



NGUNA FM ANNUAL COMPLIANCE REPORT

MARCH 2019

2017/2018 ANNUAL COMPLIANCE REPORT FOR ULUNDI CHRISTIAN

COMMUNITY RADIO STATION BROADCASTING AS NGUNA FM

Licence Period: 31 January 2014 to 30 January 2019

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 Nguna FM's performance for the 2017/2018 financial year. Aspects of compliance that are measured comprise of the Geographic Coverage, Community, Programming Obligations, Compliance Procedure Manual Regulations, South African Music Content Regulations and Regulations Regarding Standard Terms and Conditions.

2. BACKGROUND

Nguna FM holds a Class Sound broadcasting service licence⁵. The radio station's mandate is to provide a sound broadcasting service to the Christian community residing within the Zululand District Municipality in the KwaZulu-Natal 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:

"The Licence is issued to:

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: Nguna FM's broadcasting service licence.

⁶ Ibid.

- 1.1 *Name of Entity: Ulundi Christian Community Radio Station.*
- 1.2 *Name of the Station: Nguna FM.*
- 1.3 *Control of the Licensee: Control shall vest in the Board of Ulundi Christian Community Radio Station."*

There were no changes reported by the Licensee to its control structure during the period under review.

The Licensee was found to be compliant with clauses 1.1 to 1.3 of the schedule to its licence.

3.2 Licence Period

Clause 2 of the schedule to the licence states that:

"This licence is valid for a period of five (5) years from the signature date"

Nguna FM's licence was effective from 31 January 2014 to 30 January 2019.

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

3.3 Geographic Coverage Area

Clause 3 of the schedule to the licence stipulates that:

"The Licensee shall provide services in the Zululand District Municipality in the KwaZulu-Natal Province as set out in the Licensee's radio frequency spectrum licence".

Nguna FM covers the areas stipulated in its licence.

The Licensee was found to be compliant with clause 3 of the schedule to its licence.

3.4 Community

Clause 4.1 of the schedule to the licence states that:

"The Licensee shall provide services to a group or sector of the public with a specific, ascertainable common interest, being that of a Christian community residing within the geographic coverage area specified herein".

Nguna FM provides a sound broadcasting service to the Christian community of the Zululand District Municipality in the KwaZulu-Natal Province, as set out in the Licensee's frequency spectrum licence.

The Licensee was found to be compliant with clause 4.1 of the schedule to its 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"

The Licensee failed to submit proof of meetings requested by the Authority.

Nguna FM was found to be non-compliant with clause 4.2 and its sub-clauses.

Clause 4.3 of the schedule to the licence provides that:

"4.3 The Licensee shall hold Annual General Meetings (AGM) for the following purposes:

4.3.1 To provide feedback on the Licensee's compliance with licence conditions;

4.3.2 To provide feedback on the Licensee's operational and financial performance, and any Special Annual General Meeting as and when required by the constitution; and

4.3.3 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 indicating that the Annual General Meeting or Special Annual General Meeting did take place

The Licensee was found to be non-compliant with clause 4.3 and its sub-clauses of the schedule to 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 Local News and Information: The Licensee shall broadcast news to a total of 90 minutes per day of which 50 minutes shall be local, 30 minutes national, 10 minutes international news.

5.1.2 South African Music Content: 70%

5.1.3 Talk vs Music: 70% Talk and 30% Music

5.1.4 Language(s) of broadcast:

5.1.4.1 isiZulu – 80%; and

5.1.4.2 English – 20%".

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

The Licensee was found to be non-compliant with clause 5 of the schedule to its 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 submit log of programmes broadcast to the Authority as required by clause 5.2.

The Licensee was found to be non-compliant with clause 5.2 of the schedule to 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: Ps Herbert M Mncube

6.1.2 Tel: 035 870 8080

6.1.3 Fax:035 878 3026

6.1.4 Cell: 0724888699

6.1.4 Email: herbertmncube71@gmail.com".

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 make changes on its contact details.

The Licensee was found to be compliant with clauses 6.1 and 6.2 of the schedule to 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 the complaints report and other submissions as required by Compliance Procedure Manual Regulations.

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

4.2 South African Music Content Regulations⁷

Regulation 3 of the Regulations on South African Music Content as published on 23 March 2016 provides that:

"A holder of a community sound broadcasting service licence must ensure that after eighteen months of the gazetting of these regulations, a minimum of 60%, increasing by 10% annually to reach 80% 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"⁸.

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

The Licensee was found to be non-compliant with the Regulations on South African Music Content.

4.3 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licensees⁹

⁷ Appendix B: South African Music Content Regulations.

⁸ Appendix B: South African Music Content Regulations.

⁹ Appendix C: Regulations regarding Standard Terms and Conditions for Class licences

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

Nguna FM does not comply with Standard Terms and Conditions for Class Broadcasting Licences.

5. CONCLUSION

Nguna FM was found to be non-compliant 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 Division (CCA) will lodge a formal complaint against Nguna FM with Compliance and Complaints Committee (CCC) and recommend that the Licensee be reprimanded for non-compliance and its licence be suspended or not be renewed.

6. TERMS OF REFERENCE

Appendix A: Nguna FM's broadcasting service licence;

Appendix B: South African Music Content Regulations; and

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