverage, Community, Programming Obligations, Complaints Received, South African Music Content Regulations, Regulations on Code on People with Disabilities and Regulations Regarding Standard Terms and Conditions.

#### **2. BACKGROUND**

Newcastle Community Radio is a Class Sound Broadcasting Service Licensee. The radio station's mandate is to provide a sound broadcasting service to the geographic community of Newcastle, Madadeni, Osizweni, Utrecht, Danhauser, Ncandu, Lennoxton, Fairly, Ballengeich, Mullerspas and Normandien in the Kwa-Zulu Natal Province as specified in its frequency spectrum licence. *(See frequency spectrum licence attached as Appendix B).*

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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.

### **3. COMPLIANCE ASSESSMENT**

#### **3.1. Control Structure**

Clause 1 of the licence stipulates that:

*"The Licence is issued to:*

*1.1 Name of Company/Entity: Newcastle Community Radio.*

*1.2 Control of the Licensee: Control shall vest in the Board of Directors of Newcastle Community Radio".*

The Board of Directors of Newcastle Community Radio that were elected during 2013 Annual General Meeting is as follows:

Mr Thami Zondi – Chairperson;  
Mr Nhlanhla Mtshali – Deputy Chairperson;  
Mr Bheki Kubheka - Secretary;  
Ms Nomvula Mhlanga – Deputy Secretary;  
Mr Andile Masondo - Treasurer;  
Mr Moloï – Board Member;  
Mr Mahayi – Board Member;  
Mr Mlangeni - Board Member; and  
Mr Ndaba – Board Member

There were no changes reported by the Licensee to its control structure during the period under review. However, the Authority established during monitoring visits and workshops that the majority of Board members do not participate in the radio station's activities.

Further, the radio station was not controlled by the Board of Directors of Newcastle Community Radio after 2013 Special General Meeting. The Interim Committee that was elected in July 2016 failed to fulfil its tasks as it was mandated in the Special General Meeting of 29 July 2016. After the Interim Committee's failures, chaos started at the radio station. The members of the Interim Committee and other community members controlled the radio station by force. Further, the Board members of Newcastle Community Radio did not follow the Authority's advice following several meetings held between ICASA, the Board of Directors and Management of the radio station.

**The Licensee was found to be non-compliant with clause 1.2 of its licence.**

Clause 1 of the schedule to the licence stipulates as follows:

"Name of the radio station:

Radio NN".

The name of the Licensee's radio station is Radio NN.

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

### **3.2. Geographic Coverage Area**

Clause 2 of the schedule to the licence stipulates the geographic coverage area as follows:

*"Newcastle, Madadeni, Osizweni, Utrecht, Danhauser, Ncandu, Lennoxton, Fairly, Ballengeich, Mullerspaspas and Normandien in the Kwa-Zulu Natal Province as set out in the Licensee's radio frequency spectrum licence".*

The Licensee's coverage areas include all the areas mentioned above as stipulated in its licence.

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

### **3.3. Community**

Clause 3.1 of the schedule to the licence states that:

*"The Licensee shall provide services to a geographic community residing within the geographic coverage area specified herein".*

Newcastle Community Radio broadcast from Black Rock Casino in Newcastle and provide its services to the geographic community residing in Newcastle and areas in the surrounding areas as stipulated in its licence. However, there were disruptions in broadcasting activities during the year under review because of factionalism at Board level.

**The Licensee does not comply with clause 3.1 of the schedule to its licence.**

Clause 3.2 of the schedule to the licence stipulates that:

*"The Licensee shall provide for the participation of community members in the affairs of the station in the following ways:*

*3.2.1 The Licensee shall hold at least two (2) meetings annually with its community on programming and programme-related matters for the selection and provision of programmes.*

*3.2.2 The Licensee shall furnish the Authority with proof of such meetings as well as the attendance thereof by members of the community.*

*3.2.3 The Licensee shall hold Annual General Meetings (AGM) for the following purposes:*

*3.2.3.1 To provide feedback on the Licensee's compliance with licence conditions,*

*3.2.3.2 To provide feedback on the Licensee's operational and financial performance, and*

*3.2.3.3 To elect members of the controlling structure, e.g. Board of Directors, Trustees etc. subject to the Licensee 's founding documents".*

Clause 3.3 of the schedule to the licence stipulates that:

*"The Licensee shall establish and maintain a community Advisory Council and committees made up of members of the community to facilitate community participation".*

Clause 3.4 of the schedule to the licence stipulates that:

*"The Licensee shall ensure that communities from Newcastle, Madadeni, Osizweni, Utrecht, Danhauser, Ncandu, Lennoxton, Fairly, Ballengeich, Mullerspaspas and Normandien fully participate in the activities of the station and structures are set up to incorporate community representatives from these areas".*

The Licensee held a Special General Meeting on 29 July 2017. However, It has failed to convene the Annual General Meeting (AGM) and other meetings with community on programming and programme-related matters for the selection and provision of programmes. Further, Newcastle Community Radio has failed to submit its proof of meetings with its community on programming and programme-related matters for the selection and provision of programmes.

Further, the Licensee has not convened the Annual General Meeting (AGM) during the period under review and failed to provide the Authority with the minutes of the AGM for the year under review when requested.

The failure to convene the AGM by the Licensee implies that it has not provided its community members with feedback regarding compliance with licence conditions,

operational and financial performance as well as electing members of the controlling structure, e.g. the Board of Directors as required by clauses 3.2.3.1 to 3.2.3.3 of the schedule to its licence.

**The Licensee does not comply with clause 3.2 and its sub-clauses of the schedule to its licence.**

### **3.4. Programming**

Clause 4.1 of the schedule to the licence stipulates that:

*"The Licensee shall provide programming as follows:*

#### **4.1.1 Format:**

*70% talk and 30% music.*

#### **4.1.2 News and Information:**

*4.1.2.1 The Licensee shall broadcast a total of 65 minutes per day, which shall be broadcast in all broadcast languages.*

*4.1.2.2 The Licensee shall ensure participation by members of its community in the production of community news.*

#### **4.1.3 Local Content:**

*The Licensee shall broadcast a South African music content of 45%.*

#### **4.1.4 Language(s) of broadcast:**

*(a) 70% IsiZulu*

*(b) 20% English*

*(d) 10% Afrikaans*

#### **4.1.5 Broadcast hours:**

*The Licensee shall broadcast for 24 hours a day".*

The Licensee has not confirmed its format of 70% talk and 30% music as stipulated in its licence. Further, the Licensee failed to submit the recordings when requested. The Licensee

wasted time fighting for power to control the radio station, as a result broadcasting activities were disrupted.

**The Licensee does not comply with clause 4.1 and its sub-clauses 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 12A which reports on all complaints received during the financial year under review.

During the year under review, the Licensee did not submit its complaints report. However, the Authority received many complaints from community members regarding the breach of licence conditions and ICASA's regulations by the Licensee. Further, the Licensee does not submit monthly submissions as required by the Compliance Procedure Manual Regulations

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

##### **4.2. South African Music Content Regulations<sup>5</sup>**

Regulation 3.3 of the Regulations on South African Music Content as published on 31 January 2006 stipulates 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 confirmation on South Africa in various languages, which include English, Arabic, Zulu, Xhosa and Urdu could not be ascertained, because of the disruption at the radio station caused by community members and the Board.

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<sup>5</sup> Appendix B: South African Music Content Regulations

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

#### **4.3. Regulations on the Code on People With Disabilities**

Clause 3.1(a) of Regulations on the Code on People With Disabilities states that:

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

The Licensee could not provide report to the Authority because of the chaos cause by community members, politicians and Board members.

**The Licensee does not comply with clause 3.1(a) of Regulations on the Code on People with Disabilities.**

#### **4.4 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences<sup>6</sup>**

During the year under review, the Licensee has failed to comply with the standard terms and conditions for class licences.

**The Licensee does not comply with the Standard Terms and Conditions for Class Broadcasting Licences.**

### **5. CONCLUSION**

The Licensee was found to be non-compliant with most provisions of its licence terms and conditions and applicable Regulations. The non-compliance by Newcastle Community Radio indicates that there is lot of work to be done to educate South African communities about the purpose of community radio. Further, the Broadcasting Compliance Unit will take action against Newcastle Community Radio and request the Complaints and Compliance Committee (CCC) to summon the Board of Directors to appear before the CCC.

The Licensee has appeared before the CCC in December 2018. The case was brought to the CCC by concerned community member and listeners. The Broadcasting Compliance Unit is awaiting the outcome of the CCC process.

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<sup>6</sup> Appendix C: Regulations regarding Standard Terms and Conditions for Class Licences.



## **6. TERMS OF REFERENCE**

**Annexure A: Newcastle Community Radio's broadcasting service**

**Annexure B: Newcastle Community Radio's frequency spectrum licence**

**Annexure D: South African Music Content Regulations**

**Annexure E: Universal Service and Access Fund Regulations**

**Annexure F: Regulations Regarding Standard Terms and Conditions for Class Licensees**