



94.5 KFM ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/19 ANNUAL COMPLIANCE REPORT

PRIMEDIA (PTY) Ltd BROADCASTING AS 94.5 KFM

LICENCE PERIOD: 18 December 2018 – 17 December 2028

1. PREFACE

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution, the ICASA Act and the Electronic Communications Act of 2005 ("ECA") to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority is to ensure compliance by broadcasters with the terms and conditions of their licence and any relevant legislation and regulations.

The following report is intended to give account of 94.5 KFM's compliance with the terms and conditions as set out in its licence for the 2018/2019 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Broadcasting Languages, Format, General Programming Obligations, Training and Skills Development, Community-Related Obligations, Ownership and Control, South African Music Regulations, Regulations Regarding Standard Terms and Conditions and Universal Service and Access Fund (USAF) Regulations.

2. BACKGROUND

In September 2019, the Authority issued Primedia (Pty) Ltd ("the Licensee") with the renewed Individual Commercial Sound Broadcasting Service licence¹ and a Radio Frequency Spectrum licence² in terms of the ECA.

The Licensee broadcasts as 94.5 KFM and provides a service in the Greater Western and Southern Cape. The radio station is broadcasting from the studios situated in Cape Town and have a central business office at 5 Gwen Lane, Sandown in Gauteng.

¹ 94.5 KFM Broadcasting Service Licence

² 94.5 KFM Radio Frequency Spectrum Licence

According to the Broadcast Research Council of South Africa, the listenership figures ending March 2017 were 726 000³.

3. COMPLIANCE ASSESSMENT

3.1. Control Structure

3.1.1. Ownership and Control

Clause 1 of 94.5 KFM's licence provides that:

"The licence is issued to:

1.1 Name of Company/Entity: Primedia (Pty) Ltd

1.2 Shareholders: Primedia Holdings III Limited

1.3 Ownership held by persons from historically disadvantaged groups: 49.1%"

During the period under review, there were no changes reported by the Licensee to its name, shareholding and HDG structure.

The Licensee complies with clause 1 of its licence.

3.2. Contact Details

Clause 2 of the licence provides that:

2.1 "The contact person for the Licensee shall be:

2.1.1 Name: Mr Tebogo Mokoena

2.1.2 Tel: 011 506 3845

2.1.3 Fax: 086 262 3003

2.1.4 Cell: 084 293 9192

2.1.5 Email: tebogomo@primedia.co.za"

The Licensee did not submit any notification with regards to all the above as stated during the period under review.

The Licensee complies with clause 2 of its licence.

3.3 Notices and Addresses

Clause 3 of the licence provides that:

3.1 *"The Licensee chooses the following addresses as its principal addresses:*

3.1.1 *Postal Address: PO Box 5572*

Rivonia

2126

3.1.2 *Physical Address: Primedia House*

5 Gwen Lane

Sandown

Sandton, 2146

The Licensee did not submit any notification with regards to all the above as stated during the period under review.

The Licensee complies with clause 2 of its licence.

3.4 Name of Station

Clause 1 of the schedule to 94.5 KFM's licence provides that:

"Name of Station: 94.5 KFM".

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

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

3.5 Geographic Coverage Area

Clause 2 of the schedule to 94.5 KFM's frequency spectrum licence provides that 94.5 KFM's geographic coverage area is:

"Greater part of in the Western and Southern Cape, as defined in the coverage map attached to the Licensee's radio frequency licence".

The Authority did not received reports suggesting deviance with the defined coverage area. The signal distribution service is conducted by Sentech (Pty) Ltd.

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

3.6 Broadcast Language (s)

Clause 3 of the schedule to the licence provides that the language of broadcast shall be Afrikaans and English.

94.5 KFM broadcasts in Afrikaans and English as its primary languages. Most of the presenters at the radio stations are conversant in both languages and are also able to engage listeners in both languages of broadcast.

The Licensee complies with its language of broadcast obligation.

3.7 Format

Clause 4 of the schedule to the licence provides that:

"The Licensee shall have programming format of talk and music in an adult contemporary format providing a programming mix of music and information (including coverage of community affairs)".

The Authority's monitoring exercise confirmed that 94.5 KFM broadcasts an adult contemporary programming format of talk and music. Programmes identified also include a mix of music and information of community affairs in and around the Western and Southern Cape.

The Licensee complies with clause 4 of the schedule to its licence.

3.8 Local Content Obligations

Clause 5 of the schedule to 94.5 KFM's licence provides that:

"The Licensee shall ensure at least thirty percent (30%) local content in its music output".

The Licensee submits that, during the period under review it averaged forty-point eight zero percent (40.80%) local content in its music output. This is made up of local music plays on-air, live interviews with both emerging and established local artists, live in studio performance and/or coverage of local music events as reflected in its programme log sheet. The Licensee submits complies with clause 5 of the schedule to its licence.

The monitoring exercise revealed that 94.5 KFM plays approximately thirty five percent (35%) of South African Music. The South African artists featured included among others, *Johnny Clegg, Tellaman, Shekinah, Micasa, Casper Nyovest, Jack Parrow, Holly Rey and Black Coffee.*

The Licensee complies with clause 5 of the schedule to its licence.

3.9 General Programming Obligations

Clause 6 of the schedule to the licence provides that:

"6.1 The Licensee shall broadcast a minimum of thirty (30) minutes of news per day between 05h00 and 23h00 during weekdays.

6.2 The Licensee shall include news from the African continent and the related coverage area".

The Licensee has not submitted any detailed report to inform a conclusive determination. However, the monitoring exercise confirmed that 94.5 KFM broadcast news at the top of every hour between 06h00 and 19h00. The Licensee's news bulletins are broadcast for approximately three and half minutes each. The Licensee broadcast more than the required thirty (30) minutes of news each day during the South African performance period. It was also confirmed that the Licensee includes news from the African continent and related coverage area. The following were among the news items identified during the period under review:

- *"The Western Cape government says it expects dams to recover further as the rainy season approaches. However, there's still some uncertainty around the 2019 winter season. The average dam level across the entire province is at 34.5%. Western Cape Environmental Affairs spokesperson James-Brent Styan says that they remain hopeful.";*
- *"After a two-week break, the former Cape Town mayor says she's used the time to conduct research and consult with her family and supporters, and has now decided to launch a new party that will contest next year's elections in all nine provinces.";*
- *"The Democratic Alliance (DA)-led City of Cape Town has been questioned by one of its own councillors why close to R47,000 per month was spent on printing and*

office stationery for the management entity of Cape Town Stadium. The amount reflected were for the 2017/18 financial year which started on 1 February and ended on 30 June 2018.”;

- *“University of Cape Town’s (UCT) Black Academic Caucus says newly appointed Vice-Chancellor Professor Mamokgethi Phakeng's excellent track record will ensure positive change at the institution. Phakeng will take over from outgoing VC Doctor Max Price in July.”; and*
- *“Thousands of people in the far north of Mozambique are bracing for violent flooding as torrential rain pushes up water levels, after the death and devastation wrought by Cyclone Kenneth. The first floods have already been seen in some parts of Pemba, the capital of Cabo Delgado province.”*

The Licensee complies with clause 6 of the schedule to its licence.

3.10 Training and Skills Development Obligations

Clause 7 of the schedule to the licence provides that:

“The Licensee shall spend one percent (1%) of its annual salary payroll over its licence period on staff training and development, particularly on staff from historically disadvantaged groups”.

The Licensee has not submitted any details regarding the above licence obligation.

The Licensee does not comply with clause 7 of the schedule to its licence.

3.11 Community - related Obligations

Clause 8.1 of the schedule to the licence provides that:

“The Licensee shall offer community sound broadcasters the following:

8.1.1 programme presenting and production, news, sales, marketing and sound engineering through mentoring and on-the-job training that is, having such staff “shadow” 94.5 KFM’s presenters, producers, news reporters, sales representatives, marketing staff and sound engineers while at work.

The Licensee has not submitted any details regarding the above licence obligation.

The Licensee does not comply with clause 8.1 of the schedule to its licence.

Clause 8.2 of the schedule to the licence provides that:

"The Licensee shall:

8.2.1 raise at least R250 000 (two hundred and fifty thousand Rand) in cash and goods annually".

The Licensee has not submitted any details regarding the above licence obligation.

The Licensee does not comply with clause 8.2.1 of the schedule to its licence.

3.12 Ownership and Control

Clause 9.1 of the schedule to 94.5 KFM's licence provides that:

"The Licensee shall ensure that at least fifty percent (50%) of its board of directors are persons from historically disadvantaged groups".

The Licensee has not submitted any details regarding the above licence obligation.

The Licensee does not comply with clause 7 of the schedule to its licence.

Clause 9.2 of the schedule to 94.5 KFM's licence provides that:

"The Licensee shall ensure that the majority of all senior management and staff are persons from historically disadvantaged groups".

Although there were no changes reported regarding ownership patterns of the station, however the Licensee has not submitted any details regarding the above licence obligation.

The Licensee does not comply with clause 9.2 of the schedule to its licence.

4. REGULATIONS

4.1 Compliance Procedure Manual Regulations

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 period under review.

The Licensee has not submitted any details regarding the above regulation in terms of the compliance procedure manual as it relates to complaints.

The Licensee does not comply with the Compliance Procedure Manual Regulations in relation to complaints.

4.2 SA Music Content

Regulation 3.2 of the Regulations on South African Music Content, as published on 31 January 2006, stipulates that:

"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that a minimum of 25% 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 has not submitted any details regarding the above regulation, however the monitoring exercise revealed that 94.5 KFM plays an average of 37% (thirty seven percent) of South African Music. The South African artists featured included among others, *Samthing Soweto, Ralf Gum, DJ Black Coffee, Hugh Masekela, Prime Circle.*

The Licensee partially complies with regulation 3.2 above.

4.3 Standard Terms and Conditions

During the year under review, the Authority identified instances of non-compliance by the Licensee with the Regulations regarding Standard Terms and Conditions for

Individual Licences⁴. The Licensee did not provide the Authority with the relevant compliance information as per Regulation 9.

According to the Amendment Standard Terms and Conditions for Broadcasting Services Regulations, 2010 as amended, Schedule 1 Regulation 9(3) and 9(5), provides as follows:

(3) "Submission of information for the annual compliance report in line with the relevant guidelines and Licence Terms and Conditions."

(5) "In the event where the Licensee or its representative refuse or fail to provide the Authority with requested information in terms of sub regulation (1), the Authority may, after reasonable attempts, refer the matter to the Complaints and Compliance Committee."

The Licensee does not comply with the above regulations.

4.4 Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund

Regulation 3 (1) of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF)⁵, as published in the Government Gazette, No. 31499 of April 2009, stipulates that:

"Every holder of a Licence granted in terms of Chapter 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of the annual turnover, derived from the licensee's licence activity, to the Fund (the Fund)".

Further, Regulation 3 (3) stipulates that:

"A broadcasting service licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution against its prescribed annual contribution to the Fund"

⁴ Standard Terms and Conditions for Class Broadcasting & Electronic Communications Network Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010, as amended.

⁵ USAF Regulations, 2011 as published in *Government Gazette* No. 34010 dated, 10 February 2011

94.5 KFM's financial year ends on 30 June. The Licensee paid its contribution to the Universal Service and Access Fund on 16 October 2018 and submitted proof of payment⁶ thereof, as required by the regulations. The payment was within the six months after the financial year end as prescribed in the regulations.

The Licensee complies with the above regulations.

4.5 General Licence Fees Regulations

Regulation 3 (1) of the General Licence Fees Regulations⁷ provides that:

"The annual Licence fees prescribed in these regulations and as set out in schedule 2 apply to holders of individual and class ECS Licences, individual and class ECNS Licences and individual commercial BS Licences".

Schedule 2 of the General Licence Fees regulations provides for Licensees to pay an annual licence fee in accordance with their licensed revenue and to be calculated using the set formula, read with the applicable percentages.

Regulation 7(a), 7(b) and 7(c) of Schedule 3 provides that:

- a) Are due annually based on the licensee financial year;*
- b) Are due and payable within 6 months from the end of the end of the licensee's financial year;*
- c) May only be paid by way of an electronic transfer or via direct deposit into the Authority's bank account".*

94.5 KFM's financial year ends on 30 June. The Licensee paid its licence fees on 27 September 2019 and submitted proof of payment⁸ thereof, as required by the regulations. The payment was within the six months after the financial year end as prescribed in the regulations.

The Licensee complies with the above regulations.

⁶ Proof of USAF contribution

⁷ General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013, as amended.

⁸ Proof of Licence Fees payment

5. CONCLUSION

94.5 KFM has partially complied with its licence terms and conditions, for the period under review. The Licensee has failed to comply with clause(s) 7, 8.1, 8.2, 9.1, and 9.2 of the schedule to its licence terms and conditions. The Licensee also failed to comply with regulation 4.1 in respect to the Compliance Procedure Manual.

It is therefore concluded that with the above, the licensee having failed to provide compliance information in line with the standard terms and conditions, a contravention of the above-mentioned regulation has occurred, a matter that needs to be corrected as a matter of urgency.

6. TERMS OF REFERENCE

- 6.1 Appendix A: 94.5 KFM's broadcasting service licence
- 6.2 Appendix B: 94.5 KFM's frequency spectrum licence
- 6.3 Appendix C: SA Music Content Regulations
- 6.4 Appendix D: Regulations Regarding Standard Terms and Conditions for Individual Licensees
- 6.5 Appendix E: Universal Service and Access Fund Regulations
- 6.6 Appendix F: Proof of USAF Contribution
- 6.7 Appendix G: General Licence Fees Regulations
- 6.8 Appendix H: Proof of Licence Fees Payment