



# **KUMKANI FM ANNUAL COMPLIANCE REPORT**

**MARCH 2020**

# 2018/2019 ANNUAL COMPLIANCE REPORT

## KUMKANI FM

**LICENCE PERIOD: 12 SEPTEMBER 2017 TO 11 SEPTEMBER 2022**

### 1. PREFACE

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution<sup>1</sup>, the ICASA Act<sup>2</sup>, the Electronic Communications Act<sup>3</sup> ("ECA") and the Broadcasting Act<sup>4</sup> to regulate broadcasting activities in South Africa in the public interest. Among the many tasks of the Authority is to ensure compliance by broadcasting service licensees with the terms and conditions of their licence, Regulations and any relevant legislation.

This report is intended to give an account of Kumkani FM's compliance with the terms and conditions, as set out in its license, for the 2018/2019 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 Content Regulations, Regulations Regarding Standard Terms and Conditions.

### 2. BACKGROUND

Kumkani FM possesses a Class Sound Broadcasting Service License which compels them to provide broadcasting service to the geographic community nestled within East London in the Buffalo City Metropolitan Municipality in the Eastern Cape.

Kumkani FM was licenced in September 2012 and went on air for the first time, in November 2013.

### 3. COMPLIANCE ASSESSMENT

#### 3.1 Licensee

Clause 1 of Kumkani FM's Licence Document<sup>5</sup> provides that:

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<sup>1</sup> The Constitution of the Republic of South Africa, No 108 of 1996

<sup>2</sup> Act No. 13 of 2000, as amended

<sup>3</sup> Act No. 36 of 2005

<sup>4</sup> Act No. 4 of 1999

<sup>5</sup> Appendix A: Kumkani FM's Broadcasting Service Licence

*"The Licence is issued to:*

- 1.1 Name of Entity: Kumkani FM*
- 1.2 Name of Station: Kumkani FM*
- 1.3 Control of the Licensee: Control shall vest in Management Committee of Kumkani FM."*

No changes regarding clause 1 were submitted to the Authority by the licensee. Kumkani FM, remains under the control of the Management Committee elected in 2017, with a term of office of five years, from the date of their election.

**The Licensee complies with clause 1 and the subclauses on its licence.**

### **3.2 Licence Area**

Clause 3 of the Schedule to the Licence states that:

*"The Licensee shall provide services East London in the Buffalo City Metropolitan Municipality in the Eastern Cape Province as set out in the Licensee's radio frequency spectrum licence<sup>6</sup>."*

The Licensee's coverage area remains as prescribed in the licence terms and conditions. In the year under review, the Authority did not receive any reports or complaints indicating that the radio station has gone beyond its licenced area. As such, the Authority can confirm that the Licensee still provides a service to the coverage area mentioned herein.

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

### **3.3 Community**

Clause 4.1 of the licence schedule to the licence provides as follows:

*4.1 "The Licensee shall provide services to geographic community residing within the geographic coverage area specified herein".*

Kumkani FM continues to provide service to the community residing in East London in the Buffalo City Municipality in the Eastern Cape Province.

**The Licensee complies with clause 3.1 of the Licence.**

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<sup>6</sup> Appendix B: Kumkani FM's Frequency Spectrum Licence

Clause 4.2 of the licence further 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 at least two (2) meetings annually with its community focusing on programming and programming policies of the station.”*

*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.*

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

*4.3.1 To provide feedback on the Licensee’s compliance with licence conditions,*

*4.3.2 To provide feedback on the Licensee’s operational and financial performance,  
and*

*4.3.3 To elect members of the controlling structure, e.g. Board of Directors, Trustees etc. subject to the licensee’s founding documents”.*

The Licensee could not submit proof that the three meetings prescribed by clause 4.2 were held in the year under review. In their response to the Authority’s request for proof of the above meetings, Kumkani FM responded<sup>7</sup> that they could not convene the three meetings due to “challenges” faced by the Licensee in the past financial year. To this effect, the Licensee reports that attempts to convene the required meetings failed, due to membership not quorate, to enable them to take decisions. Kumkani FM reports that it has made attempts to advertise the said meetings however, the community members did not attend and therefore, the meetings did not materialise.

Kumkani FM’s last Annual General Meeting was held in 2018 financial year. The Licensee reports of a delay in convening the 2019 AGM due to the “challenges” it faced in the year under review. The Licensee further reports of a “lack of interest” in community members previously elected into the Board of Directors, which is another reason for the failed meetings. To this end, the Licensee advises that it has co-opted, as per the prescriptions made by their Constitution, three (3) more members into the Board of Directors and the co-option will be verified and legally voted for in the planned Annual General Meeting (AGM), it has scheduled for no later than June 2020.

**The Licensee failed to comply with the entire clause 4.2 of its licence.**

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<sup>7</sup> Appendix C: Kumkani FM’s report on non-compliance with clause 4

### 3.4 Programming

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

5.1.1 "**Local News and Information:** *The Licensee shall broadcast a total of forty three (43) minutes of news per day of which thirty (30) minutes shall be local news, nine (9) minutes shall be national and four (4) minutes shall be international news.*"

Kumkani FM's General Log sheet<sup>8</sup>s shows that the Licensee would carry an average of 50 minutes of news per day.

The Authority's monitoring exercise found that the Licensee schedules eight (8) full news bulletins on weekdays. All news bulletins monitored were for an average duration of six (6) minutes. Kumkani FM's news output was found to carry more local news compared to national news and international news. The bulletin carries very little international news. The Licensee's consistency with the eight (8) news bulletins over the weekends, is commendable. Among the news stories covered for the period under review were excerpts from some broadcasts, as follows:

- *Igqwetha lowayesakuba nguNkosikazi wongasekhoyo uGqirha Rholihlala Mandela, uWinnie Madikizela-Mandela, lithe bazimisele ukuya kuma kwiinkundla zamatyala ukuba asiviwa isicelo sabo, emva kokuba bethe babhal' incwadi eya kubalawuli belifa likaMandela; nethi ke ngokwesiko labaThembu, uMam' uWinnie maluwele kuye ulawulo lwendlu kaMadiba eseQunu, ncwadi leyo ke eyaye ibhalwe kwiiveki ezimbini eazidlulileyo.*
- *UMvuzo Notyesi, noligqwetha likaMadikizela-Mandela, uthe le ncwadi ayiphikisani nomyolelo kaMadiba koko balandel' isiko labaThembu, kwaye ke bazimisele ukuya kuma ngeenkundla zamatyala ukuba kuyanyanzeleka. UMam' uWinnie akazang' achole naphantsi kumyolelo wokugqibeka kaMadib' omde emva kwe minyaka emashumi mathathu anesibhozo yomtshato. Ukanti ngomyaka ka 1996, benz' uqhawulo mtshato. Umzukulwana kabawo uMandela, uMandla Mandela, walile ukuzibandakanya kulo mba.*
- *Limiselwe umhla wamashumi ananye kulenyanga ityala labarhanelwa abasixhenxe abathyolwa ngokubulala nangoku tshisa inwazana eneminyaka emithandathu ubudala kunye nomalumekazi wayo. Ababarhanelwa bebevele kule nkundla ngoMvulo nangolwesiBini emveni kokuvalelwa ngamapolisa*

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<sup>8</sup> Appendix D: Kumkani FM's Programming Log Sheet.

*aseHanke ngeCawa. uKanti ke iingxelo zithi eliqela liye lantumeke indlu yalamaxhoba ngomlilo emveni kokuwabulala, nalapho ke abahlali baye bancedisa ukukhupha le mizimba kumadangaty' omlilo. Xa ihlolwa ke le mizimba kufanyaniswe okokuba okamalumekazi wale ntwazana unamanxeba okuhlalywa kumzimba ongasentla, kanti ke le ntwazana kufumaniseke okokuba iye yakrwitshwa.*

- Umbutho wamaKomanisi eli lo Mzantsi Afrika, iSouth African Communist Party, ivakalise okokuba, uMongameli weli loMzantsi Afrika, uJacob Zuma akakhange athathe amanyathelo ukumsusa esihlalweni uKumkani wabaThembu, uBuyelekhaya Dalindyabo, njengoko abaninzi bekholelwa njalo.*
- Lo mbutho uthe, kuphela uZuma ube phendula kwintshukumo ethe yenziwa yiKansile yasebuKhosini yabaThembu, nebilawulwa ke yimithetho yezamasiko. Oku kuza emveni kokuba uMongameli uZuma ethe waphalel' uDalindyabo incwadi makadandalazise ukuba kutheni ikhephe-khephe lakhe lobuKumkani malingasuswa kuye. Iingxelo zithi ke, lusapho lwakhe lwasebuKhosini ebelimfuna ehle esihlalweni sakhe emveni kokuba wathi wafunyaniswa enetyala waza wagwetywa iminyaka elishumi elinesihlanu kwizithyolo zokubetha ngokonzakalisa, ukutshisa kwakunye nokuvalala umntu elugcinweni ngaphandle kwemvume yakhe.*
- A fire believed to have been started by a burning candle killed one man and left two families homeless in Braelyn. The man who died was identified as 27 year old Abel Dee, who lived with his father, four siblings in a one roomed house. A second family made up of a mother and her seven children lived in another room within the same house. According to a neighbour, Queenlon [Audio Unclear], said although the house had electricity, there was no connection to Abel's room hence he used a candle. [Audio Unclear] said he was woken up by the sound of people running and shouting at around twenty past eleven pm and when he got outside he saw a cloud of smoke and fire. He then went back inside to fetch his family because he was afraid the fire could spread to the other house.*
- Buffalo City Metro is shortlisting candidates for eight vacant senior positions. BCM Mayor, Ms Zukiswa Ncita , is said to have compiled a report proposing salary increases for Council appointed managers which will see packages increasing by up to 300 000 a year, compared with current incumbents. Chief*

*Financial Officer, Vincent Pillay, who is the only appointed head of department according to the new structure is also one of those in line for an increase [Audio unclear] if the council approves the Mayor's proposal. BCM Spokesperson, Keith Ngesi, said, only the Municipal manager and the Chief Financial Officer were part of new organogram and the rest of the director positions will be phased out while the positions are in the process of being filled.*

### **The Licensee complies with clause 5.1.1 of the licence.**

Clause 5.1.2 of the licence stipulates that:

**"South African Music Content: 70%"**

The obligation carried by this clause is repealed and replaced with the provisions made in the ICASA South African Music Content Regulations of 2016. As such, the Licensee's compliance with this clause will not be measured. The Authority will only measure the Licensee's compliance with the afore mentioned regulation the report on that measurement is detailed here below.

Clause 5.1.3 of the licence provides as follows:

**"Talk vs. Music: 40% Talk and 60% Music"**

The Authority's monitoring exercise found that the Licensee is generally a music-based radio station with less talk compared to music.

The Licensee continues to carry out its programming format on weekends, which is a time most Licensees would play more music due to limited capacity. The Licensee's programming format is as stipulated in the licence.

### **The Licensee complies with clause 5.1.3 of the schedule to the Licence.**

#### **5.1.4 "Language(s) of Broadcast:**

*5.1.4.1 IsiXhosa – 60%;*

*5.1.4.2 English – 30%;*

*5.1.4.3 Afrikaans – 10%.*

The Licensee's programming format features all languages of broadcast. IsiXhosa was found to be dominant, however, the two other languages were favourably catered for. News in Afrikaans were also observed in the 08h00 News Bulletin every day.

### **The Licensee complies clause 5.1.4 of the schedule to its licence.**

Clause 5.3 prescribes that the Licensee:

*"shall keep a log of programmes broadcast which must be submitted on a monthly basis to the Authority".*

The Licensee makes all efforts to ensure that the required forms are submitted as prescribed by the clause. In an event the Licensee fails to file the log sheets on time, they always make up for the submission in the months that follow.

**The Licensee complied with clause 5.3 of the Licence.**

## **4. REGULATIONS**

### **4.1 ICASA South African Music Content Regulations**

Regulation 3 of the ICASA South African Music Content Regulations 2016<sup>9</sup> 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 Licensee's Music Log Sheet<sup>10</sup> shows that the Licensee plays approximately 75% South African Music in its music output.

The Authority's monitoring exercise found that the Licensee broadcasts between 90% - 95% South African Music. Only one show was found to play international music and the Show features the International top 30 songs.

The Licensee's conducts interviews with local artists, particularly Eastern Cape based artists. The Licensee does not shy away from playlisting local rappers and musicians and some were heard in interviews thanking the Licensee for the opportunity afforded; saying that it is rare that they find such exposure.

The artists that were featured are: *Sjava, Bucie, TK, Emtee, Dr Malinga, King Monada, AKA, Karabo, Musa Sukwene, Brenda Fassie, Busiswa, Zonke Dikana, Tsa maNdebele,*

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<sup>9</sup> Appendix E: ICASA South African Music Content Regulations

<sup>10</sup> Appendix F: Kumkani FM's Music Log Sheet



*Caiphus Simenya, Ringo Madlingozi, Ntando Bangani, Kwesta, Mlindo, KO and Nandi Mngoma, Teargas, Black Coffee, Casper Nyovest, Thandiswa Mazwayi, Lira and many others.*

**The Licensee complies with regulation 3 of the ICASA South African Music Content Regulations 2016.**

#### **4.2 Regulations regarding Standard Terms and Conditions for Class Licensees**

Regulation 2 (1) (d) of the Regulations Regarding Standard Terms and Conditions for Class Licensees<sup>11</sup> provides two fundamental regulations that are constantly and continuously used to measure a Class Licensee's compliance. The two regulations are Regulation 2(1) and the sub clauses, along with Regulation 9 in its entirety.

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 Class Licences.

**The Licensee complies with the Standard Terms and Conditions for Class Licensees.**

## **5. CONCLUSION**

Kumkani FM generally complies with its licence terms and conditions and relevant regulations. The Licensee first went on air in 2013 and battled with problems until the Authority's interventions that started in July 2014. The Licensee has made significant strides towards achieving full compliance with its licence terms and conditions. The area of non-compliance will be brought to the attention of the Licensee. The Authority will continue to monitor the compliance of the Licensee during the next financial year.

## **6. TERMS OF REFERENCE**

- 6.1 Appendix A : Kumkani FM's Broadcasting Service Licence;
- 6.2 Appendix B : Kumkani FM's Frequency Spectrum Licence;
- 6.3 Appendix C : Kumkani FM's response to non-compliance with clause 4;

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<sup>11</sup> Appendix G: Regulations regarding the Standard Terms and Conditions

- 6.4 Appendix D : Kumkani FM's Programming Log Sheet (Sample);
- 6.5 Appendix E : ICASA South African Music Content Regulations 2016;
- 6.6 Appendix F : Kumkani FM's Music Log Sheet; and
- 6.7 Appendix G : Standard Terms and Conditions for Class Licensees.