



VHEMBE FM ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/2019 ANNUAL COMPLIANCE REPORT

VHEMBE FM

LICENCE PERIOD: 30 JANUARY 2015 TO 29 JANUARY 2020

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 any relevant legislation and Regulations.

The following report is intended to give account of Vhembe FM’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 Licence Area, Community Participation, Programming, Promise of Performance, Local Content Regulations and Regulations Regarding Standard Terms and Conditions.

2. BACKGROUND

Vhembe FM is a class sound broadcasting service licensee broadcasting to Mutale, Thulamela, Makhado and Musina and its surrounding areas in Limpopo Province as set out in the Licensee’s radio frequency spectrum licence. The radio station’s mandate is to provide a broadcasting service to the geographic community in its broadcasting area.

The radio station was licensed in 2015 but only went on air in September 2017 with a few shows because of operational challenges in relations to funds to broadcast the licenced hours which was communicated to the Authority.

They applied for a second frequency which then allowed them to cover the business districts in their licensed area and finally, they did commence broadcast their full programming on September 2018⁵.

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 Station Managers Report

3. COMPLIANCE ASSESSMENT

3.1 Licence Area

Clause 3 of the service licence stipulates that:

The Licensee shall provide services to in Mutale, Thulamela, Makhado and Musina and its surrounding areas in Limpopo Province as set out in the Licensee's radio frequency spectrum licence".

The Licensee was issued with one frequency that covered most of the rural areas within the Thulamela Local Municipality which as reported at the AGM lead to them struggling to launch a fully-fledged service due to lack of advertising. They have since in February 2018 been awarded two more licences to make in order to cover the licensed area⁶ which is the Vhembe District Municipality.

The Licensee complies with its licence area.

3.2 Community

Clause 4.2 of the service licence 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) general 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;

The radio station submitted that it held one (1) meeting with the community on programming related matters. It should be noted that for the first two quarters of the period under review, the radio station was not broadcasting for twenty-four hours, hence they were unable to meet some of their obligations. However, in the recordings for March 2019, the radio station did broadcast a notice every day, inviting community members to attend a programming meeting which, unfortunately, falls outside the reporting period. However, that aspect may be considered for the reporting in the 2019/2020 financial year.

The Licensee partially complies with sub clause 4.2 of its schedule to the licence.

⁶ Spectrum Licence

Clause 4.3 of the service licence stipulates that:

4.2.3 The Licensee shall hold an Annual General Meeting (AGM) 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

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 proof of their Annual General Meeting by way of minutes and attendance register thereof, dated 29 March 2019⁷. This was the first AGM for the radio station since issuance of their licence. However, the AGM was not for the purposes of electing a governing structure. The purpose was for the introduction of the governance structure and presentation of the first financial statement. Furthermore, the community members were afforded an opportunity to ask questions in relations to the running of the radio station amongst other things. The AGM was also attended by members of the provincial National Community Radio Forum (NCRF), Station Managers of radio station in the District and other stakeholders.

The Licensee complies with clause 4.2.3. of their service licence.

3.3 Programming

The Licensee shall provide programming as follows:

Clause 5.1.1 Local News and Information:

"The Licensee shall broadcast a news to a total of fifty (50) minutes per day which shall be broadcast in all languages of broadcast. Thirty-five (35) minutes shall be local news, ten (10) minutes shall be national news and five (5) minutes shall be international news".

The monitoring exercise conducted, for the period under review, indicated that Vhembe FM broadcasts news bulletins from 07H00 until 17H00 except at 09H00 during weekdays. Further, broadcasts the weekend bulletins from 07H00 until 16H00 except 09H00. The news bulletins are for an average duration of five (5) minutes and a total average duration of fifty (50) minutes on weekdays and forty-five (45) minutes over the weekend.

Among the news stories covered for the period under review were excerpts from certain broadcasts, as follows:

⁷ Vhembe FM AGM report

- *“Hu khou lavheleliwa vharangaphanda vha sialala vha swikaho dana fumalo tahe khathihi na vhafunzi kha madalo a phuresidennde vho Cyril Ramaphosa namusi. Munwaleli wa vundu vho Soviet Lekganyane vho talutshedza uri phuresidennde Vho Ramaphosa vha do ranga u vha na fun walk u bva mavhengeleni a Thavhani Mall u livha University ya Venda. Vha do ri u bva afho vha ya Mbilwi u netshedza nndu lwa tshiofisi lisoale la kale Vho Mavhina.*
- *Mahoro a zwa polotiki phalamendeni a khou lavhelela uri minister wa muhasho wa gwama vho Tito Mboweni vha do talutshedza uri muvhuso u do thusa nga ndila de khamphani ya Eskom ine ya khou tangana na khaedu dza masheleni. Vho Mboweni vha dovha vha tshi khou netshedza tshipitshi tshavho tsha u thoma tsha mugaganya gwama wa nwaha phalamendeni namusi nga masiari.*
- *Maphorisa a xifundza nkulu xa Limpopo va kombela vaakatiko kuva va pfuna hi ku lavana na David Nkuna wa makume mune wa malembe hi vukhale wo huma e mugangeni waka Dzingi a handle ka Giyani e xifundzeni nkulu xa Limpopo.*
- *Ku vikiwa leswaku David u nyamalarhile hi siku ra vukhume ntlanu eka nhweti leyi hinga leka yona hi nkarhi loyu a bela nwasati wa yena riqhingo a nwu byela leswaku ule kunwi vakeleni na swona u kume lefiti aka movha u nwana ku ya eMokopane.”*

The Licensee complies with the duration of minutes during weekday’s, however, do not broadcast the news in all languages as stipulated in the licence. Further, the Licensee does not meet the minimum requirement of minutes of news on the weekend.

The Licensee does not fully comply with their news obligations.

Clause 5.1.3 of the service licence stipulates the split between Talk vs Music as follows: *“30% Talk and 70% music”.*

The monitoring exercise confirms that the radio station predominantly music based complimented by talk. The Morning and Drive time programme are dominated by music and make up eight (8) hours of the daily programming. The mid-morning and mid-afternoon programme are split between music and talk with listener engagements with a talk based programme between 19H00 and 21H00 followed by a music based programme thereafter until the end of the performance period.

The Licensee complies with their format.

Clause 5.1.4 of the service licence stipulates that the languages of broadcast are as follows:

- (a) 80% Tshivenda;
- (b) 15% Xitsonga; and
- (c) 5% English.

The radio station's presenters are multilingual and can interchangeably converse in the languages of broadcast with Tshivenda taking prominence in their daily broadcast and their news bulletins as well.

The Licensee complies with its language obligations.

3.4 Promise of Performance

Clause 8.1 of the service licence stipulates

"The Licensee shall broadcast programmes that are aimed at uplifting or developing the community, children's programmes, health education on HIV/Aids and enhancing literacy"

The Licensee has programmes such as "Youth Forum" broadcast on Sundays between 10h00 and 22H00 with discussion on issues pertaining to youth related challenges and advises thereof. Furthermore, the lifestyle programme broadcast weekdays between 10H00 and 13H00 does address issues pertaining to development of the youth in terms of education and entrepreneurship by bringing individuals in different fields to advise on their career path and opportunities thereof. It should be noted that the monitoring exercise could not detect any children's programming, for the period under review.

Therefore, the Licensee partially complies with the clause 8.1 of the service licence.

Clause 8.2 of the service licence stipulates

"The Licensee shall engage in clean up campaigns, visiting and caring for the elderly and inviting schools to the station as part of projects and outings."

The Licence did not submit any proof of compliance to the clause and therefore do not comply accordingly.

4. REGULATIONS

4.1 South African Music Content Regulations

The ICASA Regulations on South African Music published on 23 March 2016 stipulate that: *"A holder of a community sound broadcasting service licence must ensure that after eighteen (18) months from the date of 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 evenly throughout the performance period"*.

The Licensee's Form 8 of the Compliance Procedure Manual Regulations submission shows that they broadcast an average of sixty percent (60%) of South African music⁸. This is compliance with their sixty (60%) percent local music output in their service language which unfortunately superseded by the Regulation.

The monitoring exercises found that the radio station conducts interviews with artists such as *"Secret of Worship"* which is a gospel group and playlist their music and *"Sunny K"* which increases their music percentage based on the format factor to an average of sixty five percent (65%) which was not included in the Licensee's submission.

On Saturdays, the Licensee broadcasts the National Top 20 between 18H00 and 20H00 which is strictly South African music programme. The radio station should, however, be commended for broadcasting a lot of music from their coverage area with artists such as *"Makhadzi"* and *"Colbert Mukwevho"* amongst others being playlisted.

The Licensee failed to comply with the South African Music Content Regulations

4.2 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences

Regulations 7D of the Standard Terms and Condition for Class Licences 2016 stipulates that:

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

⁸ Form 8 A, B and C

At the regulatory workshop held in April 2018, it was found that one of the Board members was a presenter for one of the weekend shows which was non-compliance to the above mentioned regulation. The radio station did concede that they were not aware of the clause and that the matter will be addressed accordingly.

Regulations 12 of the Standard Terms and Condition for Class Licences 2016 stipulates that:

"If a licensee intends into entering into a management agreement with another entity. Attach details and nature of the agreement, including timelines. Should a management agreement's timeline lapse, if and when renewed, such must first be lodged with the Authority."

The radio station had on March 2018 entered into a management contract with a service provider without lodging the agreement with the Authority. The radio station was advised on the applicable process of the amended regulation that required the management contracts to be lodged with the Authority at the regulatory workshop held on April 2018 and they have since lodged the documents accordingly.

The Licensee partially complies with the provision of the Standard Terms and Condition for Class Licences

5. CONCLUSION

Vhembe FM has for their first year of operation complied with some of its licence terms and conditions and regulations. The Compliance Unit conducted a regulatory education and awareness workshop with the Licensee's management and a member of the governance structure, in April 2018. The workshop was to ensure that they are aware of what's required in order to comply with the applicable Regulations and their licence requirements accordingly.

6. APPENDICES

- 6.1** Appendix A: Vhembe FM service licence;
- 6.2** Appendix B: Vhembe FM Spectrum Licence;
- 6.3** Appendix C: Vhembe FM Station Managers Report;
- 6.4** Appendix D: Vhembe FM AGM report; and
- 6.5** Appendix E: Form 8 A, B and C.