



QWA-QWA RADIO ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/2019 ANNUAL COMPLIANCE REPORT

QWA-QWA RADIO

LICENCE PERIOD: 27 OCTOBER 2018 to 26 OCTOBER 2023

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 Act to regulate broadcasting activities in the public interest. The Authority has a mandate to ensure compliance by broadcasters with the terms and conditions of the licence, the ECA, the ICASA Act and any other relevant legislation and Regulations.

The purpose of the report is to give account of Qwa-qwa Radio's compliance with the terms and conditions as set out in its licence for the 2018/2019 financial year. Aspects of compliance that will be measured comprise Geographic Coverage, Community Participation, Programming, Format, News and Information, Local Content Obligation, Language(s), South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions.

2. BACKGROUND

Qwa-qwa Radio is a class broadcasting service Licensee providing services to Thabo Mofutsanyane District Municipality in the Free State Province. The radio station provides a programming format that is a mix of talk radio and music.

3. COMPLIANCE ASSESSMENT

3.1 Control Structure

Clause 1 of the schedule to the licence provides that:

"The Licence is issued to:

¹ The Constitution of the Republic of South Africa, No 108 of 1996

² ICASA Act No 13 of 2000, as amended

³ Electronic Communications Act No 36 of 2005

1.1 *Name of company/entity: Qwa-qwa Radio.*

1.2 *Name of Station: Qwa-qwa Radio.*

1.3 *Control of the Licensee: Control shall vest in the Board of Directors of a Voluntary association known as Qwa-qwa Radio”.*

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

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

3.2 Licence Period

Clause 2 of the schedule to the licence provides that:

“2.1 The effective date of the licence is 08 October 2018; and

2.2 The licence shall expire on 07 October 2023.”

Qwa-Qwa Radio’s licence was renewed in 2018 and therefore, remains valid to date.

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

3.3 Licence Area

Clause 3 of the schedule to the licence provides that Cosmo FM’s coverage area is as follows:

“The Licensee shall provide services to Thabo Mofutsanyane District Municipality in the Free State Province as set out in the Licensee’s radio frequency spectrum licence”.

The Licensee confirmed that it provides a service to licensed area as set out in the Licensee’s radio frequency spectrum licence.

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.

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

3.4 Community

Clause 4.1 of the schedule to the licence provides that:

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

The Licensee submitted and confirmed that it provides a sound broadcasting service as prescribed in its licence document.

The Licensee complies with clause 4.1 of the schedule to its licence.

Clause 4.2 of the schedule to the licence provides 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 on programming and programme-related matters for the selection and provision of programmes; and

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".

During the period under review, the Licensee did not submit any information regarding meetings held with its community regarding programming and programming policies of the station.

The Licensee does not comply with clause 4.2 of the schedule to the licence.

Further, clause 4.2.3 provides that:

"The Licensee shall hold an Annual General Meeting for the following purposes:

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 any Special Annual General Meeting as and when required by the Constitution; 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 Licensee submitted minutes and register for an Annual General Meeting (AGM) that was held on 23 February 2019. This was also an elective AGM, where new board members were elected.

The Licensee complies with sub-clause 4.2.3 of the schedule to its licence.

3.5 Programming

Clause 5.1 of the schedule to 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 one hundred and eight (108) minutes of news per day, which shall include news originated by the station on issues affecting the community.

The Authority's monitoring exercise revealed that the Licensee broadcasts fifty (50) minutes of news per day. The news bulletins are in Sesotho and in English. No news originated by the station on issues affecting the community was identified during the monitoring exercise.

The following are some of the news items that were identified:

- *"Moruti wa kereke ya Alleluja Ministries e leng Pastor Alf Lukau, eo ho hlahelletseng ho re o ile a tsosa monna bafung ka lekaseng mafelong a beke, o batla ho hlwekisa lebitso la hae.*
- *Sena se tla ka mora ho re moetapele wa kereke ya Incredible Happenings, e leng Paseka 'Mboro' Motsoeneng, a etse phatlalatso sebokeng sa boraditaba, moo yena le association ya tshebeletso tsa mapato Afrika Borwa eleng SAFPA ba ntshe lentswe. Mboro o hlalositse ha a tlo tjamelana le Lekau ho latela ho silafatsa seriti sa badumedi le baKreste."*
- *"The President of the Republic of South Africa, Cyril Matamela Ramaphosa, says that he felt the pain of those who were removed from their land as his family's land was also stolen on two occasions. Ramaphosa made these comments on Saturday morning in Mamelodi, where he officiated a land restitution ceremony that marked successful claims by ten Gauteng communities who were presented with their title deeds and financial compensation."*

- *"Forum ya baqolotsi ba ditaba naheng ya Afrika Borwa, SANEF, e seollotse ka bohale tshwaro e mpe ya moqolotsi was ditaba e leng Reitumetse Mahope ke balebedi ba tshireletso ya poraefete mohwantong. Ho utlwahala ha Mangope a ne a nka ditshwantsho nakong ya mohwanto ho la Huis Davidtz Retirement Home ka hare ho Pretoria tsatsing la Labone, ha balebedi ba batla ho mothibela mosebetsing wa hae. Mahope o se a hlahletse tletlebo ya tlolo ya molao, ya tthekefetso le tlolo ya molao".*

The Licensee does not broadcast one hundred and eight (108) minutes of news as prescribed in clause 5.1.1, above.

The Licensee does not comply with its news obligation.

Clause 5.1.2 of the licence provides that:

"South African Music Content: 70%"

The reports submitted by the Licensee show that it broadcast an average of seventy percent (70%) of South African music content.

The Authority's monitoring exercise confirmed that the radio station broadcasts more than seventy-five percent (75%) of South African music content.

The Licensee complies with its South African Music Content obligations.

Clause 5.1.3 of the licence provides that the format is as follows:

"60% Talk and 40% Music"

The Licensee's morning and afternoon shows are a mixed blend of music and talk, but with more music. The station has talk shows throughout the day whereby important discussion and interviews on issues that affect the community are held. Labour matters, relationship issues, health and fitness matters were among the topics that were discussed during the monitoring exercise. The monitoring exercise confirmed that the Licensee's format is as prescribed in the licence.

The Licensee complies with its prescribed format.

Clause 5.1.4 of the licence provides that:

Language(s) of broadcast:

5.1.4.1 Sesotho – 56%; and

5.1.4.5 English – 44%.

The monitoring exercise revealed that the Licensee broadcasts its programmes mainly in Sesotho, their English content is less than twenty percent (20%). Except for some interviews that are in English, the only programmes that were identified in English are *Good news* and *Soul Food* (which is in both English and Sesotho) on Sundays from 06h00 to 09h00 and 12h00 to 15h00 respectively. The also broadcast some news bulletins in English.

The Licensee does not comply with its languages of broadcast obligation.

The Licensee partially complies with clause 5.1.4 of the schedule to its licence.

Clause 5.2 of the schedule to the licence provides 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".

The Licensee submitted programme logs to the Authority on a monthly basis during the period under review.

The Licensee complies with clause 5.2 of the schedule to its licence.

4. PROMISE OF PERFORMANCE

Clause 8.1 of the schedule to the licence provides that:

"The Licensee shall ensure that the following towns namely, Qwaqwa, Kestel and Harrismith are represented on the board of directors".

According to the information submitted by the Licensee, the newly elected board of directors, is representative of all the above-mentioned communities.

The Licensee complies with clause 8.1 of the schedule to its licence.

Clause 8.2 of the schedule to the licence provides that:

"The Licensee's staff complement shall consist of not less than 40% women at all levels".

The information submitted by the Licensee's shows that its staff complement consists of forty-four percent (44%) women. Their management structure also shows that eighty percent (80%) its managers are women.

The Licensee complies with clause 8.2 of the schedule to its licence.

Clause 8.3 of the schedule to the licence provides that:

"The Licensee shall, through its programming facilitate the development of music, arts and culture within its coverage area".

The monitoring exercise revealed that the Licensee promotes up and coming artists from within coverage area by playing their music and through interviews. One such artist is "KYS", who is from Qwaqwa.

The Licensee complies with clause 8.3 of the schedule to its licence.

5. COMPLAINTS

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 financial year under review.

The Licensee has not submitted a Form 12A (Complaints Report) as required by the Compliance Procedure Manual Regulations.

The Licensee does not comply with the relevant clause of the Compliance Procedure Manual Regulations.

5.1 ICASA Regulations on South African Music

Regulation 3 (3) of the Regulations on South African Music Content as published on 23 March 2016 stipulates that:

"A holder of a community sound broadcasting licence must ensure that after eighteen (18) months of the gazetting of these regulations, 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 reasonably evenly throughout the said period”.

For the period under review, the obligation in accordance with the SA Music regulations above was for at least seventy percent (70%) of South African music content to be played by community sound broadcasting Licensees.

The reports submitted by the Licensee show that it broadcasts an average of seventy percent (70%) South African music content. The Authority’s monitoring exercise revealed that the radio station broadcasts more than seventy percent (70%) of South African music content. Various genres were identified on the station’s music line-up including House, Hip Hop, Gospel and Kwaito with artists such as *Sjava, Semito, Tshepiso, Jonas Gwangwa, Mdu, Tshepo Tshola, Amanda Black, Brenda Fassie* and many others being played.

The Licensee complies with the ICASA Regulations on South African Music.

5.2 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences

The Licensee did not adhere to the Standard Terms and Conditions for class licences as it did not submit all the information required by the Authority. The monitoring exercise also revealed that the Programmes Manager occupies dual roles by also being a presenter on the station, which is in contravention of Clause 10A (7) (d) of the regulations on Amended Standard Terms and Conditions for Class Licences, 2016 published in *Government Gazette* No. 39872 dated 30 March 2016, which provides that:

“The Board of Directors/Trustees and station management must not occupy dual roles with regard to being managers/presenters at the station”.

6. CONCLUSION

The Licensee generally complies with most provisions of its licence conditions and applicable Regulations. The area of non-compliance regarding the percentage split of the languages of broadcast, will be brought to the attention of the Licensee. There is a complaint already before the Complaints and Compliance Committee (“CCC”), where the Licensee is being charged with

contravening parts of its own Constitution and its licence conditions. The complaint was brought by a member of the public. At time of compiling this report, the CCC ruling on the matter was pending.

7. TERMS OF REFERENCE

- 7.1 Appendix A: Qwaqwa Radio Service Licence;
- 7.2 Appendix B: Qwaqwa Radio Compliance Submission;
- 7.3 Appendix C: Standard Terms and Conditions for Broadcasting Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010, as amended;
- 7.4 Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016, and
- 7.5 Appendix E: ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.