



LM RADIO ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/19 ANNUAL COMPLIANCE REPORT

EXTRISERVE (PTY) LTD BROADCASTING AS LM RADIO

Licence Period : 18 July 2014 - 17 July 2024

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 ensure compliance by broadcasters with the terms and conditions of their licence and relevant legislation and Regulations.

The purpose of the report is to provide an overview of LM Radio’s performance for the 2018/19 financial year. Aspects of compliance that are measured comprise of the service licence’s conditions of Geographic Coverage Area, Broadcast Language, Format, Local content Obligations, General Programming Obligations, Training and Skills developments and Ownership and Control Obligations. Furthermore, the report will measure compliance with regulations that includes South African Music Content, Standard Terms and Conditions for Individual Licensees, Universal Service and Access Fund Regulations, General Licence Fee Regulations and the Code of Conduct for Broadcasters.

2. BACKGROUND

The Authority issued a commercial broadcasting licence to Extriserve (Pty) Ltd broadcasting as LM Radio for ten (10) years from the date of issuance⁵. The Licensee has been licensed to provide broadcasting services to Gauteng Province as defined in their radio spectrum licence. According to the Broadcast Research Council of South Africa (BRC), the listenership figures for the quarter ending March 2019 is 28 000⁶.

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 LM Radio Service Licence

⁶ <https://brcsa.org.za/brc-ram-listenership-report-oct18-mar19/>

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

Clause 3 of the service licence stipulates that the geographic coverage is:

"Gauteng Province as defined in the coverage map attached to the Licensee's radio frequency spectrum licence".

The Licensee broadcast on 702 kHz on AM with Sentech as their distributor allowing them to cover their licensed area.

The Licensee complies with its geographic coverage obligations.

3.2 Broadcast Language

Clause 4 of the service licence stipulates that:

"Principal Language shall be English"

The monitoring exercise confirmed that LM Radio predominantly broadcasts in English. They however also broadcast some of their adverts in Portuguese due to the syndicating agreement they have with their sister station in Mozambique.

The Licensee complies with its language obligations.

3.3 Format

Clause 5.1 of the service licence stipulates that:

"The Licensee shall have a programming format that of 75 % "golden oldie" and nostalgic adult contemporary music".

The monitoring exercise confirmed that the Licensee's programming is dominated as per their promo by music from the 60's until now. Much of the music playlisted are year specific and certain programmes would have a decade focus for either their triple or five song playlist marathons. Furthermore, they also broadcast an American syndicated programme by the late Casey Kaseem called the *America Top 40*⁷ with a focus on their target music decade.

⁷ <https://www.npr.org/sections/therecord/2014/06/15/321098592/casey-kasem-an-iconic-voice-of-american-radio-dies>

Clause 5.2 of the service licence stipulates that:

"The Licensee's programming format shall be supported by a speech content which shall comprise of a mixture of informative discussion and news related to lifestyle, music content, information, travel, weather, and public service messages of no more than 25%, ranging from 10 – 15% during peak times and 5 – 10% of peak times. The Licensee's peak time shall be from 06H00 to 09H00 and 16H00 to 18H00 on weekdays".

The monitoring exercise confirmed that the Licensee's programming is music based with speech being supplementary. The speech content varies between weather, sports, with adverts related to travels especially from their sister station in Mozambique and music content information in relations to the history of the songs and the particular time period thereof.

The Licensee complies with their format

3.4 General Programming Obligations

Clause 7.1 of the service licence stipulates that:

"The Licensee shall broadcast news bulletins at peak times during weekdays at 06H00, 07H00, 08H00, 17H00 and 18h00. The Licensee shall broadcast news for a total of thirty (30) minutes per day. The Licensee shall broadcast a weekly average of 25% news from Gauteng area, 35% national news and 40% international news.

The Licensee broadcasts BBC news feed on top of the hour from 06H00 until 08H00, again at 13H00 and then 17H00 and 18H00. Furthermore, the radio stations broadcast their own six bulletins on the half hour with six bulletins between 07H30 until 17H30 and one bulletin on top of the hour news read at 12H00. The news reports are on three (3) minutes on average for both the local and BBC news for an overall daily of thirty-five (35) minutes of news.

The following news items were monitored:

- *President Cyril Ramaphosa will address the mining Indaba in Cape Town in Cape Town today becoming the first sitting president to do so. Ramaphosa will be joined by the President of Ghana, Nana Akufo-Addo, and is set to bring his investment and reform agenda to the largest mining investment gathering. Over 6000 delegates from around the world are expected to attend.*
- *The US special envoy to North Korea is heading to Pyongyang in the next 24 hours for talk which could set the agenda for a planned second summit between Donald Trump and Kim Jong-Un. The visit comes as the UN report suggest North Korea is*

continuing to defy sanctions aimed at pressuring the state to give up its nuclear weapons.

- *A 55-year-old Valhalla primary school teacher is expected to appear in the Pretoria Magistrate Court today on allegations of sexual assault. He allegedly sexually assaulted over twenty learners between the ages of 10 and 12 between 2017 and 2018. The teacher has been suspended.*

The Licensee complies with clause 7.1 of its service licence.

Clause 7.2 of the service licence stipulates that:

"The Licensee will broadcast news in English".

The Authority's monitoring confirmed that the news bulletins broadcast by LM Radio reports are read in English and are national and international stories.

The Licensee complies with clause 7.2 of its service licence.

Clause 7.4 of the service licence stipulates that:

"The Licensee shall broadcast community events relating to its coverage area".

The Licensee hosted an event to empower local business in terms of expanding their business through advertising amongst others facilitated by a well-known speaker from the United States of America. The event was held in their area of coverage.

The Licensee complies with clause 7.4 of its service licence.

3.5 Ownership and Control structure of the Licensee

Clause 8 of the service licence stipulates that:

Until the publication of ownership and control regulation, the Licensee shall for the duration of this licence maintain at least thirty percent (30%) ownership and control of the station by persons from historically disadvantaged groups.

The Licensee's submission indicates that there is a thirty percent (30%) shareholding by persons from historically disadvantaged groups

The Licensee complies with clause 8 of the service licence.

3.6 Promise of Performance

Clause 9.1 of the service licence stipulates that:

"The Licensee shall employ a local news team specifically for the production of local news".

The Licensee submitted that they have not employed a local news team as per the licence condition, but source their news from BBC world and news flash as per their licence application⁸.

Clause 9.2 of the service licence stipulates that:

"At least 70% of the employees employed by the Licensee shall be historically disadvantaged persons from the licensed coverage area".

The Licensee submits that over seventy-one percent (71%) of their employees are persons from historically disadvantages groups⁹.

Clause 9.3 of the service licence stipulates that:

"The Licensee shall establish an employee training programme and shall spend a minimum of R1 116 000 (one million one hundred and sixteen thousand rand) over the licence period.

The Licensee submits that they have for the period under review spent four hundred and sixty-three thousand Rand for employee training. However, the clause can only be assessed at the end of the licence period.

Clause 9.4 of the service licence stipulates that:

"The Licensee shall assist in the development of broadcasting knowledge and skills amongst historically disadvantaged groups in the industry by "adopting" at least one (1) community sound broadcaster within the broadcasting coverage areas and provide them with, among other things, managerial and technical training through holding workshops and hand-on experiential training at LM Radio".

The Licensee submits that they have assisted Kofifi FM, before LM Radio was licensed. However, since commencing broadcasting services, have not yet identified a community sound services in their coverage area, requiring assistance.

Therefore, they have provided assistance to Rise FM in the rural community of Acornhoek in Limpopo with skills such as editing, scheduling, programming and amongst others¹⁰.

Clause 9.5 of the service licence stipulates that:

⁸ Appendix B - Compliance Submission.

⁹ Appendix B - Compliance Submission.

¹⁰ *Ibid*

"The Licensee shall provide the following amount annually to be used for annual broadcasting sound engineering, journalism training, programme presenting and production, sale and marketing, and news gathering internship (s) to persons from historically disadvantaged groups from the licensed coverage area".

The Licensee submits that an amount of four hundred and one thousand Rand (R401 000) was used to develop persons from historically disadvantaged groups.

Clause 9.6 of the service licence stipulates that:

"The Licensee must provide at least two (2) minutes of airtime per day to promote corporate social responsibility initiatives such as awareness of HIV & AIDS, cancer, poverty alleviation, job creating and any other social objective".

The Licensee submits that they have partnered with Pink Drive to promote breast and prostate cancer awareness in poor communities that could not afford medical services for the month of September 2018. The clause requires a specific number of minutes per day which the Licensee has not submitted information pertaining to the above mentioned clause. Further, the monitoring exercise could not identify same in the recordings¹¹.

The Licensee has complied with clause 9.2 and 9.5 but failed to comply with clause 9.1, 9.4 and 9.6 of their service licence.

4. REGULATIONS

4.1 South African Music Content

Regulation 3.2 of the ICASA Regulations on South African Music as published on 23 March 2016 stipulates that:

"A holder of a commercial sound broadcasting licence must ensure that after eighteen (18) months from the date of gazette 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 reasonably evenly throughout the performance period".

The Licensee submits that they broadcast an average of twenty-eight (28%) percent of South African music which is less than the quotas for individual licences. The monitoring confirmed that the Licensee plays a majority of foreign music and has not applied for an

¹¹ Appendix C - Promise of Performance Submission.

exemption to complying with the regulations accordingly. Some of the local songs that were played includes *Blurry Visions by the Buzzard, Music for Africa by PJ Powers and Margaret Singana and Fire is Low by Freshly Ground*.

The Licensee has failed to comply with the South African music content Regulations.

4.2 Standard Terms and Conditions for Individual Broadcasting Licences

During the period under review, the Authority did not identify any non-compliance by LM Radio with the Standard Terms and Conditions for Individual Licences.

4.3 Universal Service and Access Fund (USAF) Regulations

Regulation 3 (1) of the prescribed annual contribution of licences to USAF regulations published on 10 February 2011 stipulates that:

"Every holder of the 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, to the Fund".

Regulation 3 (2) stipulates that:

"A BS Licensee who has paid an annual contribution to the MDDA must set off that contribution against its USAF contribution, provided that the MDDA contribution and the USAF contribution against which it is set off are for the same financial year".

The Licensee made a payment to the MDDA fund which is percentage of their annual turnover in accordance with the regulations and submitted their proof of payment to the Authority.

The Licensee complies with the USAF Regulations.

4.4 General Licence Fees Regulations

The General Licence Fees Regulations came into effect on the date of publication in the government Gazette no. 36323, on 28 March 2013.

Regulation 3 (1) (a) stipulates 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 7 (a) (b) (c) stipulates that:

Annual Payments (a) are due based on the Licensee's financial year (b) are due and payable within six (6) months of the Licensee's financial end (c) may only be paid by way of an electronic transfer or via direct deposit into the Authority's bank account".

The Licensee was sent an invoice by the Finance department of the percentage payable in accordance with the regulation which they duly paid and submitted proof thereof. Furthermore, the payment was made within the six months after the Licensee financial year end.

The Licensee complies with the General Licence Fees Regulations.

4.5 Code of Conduct for Broadcasters

The Licensee is a member of the National Association of Broadcasters ("NAB") and complaints in relation to the Code of Conduct by Broadcasters are administered by the Broadcasting Complaints Commission of South Africa ("BCCSA").

5. CONCLUSION

LM Radio has complied with most of its licence conditions except some clauses of its their promise of performance and local music regulations. It should be noted that this is the first annual compliance report of the radio station that has been compiled by the Authority and a meeting with the Licensee will be held after approval of the report to address the areas of non-compliance. The meeting will be held in the beginning of the 20/21 financial year and the discussion and any solution to ensure compliance will be reflected in the compliance report for that particular financial year.

6. TERMS OF REFERENCE

6.1 Appendix A: LM Radio Licence;

6.2 Appendix B: Compliance Submission;

6.3 Appendix C: Promise of Performance Submission; and

6.4 Appendix D: Form 9A.