



RADIO KINGFISHER ANNUAL COMPLIANCE REPORT

MARCH 2019

2017/2018 ANNUAL COMPLIANCE REPORT

Radio Kingfisher

Licence Period: 27 October 2013 to 28 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. 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 intended to give account of Radio Kingfisher's compliance with the terms and conditions as set out in its licence, for the 2017/2018 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Community Participation, Programming, Format, News and Information, Local Content Obligations, Language(s), South African Music Regulations, Regulations Regarding Standard Terms and Conditions.

2. BACKGROUND

Radio Kingfisher has been granted a class broadcast service licence and radio frequency spectrum licence. A project born out of the hearts of a group of Christians around Port Elizabeth, Radio Kingfisher currently enjoys more than 20 years of service. The Licensee's self-confessed mandate is to spread the good news of the Gospel of Jesus Christ, partner with churches in reaching the lost, equipping, ministering, discipling and encouraging those who tune in.

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

Radio Kingfisher continues to be the voice of hope to those living in its area of coverage.

3. COMPLIANCE ASSESSMENT

3.1 Licensee

Clause 1 of the licence stipulates that:

"The Licence⁵ is issued to:

1.1 Name of Company/Entity: Radio Kingfisher

1.2 Name of the station: Radio Kingfisher

1.3 Control of the Licensee: Control shall vest in the Board of Directors of a non-profit organisation known as Radio Kingfisher.

The Authority received no notifications from the Licensee indicating a change in any of the above stated obligations. According to the submissions received from the Licensee, the Authority confirms that Radio Kingfisher retains its company name and that the control of the Licensee is still vested in the Board of Directors of the entity.

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

3.2 Licence Area

Clause 3 of the licence provides that:

"The Licensee shall provide services in Port Elizabeth and surrounding areas in the Eastern Cape as set out in the Licensee's radio frequency spectrum licence⁶."

In the year under review, the Authority received no reports or complaints suggesting that Radio Kingfisher is broadcasting outside its licence area. The Licensee confirms that it covers the areas as stipulated in its licence.

⁵ Appendix A: Radio Kingfisher Broadcasting Service Licence

⁶ Appendix B: Radio Kingfisher Frequency Spectrum Licence

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

3.3 Community

Clause 4.1 of the licence stipulates that:

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

Radio Kingfisher submits that they continue to provide service to the Christian community within its geographic coverage area in Port Elizabeth.

The Licensee complies with clause 4.1 of its licence.

Clause 4.2 of the licence stipulates 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 two (2) general meetings annually with its community 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 the attendance thereof by members of the community;"

The Authority's letter dated 20 February 2018⁷, requested the Licensee to submit proof of the radio station's compliance with clause 4.2.1 in the year ended March 2018. Radio Kingfisher's submission in this regard did not satisfy the Authority's definition of community participation and how the community should be engaged.

Radio Kingfisher could only submit proof of meetings with staff and while their meetings with staff discussed some programming matters; they did not satisfy the purpose for which this clause was intended. Clause 4.2.1 was meant for the Licensee to engage its listenership on programming for instance. The Licensee's

⁷ Appendix C: Letter to Radio Kingfisher dated 20 February 2018

approach as observed in the year ended 2018 means that the Licensee decides what the Listener should hear on the radio.

The Licensee failed to comply with clauses 4.2.1 and 4.2.2 of its licence.

Clause 4.2.3 of the licence makes further prescriptions in terms of community participation as follows:

"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".*

Radio Kingfisher held its Annual General Meeting for the year ended 2018 on 24 November 2017. The Licensee submitted proof⁸ of this sitting at the Authority's request. The Licensee's submission satisfies the Authority's prescription on convening an AGM.

Radio Kingfisher complies with clause 4.2.3 of the Licence.

3.4 Programming

Clause 5.1 of the licence stipulates that the Licensee shall provide programming as follows:

⁸ Appendix D: Radio Kingfisher's Minutes of AGM and Attendance Register

3.4.1 News and Information:

"5.1. The Licensee shall broadcast a total of 78 minutes of news per day of which 22% shall be local, 27% regional, 30% national and 20% international news."

The obligation requires Radio Kingfisher to broadcast at least 78 minutes of News per day. The Authority's monitoring exercise found that the Licensee falls short on their news output. Radio Kingfisher schedules 13 full news bulletins during week days and 6 on each day of the weekend. The Licensee's news bulletins were observed to last for at least 4 minutes each. In total, Radio Kingfisher was found to carry at least 52 minutes of news during weekdays and 24 minutes of news on each day of the weekend.

The following are some news samples as found during monitoring:

- *"EFF president, Julius Malema, has requested that the motion of no confidence against president Jacob Zuma – on the 22nd of February – be held through a secret ballot. In a letter addressed to the National Assembly speaker, Baleka Mbete, Malema argued that a secret ballot would help protect the integrity of the results of the vote, as well as security and the livelihood of MPs. Malema cites what he claims to be various incidents of intimidation which have added to the already toxified atmosphere caused by those who have in the past prevented the removal of Mr. Zuma, mainly for corrupt motives, to justify his call for a secret ballot. These include, among others, surveillance of members of parliament, Zuma's call that the most recent motion of no confidence, in which several ANC MPs voted for his removal, be done by an open ballot and Friday's threat of a civil war by the 'Hands Off Zuma' campaign - led by Black First Land First and Unemployed People's Trust."*
- *"The outcome of the meeting between ANC's top officials and Jacob Zuma in Pretoria to discuss his future presidency was still unknown last night, but the strongest indication yet that he will not step down voluntarily. ANC*

National Executive Committee member, Lindiwe Sisulu confirmed that national working committee had been summoned to Luthuli House for an urgent meeting today. Last night's meeting was all over by ten-thirty, an hour after it has started, there was however no official word about what had been discussed or what resolutions were made. The outcome could determine whether Jacob Zuma stays and delivers the opening speech to parliament this coming week."

- *"The Public Servant Association of South Africa has threatened to take legal actions against the Public Investment Cooperation's agreement to loan Eskom R5 billion. The PSA has described the move as shocking, adding that it feels betrayed after all parties agreed that no state-owned enterprises will be bailed out until governance improve at institutions. The state-owned company has been experiencing severe liquidity challenges and has been trying to raise about R20 billion. PSA threatened legal action against the PIC, adding that that the PIC cannot be trusted."*

Radio Kingfisher failed to provide the amount of news prescribed by clause 5.1.1, therefore the Licensee failed to comply with its news obligations.

3.4.2 Talk vs Music

"5.1.3 60% talk and 40% music."

While monitoring Radio Kingfisher's programming profile, the Authority found that the Licensee carries more talk than music. However, this is not always the case as some weekend slots carried more music than talk. While this may be case, the Authority's calculation averaged out on a sample of 7 days found that indeed Radio Kingfisher's programming format is a split of approximately 60% talk and 40% music.

Radio Kingfisher complies with clause 5.1.1 of the Licence.

3.4.4 Language(s) of Broadcast:

"5.1.4 languages of broadcast shall be:

5.1.4.1 IsiXhosa – 25%;

5.1.4.2 English – 50%; and

5.1.4.3 Afrikaans – 25%"

In the year under review, the Authority's monitoring exercise found that the Licensee had a fair balance in terms of broadcasting in its required languages of broadcast. English was the dominant language while programmes in other languages were also found. In all aspects of broadcasting, the Licensee was observed to consider its language obligations in the ratios presented by clause 5.1.4 of its licence.

The Licensee complies with clause 5.1.4.

3.4.5 Promise of Performance

Clause 8.1 of the licence reads as follows:

"The Licensee shall establish and maintain a co-ordinating body i.e. spiritual Board, which shall consist of the representatives of community based organisations, Christian religious organisations and individual members from within its coverage area."

At the time of the compiling this report, the Authority wrote to Radio Kingfisher in a quest to find out the extent to which the Licensee has complied with its promise of performance. The Authority's request went unanswered until the time that this report was due for submission; which was past the given deadline. The Licensee's failure to prove that it convened its meeting with the community, serves as proof that Radio Kingfisher does not have a co-ordinating body as required in the clause above. The co-ordinating body is meant to represent the "Community of Radio Kingfisher" as similarly mentioned by clause 4 of the licence.

Therefore, in the absence of proof that the Licensee has established and maintained the co-ordinating body as required, **the Authority concludes that Radio Kingfisher failed to comply with its promise of performance.**

Clause 8.2 of Radio Kingfisher's service licence provides as follows:

"60% of the Licensee's talk programmes shall be aimed at education, promotion of Christian religion, literacy and informing the community. This shall include informal education such as skills development."

The monitoring exercise carried out by the Authority on Radio Kingfisher's programming profile revealed that the Licensee's overall talk content is indeed aimed at the promotion of religion, religious education, literacy and information. All talk content on the Licensee's programming profile carried elements of education with its basis on Christian religion. All programmes were found to be informative and did promote literacy. This was measured by the presenter's reference to Bible scriptures and where they would encourage the listener to go and read the scripture mentioned.

Radio Kingfisher remains the training hub for commercial radio stations in and around the Port Elizabeth area. The Licensee would find some raw talent, groom it and commercial Licensees would then recruit and employ them. Radio Kingfisher continues to provide skills development to young talent within its coverage area.

Radio Kingfisher complied with clause 8.2 of the Licence.

In clause 8.3 the Licensee is required to:

"...broadcast programmes relating to children, youth, elderly and the disabled."

The Authority's monitoring exercise found that Radio Kingfisher's overall programming profile does not discriminate against any of the groups of people that are listed by this clause. The content monitored was observed to be embracing for people of different age group and body orientation.

Radio Kingfisher complied with clause 8.3 of its licence.

4. REGULATIONS

4.1 South African Music Content Regulations⁹

Regulation 3 of the ICASA South African Music Content Regulations 2016 stipulates that:

"A holder of a community sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting of these regulation, 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."

The monitoring exercise found that Radio Kingfisher schedules at least 40% South African Music content – in its overall programming profile – during the South African Performance Period. This find basically echoes the Licensee's submission that Radio Kingfisher does not comply with the ICASA South African Music Content Regulations. According to the Licensee's music log sheets, a sample of 1 month, Radio Kingfisher plays approximately 32% South African Music Content in tis programming.

The following local artists were identified as enjoying airplay on Radio Kingfisher: Leza Liversage, Malibongwe Gcwabe, Zahara, Jonas Masotla, Mxolisi Mbethe, Christy Nockels, Ritief Burger, Khaya Mayedwa, Maduvha, Nelisiwe, Mxolisi Mbethe, Riana Nel, CJay, Veliswa Seyi, Khaya Mthethwa, Lusanda Spiritual Group and others.

The Licensee plays very little South African Music Content **Radio Kingfisher failed to comply with the ICASA South African Music Regulations.**

⁹ Appendix E: ICASA South African Music Content Regulations

4.2 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 in the course of each financial year. In the year that is currently under review, Radio Kingfisher submitted its Form 12A indicating that the Licensee received no complaints.

The Licensee complies with the Compliance Procedure Manual Regulations.

4.3 Code on People with Disabilities

Clause 3.1 (a) of the Code for People with Disability of 2007 stipulates that:

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

The Licensee's programming was found to cater for people with disabilities. Furthermore, the radio station's premises are accessible to people with disabilities.

The Licensee complies with the above-mentioned regulation.

4.4 Regulations regarding Standard Terms and Conditions for Class Licensees

Regulation 2(1)(d) of the Regulations Regarding Standard Terms and Conditions for Class Licensees¹⁰ provides two fundamental regulations that are constantly and continuously used to measure a Licensee's compliance. The two regulations are regulation 2(1) and the sub clauses, along with regulation 9 in its entirety.

In terms of the provisions made by Regulation 2(1) of the Regulations Regarding Standard Terms and Conditions for Class Licensees; Radio Kingfisher has had no changes to its licence details and information in the year that is currently under review.

¹⁰Appendix F: Regulations regarding the Standard Terms and Conditions

Furthermore, the Licensee has always been keen to assist the Authority with any information that may be required of them.

Radio Kingfisher complies with the Regulations regarding the Standard Terms and Conditions.

5. CONCLUSION

In the year under review, Radio Kingfisher failed to meet with its community on programming related matters. The Licensee's failure in this regard is linked with the fact that Radio Kingfisher could not produce proof that they have "established and maintained" a coordinating body within its community. If Radio Kingfisher had established the co-ordinating body as per their promise in 8.1, then they would have maintained it with the 2 meetings annually on programming, among other things. Radio Kingfisher failed to produce the amount of news as prescribed by clause 5.1.1.

With the publication of this report, the Licensee will be made aware of the areas where it failed to meet the obligations. The Authority will continue to monitor the compliance of the Licensee during the next financial year.

6. TERMS OF REFERENCE

Appendix A: Radio Kingfisher's Broadcasting Service Licence

Appendix B: Radio Kingfisher's Rad Frequency Spectrum Licence

Appendix C: Letter to Radio Kingfisher dated 20 February 2018

Appendix D: Radio Kingfisher Proof of AGM (Minutes and Attendance Register)

Appendix E: South African Music Content Regulations

Appendix F: Regulations regarding the Standard Terms and Conditions