



VOICE OF THE CAPE ANNUAL COMPLIANCE REPORT

MARCH 2019

2017/2018 ANNUAL COMPLIANCE REPORT

VOICE OF THE CAPE

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 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.

The purpose of the report is to give an account of Voice of the Cape'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

Voice of the Cape was the first Muslim Community Radio Station in South Africa. This great project has seen immense success over the years since its inception as a Special Event Licensee in the mid-90s. In June 2002, Voice of the Cape was granted its first 4-year licence and has since grown from strength to strength. To date, the concern remains the biggest source of information and community development to the Muslim Community.

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

3. COMPLIANCE ASSESSMENT

3.1 Licensee

Clause 1 of the Licence⁵ provides that:

"The Licence is issued to:

- 1.1 Name of Entity: Muslim Broadcasting Corporation*
- 1.2 Name of the Station: Voice of the Cape*
- 1.3 Control of the Licensee: Control shall vest in the Board of Trustees of a Trust known as the Muslim Broadcasting Corporation."*

The reports submitted by the Licensee to the Authority confirm that the Licensee still goes by the name Voice of the Cape. Active monitoring of the Licensee's programme recordings also confirmed that the name is still as per the licence. Furthermore, during the period under review the Authority did not receive any communication from the Licensee indicating a change in the control of the Muslim Broadcasting Corporation.

The Licensee complies with clause 1 and the sub-clauses of the licence.

3.2 Licence Area

Clause 3 of the licence prescribes as follows:

"The Licensee shall provide services in the Greater Cape Metropolis in the Western Cape Province as set out in the Licensee's radio frequency spectrum licence⁶."

Voice of the Cape's coverage area is still as prescribed in the licence. Further, for the year under review, the Authority received no reports or complaints indicating that the radio station has interfered in areas that are outside its coverage area.

The Licensee complies with clause 3 of its licence.

⁵ Appendix A: Voice of the Cape Broadcasting Service Licence

⁶ Appendix B: Voice of the Cape's Frequency Spectrum Licence

3.3 Community

Clause 4.1 of the schedule to the licence provides:

"The Licensee shall provide services to a Sunni Muslim Community of interest residing within the geographic coverage area specified herein".

Voice of the Cape reports that it continues to provide broadcasting service as prescribed in the licence.

During the year under review, the Authority's monitoring exercise identified that Voice of the Cape's programming profile is indeed targeted at the prescribed community of interest residing in the Cape Metropolis.

Voice of the Cape complied with clause 4.1 of its licence.

While clause 4.2 of the schedule to the licence prescribes as follows:

"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 policies of the station.

A letter⁷ submitted by the Authority on 28 February 2018 listed the information that the Licensee was required to submit. Among the submissions required was proof that the Licensee convened the two meetings including an AGM as prescribed by clause 4 of their licence document. In response, on Thursday 29 March 2018, the Authority received some information from the Licensee and upon perusal and compilation of this annual compliance report the information was incomplete. Voice of the Cape submitted minutes of all meetings that were convened by the Licensee's Board of Trustees in the year ended 2018. An indication given by the

⁷ Appendix C: Authority's letter dated 28 February 2018 regarding compliance requirements

Licensee is that, the Board of Trustees for Muslim Broadcasting Corporation ("MBC") meets at least twice a month and that should be applauded.

However, the Licensee's Trustee meetings do not satisfy the purpose for which this clause was intended. The expectation from the Authority is that, the MBC should be having a register of its members and that it should meet with this body at least 2 times a year to discuss programming at Voice of the Cape. An observation from the submitted minutes is that, the Licensee's Board has at least 7 individuals serving in it and this can in no way be accepted as representative of all the members of the MBC.

In the absence of proof that the MBC convened the 2 meetings prescribed by this clause, **the Authority concludes that the Licensee failed to comply with clause 4.2.1 of its licence.**

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 could not submit proof of the meetings prescribed by clause 4.2.1 of the Licence. However, the Licensee did furnish the Authority with proof of all meetings held by the MBC's Board of Trustees⁸ in the year under review. In this instance, the Authority concludes that the reason for the MBC's failure to submit proof of meetings with the members on programming and programme-related matters is because such meetings were not convened. The Licensee submitted proof of meetings it held in the year under review and those meetings did not include meeting with the members of the community at large.

The Licensee does not comply with clause 4.2.2 of the licence.

While 4.2.3 prescribes that:

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

⁸ Appendix D: Proof of MBC Board of Trustees Meetings

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".

The MBC could not submit proof that an Annual General Meeting was convened by the Licensee in the year ended 2018.

On the basis that the Licensee could not submit proof to this effect, the Authority concludes that the MBC failed to comply with clause 4.2.3 of the Licence.

3.4 Programming

Clause 5.1 of the schedule to the licence stipulates that:

"The Licensee shall provide programming as follows:

5.1.1 Local News and Information: "The Licensee shall broadcast 30% local, 30% national and 20% sports news per day. 60% of news shall include news from the community produced by the station on issues affecting the identified community."

The Authority's monitoring exercise did find news of local and national interest in the Licensee's programming profile. Sports news were also found and, in most cases, formed part of the main news bulletin. The way in which the clause is couched, it is impossible to properly measure the Licensee's news output in minutes. The clause in this case does not prescribe any number of minutes to be allocated to the Licensee's news output. The clause merely prescribes that the Licensee allocates news of local, national and sports news and the Licensee does broadcast news as prescribes.

The monitoring exercise found at least 9 full news bulletins per week day and the number is less on Saturday and lesser on Sunday.

Among the news stories covered for the period under review were excerpts from certain broadcasts, as follows:

- *"Police are searching for the suspects who murdered a 22-year-old man in Belhar in the Western Cape. The man was shot dead along Symphony Road yesterday; at this stage it remains unclear whether the attack is gang related. The Polices van Wyk says anyone with information on this shooting is requested to contact the Crime Prevention Unit on 10111 or Belhar Police.*
- *A news source has said that President Jacob Zuma and ANC President, Cyril Ramaphosa will conclude their discussion on Zuma's exit, 48 hours after which the outcome will be announced to the nation. A reliable ANC sources confirmed that the negotiations with the Zuma concern were just cosmetic issues like the payment of his legal fees after leaving office and security for him and his family.*
- *Meanwhile, the DA says, those who are implicated in the State Capture have gone on for way too long without being held accountable for their actions. This follows yesterday's release of the regulations for the Zondo Commission of Enquiry into the State Capture. In addition to president Jacob Zuma, the party wants the Gupta Family, Duduzane Zuma, ANC Secretary General Ace Magashula and Minerals minister, Masebenzi Zwane to be summoned to testify before the commission.*
- *Former Western Cape Police Chief, Arno Lamoer, has pleaded guilty to a charge of corruption when he appeared before the Cape Town High Court along with his co-accused. Lamoer, his colleagues Darius Van Der Ross, Colin Govender and businessman Saleem Dawjee stand accused of 109 charges of corruption, racketeering and money laundering. It is alleged that Dawjee paid the police members for favours. Lamoer and Colin Govender both changed their pleas from 'not guilty' to 'guilty'. The case will resume on Monday.*

The Licensee complied with clause 5.1.1 of its licence.

5.1.2 South African Music Content: 80%

The Authority's monitoring exercise revealed that the overall programming format is dominated by talk content. Music is measured at about a quarter of the overall programming profile. The Licensee's music schedule features mostly Muslim

recitals which according to the Licensee are of South African origin as they were produced and recorded in South African by Muslim South African Musicians. Voice of the Cape plays approximately 85% South African music in that the recital renditions are repeated throughout the programme schedule.

The following local artists were identified as enjoying airplay on Voice of the Cape: We are Unity, Nurul Mubeen, Ijaaz, Imaan, Alwiedaa Qasieda group, Raihan2, A Nisaa Qasieda group, Zain Bhika, Ismail Galant, Toyer Abrahams, Shamsu Parker, Maleier Koor Klanke, Adiel Dante, Cape Malaysians, Darul Arkham Nasheed group, Aswaatul Islam Nasheed group, Sugaybaat Nasheed group, Wahied Kannemeyer, Esa Alexander, Taliep Petersen, Kinders van die Ses and others.

Voice of the Cape complied with clause 5.1.2 of the licence.

5.1.3 Talk vs. Music: 75% Talk and 25% Music

The Authority's monitoring exercise identified that the Licensee's programming profile is dominated by Talk and that music is just about a quarter of the Licensee's programming profile.

The Authority is satisfied that the Licensee's programming format is a split of at least 75 % talk and 25% music.

The Licensee complies with clause 5.1.3 of the licence.

5.1.4 Languages of broadcast:

5.1.4.1 English;

5.1.4.2 Afrikaans;

5.1.4.3 isiXhosa; and

5.1.4.4 Arabic.

The Authority's monitoring exercise could not find any isiXhosa Programming on Voice of the Cape. According to the Licensee's letter, the period that the Authority reviewed is a time when the Licensee was experiencing unsettled personnel problems and this affected their programming output. In the attached

communication⁹, Voice of the Cape goes into detail regarding the problem that they faced at the time.

On the basis that the Authority could not find any programming in isiXhosa, the conclusion is that the **Licensee failed to comply with 5.1.4 of its licence.**

Clause 5.2 of the Schedule to the licence requires 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."

Voice of the Cape endeavours to keep to the monthly basis submission. However, it is not always the case that the Licensee submits its monthly programming log sheets "on a monthly basis". In the event where the Licensee fails to submit for a certain month, the Licensee would make the submission in the subsequent months and make up for missed submissions.

The Licensee complies with clause 5.2 of the Licence.

3.5 Promises of Performance

According to clause 8.1 of the Licence...

"The Licensee shall ensure that 5% of its programming is isiXhosa calculated on a weekly basis."

The Authority's monitoring exercise could not find any isiXhosa Programming on Voice of the Cape. According to the Licensee's letter, the period that the Authority reviewed is a time when the Licensee was experiencing unsettled personnel problems and this affected their programming output somehow. In the attached communication, Voice of the Cape goes into detail regarding the problem that they faced at the time.

⁹ Appendix E: Email from Voice of the Cape regarding the Authority's findings.

On the basis that the Authority could not find any programming in isiXhosa, the conclusion is that the **Licensee failed to comply with clause 8.1 of the licence.**

Clause 8.2 provides the following prescription:

"The Licensee shall broadcast programme content which will be educational. This will include informal education such as skills development, HIV/AIDS awareness and basic literacy."

Voice of the Cape's overall programming profile was observed to be educational. The Licensee's programme line up is quite passionate in discussing topics that are related to health issues and lifestyles. Referrals to certain books authored on lifestyle issues to religious compilations were observed during monitoring. On the issue of skills development, the Licensee submits that the mere service is a way of developing skill within individuals in the employ of Voice of the Cape.

The topic of skills development enjoyed a lot of publicity during the Licensee Board meetings. The perusal of the minutes of Board Meetings revealed that the Licensee takes pride in developing the skills within the youngsters in the community it serves.

The Licensee complies with clause 8.2 of the licence.

4. REGULATIONS

4.1 Code on People with Disabilities

Clause 3.1 (a) of the Code on People with Disability of 2007 provides as follows:

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

The Authority's observation concludes that the Licensee's services do not discriminate against people with disabilities. The radio station was found to cater for people with disabilities in terms of access to the facilities and in its programming.

The Licensee complies with the above-mentioned regulation.

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 during each financial year. In the year under review, Voice of the Cape submitted its Form 12A indicating that the Licensee received no complaints.

On the basis that the Licensee is required to submit the forms as prescribed by the Compliance Procedure Manual, **Voice of the Cape complied with the provision of this regulation.**

4.3 ICASA South African Music Content Regulations

Regulation 3 of the ICASA South African Music Content Regulations 2016¹⁰ 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 Authority's monitoring exercise revealed that the overall programming format is dominated by talk content. Music is measured at about a quarter of the overall programming profile. Licensee's music schedule features mostly Muslim recitals which, according to the Licensee, are of South African origin as they were produced and recorded in South African by Muslim South African Musicians. Voice of the Cape plays approximately 85% South African music in that the recital renditions are repeated throughout the programme schedule.

The following local artists were identified as enjoying airplay on Voice of the Cape:

¹⁰ Appendix F: ICASA South African Music Content Regulations

We are Unity, Nurul Mubeen, Ijaaz, Imaan, Alwiedaa Qasieda group, Raihan2, A Nisaa Qasieda group, Zain Bhika, Ismail Galant, Toyer Abrahams, Shamsu Parker, Maleier Koor Klanke, Adiel Dante, Cape Malaysians, Darul Arkham Nasheed group, Aswaatul Islam Nasheed group, Sugaybaat Nasheed group, Wahied Kannemeyer, Esa Alexander, Taliep Petersen, Kinders van die Ses and others.

Voice of the Cape complies with clause 5.1.2 of the licence.

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 Licensees¹¹ 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; Voice of the Cape has had no changes to its Licensee details and information in the year under review.

Furthermore, Voice of the Cape makes it a point that all information required of them is submitted as per given format and by the stipulated deadline. In the event where the Licensee cannot meet the stipulated deadline, they request an extension to submit.

The Licensee complies with Regulations 2(1) and 9 of the Standard Terms and Conditions for Class Licensees.

5. CONCLUSION

Voice of the Cape could not produce proof that their annual general meeting convened for the year under review. In the period under review, the Licensee

¹¹ Appendix G: Regulations regarding the Standard Terms and Conditions

failed to provide any programming in one of the licensed languages due to personnel issues at the station.

Voice of the Cape's compliance needs to be measured with the next reporting period to ascertain the Licensee's claims where isiXhosa programming is concerned. In the event that the Authority finds a repetition of events then the Licensee could be referred for non-compliance.

A meeting to discuss the Authority's findings will be scheduled with the Licensee in the coming financial year.

6. TERMS OF REFERENCE

Appendix A: Voice of the Cape's Broadcasting Service License

Appendix B: Voice of the Cape's Frequency Spectrum Licence

Appendix C: Authority's letter dated 28 February 2018 regarding compliance requirements

Appendix D: Proof of MBC's Board of Trustees meetings programming meetings

Appendix E: Email from Voice of the Cape in response to the Authority's findings

Appendix F: ICASA South African Music Content Regulations

Appendix G: Regulations regarding the Standard Terms and Conditions for Class Licensees