



HEART 104.9 FM ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/2019 ANNUAL COMPLIANCE REPORT

RADIO HEART 104.9 (PTY) LTD BROADCASTING AS HEART 104.9 FM

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 Constitution¹, the Independent Communications Authority of South Africa Act² (ICASA Act), 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 is intended to give account of Radio Heart 104.9 (Pty) Ltd compliance for the 2018/2019 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, languages, Format, Local Content Obligations, General programming Obligations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations, General Licence Fees Regulations.

2. BACKGROUND

Radio Heart 104.9 (Pty) Ltd, broadcasting as Heart 104.9 FM (Heart 104.9 FM) is an Individual Commercial Sound Broadcasting Service Licensee providing a programming mix of music and information to the Cape Town, Cape Town Fringe, Overberg and West Coast areas in the Western Cape Province⁵.

3. COMPLIANCE ASSESSMENT

3.1 Licensee

Clause 1 of Heart 104.9 FM's licence provides that:

1.1 Name of Company/Entity: Radio Heart 104.9 (Pty) Ltd.

1.2 Shareholders: Makana Radio Communications (Pty) Ltd (100%)

1.3 Ownership held by persons from historically disadvantaged groups:

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: Heart 104.9 FM's Broadcasting Service Licence.

Tsiya Radio – 59.96%

Kagiso Media Investments (Proprietary) Limited – 20.02%

Victory Parade 55 (Proprietary) Limited – 20.02%”

The Licensee confirmed that no changes regarding the information above have taken place.

The Licensee was found to be compliant with clause 1 to its licence.

3.2 Name of Station

Clause 1 of the Schedule to Heart 104.9 FM’s licence provides:

“Name of Station: Heart 104.9 FM”

The Licensee submits that it broadcasts as Heart FM. This was confirmed during the monitoring exercise.

The Licensee was found to be compliant with clause 1 of the Schedule to its licence.

3.3 Geographic Coverage Area

Clause 2 of the Schedule to Heart FM’s licence provides that:

“Coverage Area: Cape Town, Cape Town Fringe, Overberg and West Coast areas as defined on the coverage map attached to the Licensee’s Frequency Spectrum Licence.”

The Licensee confirmed that it offers services to the geographic coverage area as specified by the Licensee’s radio frequency spectrum licence.

Further, the Authority did not receive complaints in relation to the Licensee operating outside of its geographic coverage area.

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

3.4 Broadcast Language

Clause 3 of the Schedule to Heart 104.9 FM’s licence provides that:

“Broadcast Language: Principal Language: English”

The monitoring exercise confirmed that the principal language of broadcast of the Licensee is English.

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

3.5 Format

Clause 4 of the Schedule to Heart 104.9 FM's licence states that:

"The format of the station is an adult contemporary jazz format."

The monitoring exercise confirmed the format of the station to be adult contemporary jazz.

The Licensee was found to be compliant with clause 4 of the Schedule to its licence.

3.6 General Programming Obligations

Clause 5.1 of the Schedule to Heart 104.9 FM's licence states:

"The Licensee shall broadcast news on a regular basis for a minimum of thirty (30) minutes each day between 05h00 and 23h00."

Some of the news items found during the monitoring exercise include:

- *"Police Union POPCRU in the Western Cape says it will not participate in today's planned strike by the disgruntled police officers."*
- *"Some members are unhappy about recent promotions within the police service. The officers have now formed a new police union, the South African Police and Allied Workers Union (SAPAWU). Last week, Police Minister Bheki Cele warned officers who participate in the strike that they would be breaking the law."*
- *"The DA in the Western Cape says President Cyril Ramaphosa told a blatant lie about the provincial government's track record of housing delivery. While campaigning in Cape Town on Friday, Ramaphosa said the province had returned 1.7 billion rand to National Treasury for housing projects where money was not spent but the DA leader in the province Bonginkosi Madikizela says this is a big fat lie."*
- *"A 32-year-old man has been arrested for being in the possession of a variety of drugs. He was nabbed yesterday morning at a house in Parklands. Law enforcement officers together with the Milnerton Crime Intelligence Unit were executing a search warrant at the house."*
- *"Metrorail has praised the NPA and SAPS for their role in securing successful conviction. Yesterday the rail network revealed their successes in the fight against the theft of rail infrastructure over the past year. 347 people were arrested for various offences and of the 187 cases presented to court, 28 convictions were"*

secured. The rail network also unveiled 19 new vehicles. Metrorail's Regional Manager, Richard Walker, says they are very happy at the moment."

The Licensee submits that it broadcasts fifty-two (52) minutes of news per day during the performance period. This was confirmed during the monitoring exercise.

The Licensee was found to be compliant with clause 5.1 of the Schedule of its licence.

Clause 5.2 of the Schedule of Heart 104.9 FM's licence states:

"Should the Licensee source news material from a source other than itself, the source(s) thereof shall be disclosed during the news broadcast."

The Licensee submits that over seventy-eight percent (78%) of its news is self-originated. The monitoring exercise confirmed that the Licensee discloses the news sources to its audience, where the news is not self-originated.

The Licensee was found to be compliant with clause 5.2 of the schedule of its licence.

Clause 5.3 of the Schedule to Heart 104.9 FM's licence reads as follows:

"The Licensee shall broadcast news for an average of six minutes every hour between 06h00 – 09h00 on all weekdays mornings."

The monitoring exercise confirmed that the total news per hour between 06h00 and 09h00 average six minutes per hour.

The Licensee was found to be compliant with clause 5.3 of the Schedule to its licence.

Clause 5.4 of the Schedule to Heart 104.9 FM's licence reads:

"In compiling news, the Licensee shall include news from the African continent."

Some of the news items found during the monitoring exercise include:

- *"Ceremonies were held in Ethiopia and Kenya for the victims of last week's plane crash near the Ethiopian capital of Addis Ababa. All 157 people onboard the Boeing 737 Max, died when the plan of Ethiopian Airways went down shortly after taking off on a flight to the Kenyan capital of Nairobi."*
- *"The UN says cyclone Idai has triggered a massive disaster in Southern Africa, affecting hundreds of thousands if not millions of people. The region has been hit by*

widespread flooding and devastation, affecting Mozambique, Zimbabwe and Malawi. Mozambique's President, Filipe Nyusi, called it a humanitarian disaster of great proportion."

- *"Aid workers say the number of people who has contracted Ebola in the Eastern Democratic Republic of Congo, has exceeded 1000 making the current outbreak the second largest ever recorded.*
- *More than 629 people have died since August last year. New cases have increased sharply over the past week with 58 cases reported."*

The Licensee submits that seventy percent (70%) of its international news is from the African continent. The monitoring exercise confirms that the Licensee during its news broadcast, includes news from the African continent

The Licensee was found to be compliant with clause 5.4 of the Schedule to its licence.

Clause 5.5 of the Schedule to Heart 104.9 FM's licence states:

"In compiling information programmes, the Licensee shall give due regard to the character of its audience."

The Licensee submitted its year on year listenership demographic analysis that attests to it being attuned to its target market. Although the analysis indicates a drop in its coloured demographic, the Licensee continues to hold the biggest share of the coloured demographic amongst its competitors. The Licensee has further seen an increase in its black demographics. The before-mentioned statistics is reflected in the programming of the licensee.

The monitoring exercise confirmed that the Licensee gives due regard to the character of its audience when compiling information programmes.

The Licensee was found to be compliant with clause 5.5 of the Schedule to its licence.

3.7 Training and skills development

Clause 6.1 of the Schedule to Heart 104.9 FM's licence reads:

"The Licensee shall put particular emphasis on the training and development of staff from historically disadvantaged groups."

As per the submission of the Licensee, thirty-one (31) members of staff participated in various employee training programmes. Females accounted for seventeen (17), compared to the fourteen (14) males, of the before mentioned thirty-one (31). Seventeen (17) Coloured staff and ten (10) African staff participated in the training initiatives. The submission evidences that the Licensee puts an emphasis on the training and development of staff from historically disadvantaged groups.

The Licensee was found to be compliant with clause 6.1 of the Schedule to its licence.

Clause 6.2 of the Schedule to Heart 104.9 FM's licence states:

"The Licensee shall establish an employee training programme and shall spend a minimum of one million, one hundred and sixteen thousand rand (R1 116 000.00) over the licence period."

The Licensee has previously fulfilled this minimum requirement but continues to invest in its employee training programme. For the period under review, the Licensee invested five hundred eighty-three thousand, nine hundred and fifty-one rand (R583 951.00) in various training and development programmes. The following training was provided to the employees of the Licensee: B-com, Social Media Online course, Project Management, First Aid training and Sales Strategy training course. The Licensee has thus exceeded the required amount for training and skills development over the licence period.

The Licensee was found to be compliant with clause 6.2 of the Schedule to its licence.

Clause 6.3 of the Schedule to Heart 104.9 FM's licence reads:

"The Licensee shall actively pursue the appointment of more women on-air presenters"

The Licensee submits that it is committed to the appointment of more women on-air presenters. The Licensee under the period of review absorbed three (3) female on-air presenters, in addition to its current female presenters: Miss Lesley Piet on traffic, Miss Kim-Lee Schuller on daytime crossing and Miss Kelly Pearce as an on-air personality. The Licensee has demonstrated a commitment to the active pursuit of the appointment of more women on-air presenters.

The Licensee was found to be compliant with clause 6.3 of the Schedule to its licence.

Clause 6.4 of the Schedule to Heart 104.9 FM's licence states:

"The Licensee shall regularly receive and train interns and students from tertiary institutions across South Africa."

The Licensee confirms that it has a dedicated internship programme that repeatedly offers training and development to recent graduates from colleges across South Africa.

During the period under review three (3) students were part of the internship and one (1) was absorbed as a result.

The Licensee was found to be compliant with clause 6.4 of the Schedule to its licence.

4. REGULATIONS

4.1 Compliance Procedure Manual – Form 12A

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, 2010 as amended to submit a Form 12A⁶ to report on all complaints received during each financial year.

In the year under review, the Licensee submitted the required Form 12A⁷. As per the submission, the Licensee received no complaints during the period under review and no complaints were escalated to the Broadcasting Complaints Commission of South Africa.

The Licensee was found to be compliant with the Compliance Procedure Manual, as stated above.

4.2 Regulations regarding Standard Terms and Conditions for Individual Licensees, 2010 as amended

The Authority is satisfied that during the period under review the Licensee did not contravene the regulation in respect of the Standard Terms and Conditions for Individual Licensees, 2010⁸.

The Licensee was found to be compliant with the Standard Terms and Conditions for Individual Licensees.

4.3 ICASA South African Music Content Regulations, 2016

Regulation 2 of the ICASA South African Music Content Regulations, 2016 provides that:

⁶ ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

⁷ *Ibid.*

⁸ Appendix C: Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010 as amended.

"A holder of a commercial sound broadcasting service licence must ensure that after eighteen (18) months of the gazetting of these regulations, a minimum of 35% 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"⁹.

The Licensee submits that it broadcast an average of thirty (30%) percent of South African music tracks. Some of the South African tracks that were broadcast during the period under review include:

Karin Kortjie "Baby Come To Me"; Cassper Nyovest "Move For Me"; The Kiffness & Matthew Gold "Sugarman"; Jared Henry "Fool To Love"; Youngsta CPT "Yaatie"; Liquideep "Fairytale"; Danny K "Things We Do"; Don Vino "Worried"; Heavy-K ft Bucie & Nokwazi "Inde"; DJ Zinhle ft Tamara Dey "Colours"; Jarrad Ricketts "Paradise"; DJ Clock ft. Beatenberg "Pluto (Remember You); Bucie ft Heavy-K "Easy To Love".

The Licensee in terms of these Regulations often promotes new tracks, conducts interviews with South African artists and covers live music. The before-mentioned format factors contribute towards the overall South African music and the Licensee therefore meets and exceeds the minimum requirement of thirty-five percent (35%).

Some of the new artists that were promoted during the period under review include: *Janice, Youngsta CPT and Jared Henry.*

Some of the live music from South African artists that were featured, for a duration of twenty (20) minutes, during the period under review include: *Amy Jones, Top Dogg & Guests, Blackties, Early B, Freshly Ground, Bobby Van Jaarsveld, Mango Groove, Goodluck and Craig Lucas.*

Some of the interviews that were held with South African artists during the period include: *Jarrad, Shekinah, AKA, Early B, Karin Kortjie and Emo Adams.*

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

4.4 Universal Service and Access Fund

Regulation 3 (1) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund, 2011¹⁰ state that:

⁹ Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016.

¹⁰ Published in *Government Gazette* No. 34010 dated, 10 February 2011.

*"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 its Annual Turnover to the fund (USAF)."*¹¹

Further, Regulation 3 (3) states 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."

The Licensee made the required payment on 15 Augustus 2019 and submitted the proof thereof to the Authority.

The Licensee was found to be compliant with the USAF Regulations.

4.5 General Licence Fees Regulations, 2012

Regulation 3 (1) of the General Licence Fees Regulations state 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 Broadcasting Service licences."*¹²

Schedule 2 of the Annual Licence Fees regulations provide for Individual Commercial Broadcasting Services Licensees, to pay an annual licence fee of 1.5% to the Authority.

Regulation 4(b) and (c) of Schedule 3 states that:

"(b) In respect of payment, such are due and payable within 6 months from 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."*¹³

The Licensee made its general licence fees payment on 15 Augustus 2019 and submitted the proof thereof to the Authority.

The Licensee was found to be compliant with the ICASA General Licence Fees Regulations, 2012.

¹¹ Appendix E: USAF Regulations, 2011 as published in Government Gazette No 34010 dated, 10 February 2011.

¹² Appendix F: General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013, as amended.

¹³ *Ibid.*

5. CONCLUSION

During the period under review, it was found that the Licensee has been compliant with all the obligations and Regulations. The Authority will, however, continue to monitor the Licensee's compliance in the next financial year.

6. TERMS OF REFERENCE

- 6.1** Appendix A: Heart 104.9's Licence;
- 6.2** Appendix B: Heart 104.9's Report;
- 6.3** Appendix C: Regulations Regarding Standard Terms and Conditions for Individual Licensees, 2010 as amended;
- 6.4** Appendix D: ICASA South African Music Content Regulations, 2016;
- 6.5** Appendix E: USAF Regulations, 2011; and
- 6.6** Appendix F: ICASA General Licence Fees Regulations, 2012.