



RADIO UNIQUE ANNUAL COMPLIANCE REPORT

MARCH 2019

2017/2018 ANNUAL COMPLIANCE REPORT

BURGERSDORP COMMUNITY RADIO ASSOCIATION BROADCASTING AS RADIO UNIQUE

Licence Period: 28 October 2013 to 27 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 the report is intended to give account of Radio Unique's performance for the 2017/2018 financial year. Aspects of compliance that are measured comprise of the Geographic Coverage, Community, Programming Obligations, South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions and the Code on People with Disabilities.

2. BACKGROUND

Radio Unique holds a Class Sound Broadcasting Service Licence⁵. The radio station's mandate is to provide a sound broadcasting service to the community of Burgersdorp, Venterstad, Dordrecht, Molteno, Steynsburg and surrounding areas in the Eastern Cape Province, as set out in the Licensee's frequency spectrum licence⁶.

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: Radio Unique's broadcasting service licence.

⁶ Ibid.

3. COMPLIANCE ASSESSMENT

3.1 Control Structure

Clause 1 of the licence states that:

"The Licence is issued to:

- 1.1 Name of Company/Entity: Burgersdorp Community Radio Association.*
- 1.2 Name of the Station: Radio Unique.*
- 1.3 Control of the Licensee: Control shall vest in the Board of Directors of Burgersdorp Community Radio Association".*

There were no changes reported by the Licensee to its control structure during the period under review. The licence is still Burgersdorp Community Radio Association. The name of the Licensee's radio station is Radio Unique. The control of the Licensee is not in the hands of the Board of Directors of Burgersdorp Community Radio Association, since the majority of its Board Members are not active. This was stated by the radio station's General Secretary during the meeting with CCA. Further, the report submitted by the Acting Station Manager indicated that the majority of members of the Board Members are no longer active.⁷

The Licensee's Board of Directors that were elected on 26 November 2013 consisted of the following members:⁸

Nkosiyethu Skalika – Chairperson;

Nompumelelo mtshayi -Treasurer;

Themfisa Bido – Secretary;

Siyabulela Mpande - General Secretary;

Daluxolo Mfanekiso – Board Member; and

⁷ Appendix D: Radio Unique's 2018 AGM Report.

⁸ Appendix E: Radio Unique's 2013 AGM Report.

Siyabulela Saliwa – Board Member.

The Authority has established through its monitoring visits and communication with the radio station that Mr Mpande is the only active Board Member.

The Licensee is not compliant with clauses 1.3 of the licence.

3.2 Licence Period

Clause 2 of the licence states that:

"2.1 The effective date of the licence is 28 October 2013.

2.2 The licence shall expire on 27 October 2018."

Radio Unique's licence was issued on 24 October 2013, but effective from 28 . October 2013 to 27 October 2018.

The Licensee complies with clause 2 of the licence.

3.3 Geographic Coverage Area

Clause 3 of the licence stipulates that:

"The Licensee shall provide services to Burgersdorp, Venterstad, Dordrecht, Molteno, Steynsburg and surrounding areas in the Eastern Cape Province, as set out in the Licensee's frequency spectrum licence".

The Licensee covers the areas stipulated in its licence.

The Licensee complies with clause 3 of the licence.

3.4 Community

Clause 4.1 of the licence states that:

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

Radio Unique provides a sound broadcasting service to the community of Burgersdorp, Venterstad, Dordrecht, Molteno, Steynsburg and surrounding areas in the Eastern Cape Province.

The Licensee complies with clause 4.1 of the schedule to its licence.

Clause 4.2 of 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) general 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.

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 convene two (2) meetings with community focusing on programming and programming policies. The Licensee states that it held its AGM on 19 February 2018. However, the minutes

submitted to the Authority lack details and make it clear that the meeting in question was not an AGM since the correct procedures were not followed. For example, the audited financial statements were not shared with community. The majority of Board of Directors did not attend the meeting.

The Licensee is non-compliant with clause 4 and its sub-clauses of the licence.

3.5 Programming

Clause 5 of the licence states that the Licensee shall provide format as follows:

"5.1.1 News and Information: The Licensee shall broadcast a total of fifty (50) minutes of news per day, of which 25% shall be local, 15% national and 5% international news

5.1.2 South African Music Content: 65%

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

5.1.4 Language(s) of broadcast:

5.1.4.1 IsiXhosa – 45%;

5.1.4.2 Sesotho – 5%;

5.1.4.3 English – 25%; and

5.1.4.4 Afrikaans – 25%".

The Licensee's recordings were not submitted, making it impossible to monitor content. The CCA made various attempts to solicit recordings from the Licensee and remains unsuccessful to date.

The Licensee is non-compliant with clause 5 of the licence.

Clause 6 of the licence states that:

"6.1 The Contact person for the Licensee shall be:

6.1.1 Name: Asanda Kani

6.1.2 Tel: 051 653 10005

6.1.3 051653 1005

6.1.4 079 725 3829

6.1.5 info@radiounique.co.za"

The Licensee changed contact person without following the correct procedures, such as compliance with Standard Terms and Conditions Regulations and Processes and Procedures Regulations.

The Licensee is non-compliant with clause 6 of the licence.

Clause 8 of the schedule to the licence stipulates that:

"8.1 60% of the Licensee's talk programmes shall be aimed at education, religion, health, news, current affairs, sports and nation-building programmes.

8.2 The Licensee shall broadcast programmes relating to children, youth, adults, elderly and disabled."

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

The Licensee is non-compliant with clause 8 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 12A⁹ which reports on all complaints received during the financial year under review.

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

⁹ Ibid.

The Licensee is non-compliant with the Compliance Procedure Manual Regulations

4.2 South African Music Content Regulations¹⁰

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 did not submit information to the Authority as required. Therefore, the monitoring of recordings was not conducted.

The Licensee is non-compliant with the Regulations on South African Music Content.

4.3 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences¹¹

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

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

5. CONCLUSION

Radio Unique is non-compliant with most provisions of its licence conditions and applicable regulations. The Compliance and Consumer Affairs Division (CCA) tried

¹⁰ Appendix B: South African Music Content Regulations.

¹¹ Appendix C: Regulations regarding Standard Terms and Conditions for Class Licences

to assist the Licensee to comply, but its Board members were always not available for meetings. The non-compliance by the Licensee indicates that there is a lot of work that need to be done to educate communities about the implications of non-compliance with licence conditions and ICASA's regulations. Further, the CCA will lodge a formal complaint against Radio Unique with Complaints and Compliance Committee (CCC) and recommend that its licence be revoked or suspended or not be renewed.

6. TERMS OF REFERENCE

Appendix A: Radio Unique's broadcasting service licence;

Appendix B: South African Music Content Regulations; and

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