



VUMA FM ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/2019 ANNUAL COMPLIANCE REPORT

VUMA FM (PTY) LTD BROADCASTING AS VUMA 103 FM

LICENCE PERIOD: 25 May 2012 - 24 May 2022

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution¹, the ICASA Act² and 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 monitor compliance by broadcasters with the terms and conditions of their licence, the three Acts and any relevant legislation and regulations.

The purpose of the report is to give an account of Vuma FM's performance for the 2018/2019 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Language(s), Format, Training and Skills Development Equity, Staff Development and Employment Equity Plan, General Programming Obligations, Ownership by individuals from historically disadvantaged groups, Financial Year, Regulations Regarding Standard Terms And Conditions For Individual Licensees, General Licence Fees Regulations, Regulations In Respect Of Prescribed Annual Contributions of Licensees to the Universal Service Access Fund and South African Music Content Regulations.

2. BACKGROUND

Vuma 103 FM is an Individual Sound Broadcasting Service Licensee broadcasting from Durban in Kwa-Zulu Natal. The Authority issued Vuma FM with its licence on 25

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

² ICASA Act No 13, 2000 as amended

³ Electronic Communications Act No 36, 2005

⁴ Broadcasting Act No 4 of 1999

May 2012 and according to the Broadcast Research Council of South Africa, the listenership figures between October 2018 and March 2019 were 175 000⁵.

3. COMPLIANCE ASSESSMENT

3.1. Ownership and Control

Clause 1.1 of the licence provides that:

*"Name of Entity: Vuma FM (Pty) Ltd"*⁶.

The Licensee confirms that the name of the Entity is Vuma FM (Pty) Ltd.

The Licensee complies with clause 1.1 of its licence.

Clause 1.2 of the licence provides that:

"Shareholders:

Times Media Pty (Ltd) -85%;

Sisulu Family Trust -15%"

Accordingly, the Licensee's submitted notifications, Vuma 103 FM is 100% owned by the Tiso Blackstar Group. However, at the time of finalizing this report, the application by Vuma FM (Pty) Ltd to change its shareholding structure was under review by the Authority.

The Licensee complies with schedule 2 of the Standard Terms and Conditions for Individual Licence.

3.2 Geographic Coverage Area

Clause 2 of the schedule to the licence stipulates that the geographic coverage area is:

⁵ Appendix A: <http://www.brcsa.org.za/BRC-RAM-August-Listenership-Report>

⁶ Appendix B: Vuma FM's Service Licence

"Durban, Donnybrook, Eshowe, Glencoe, Kokstad and Newcastle in KwaZulu Natal, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence".

The Licensee states that the geographic coverage area remains Durban, Donnybrook, Eshowe, Glencoe, Kokstad and Newcastle.

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

3.3 Broadcast Language(s)

Clause 3 of the schedule to the licence states that:

"The Licensee shall broadcast in 50% isiZulu and 50% English"

The Authority's monitoring exercise confirmed that both English and isiZulu are used interchangeably by the Licensee. For example, a presenter will converse in both languages in programmes such as *"Good to Go Morning Drive"* (06h00 – 09h00) and *"Till Noon"* (09h00 – 12h00). Another example is, an English news bulletin is followed or preceded by an isiZulu news bulletin an hour later.

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

3.4 Format

Clause 4 of the schedule to the licence provides:

"The Licensee shall have a programming format that is exclusively and predominantly gospel music led. The Licensee shall broadcast 60% music and 40% talk. 10% of music will be inspirational and spiritual".

The monitoring exercise confirmed the Licensee broadcasts more music and less talk. The 60% music and 40% talk format is adhered to. The Licensee broadcasts gospel music notably between 05h00 and 06h00 and rest of the South African performance period is filled with popular music. The following artists were featured: Jennifer

Hudson "You put a move on my heart", Sans "Tiki tiki", Mario "Let me love you", The Weekend "I feel it coming" and Shola Ama "I still believe".

The Licensee is partially - compliant with its format as outlined in clause 4 of its licence.

3.5 Local Content Obligations

Clause 5 of the schedule to the licence states that:

"The Licensee shall broadcast 50% of South African music on a weekly basis"

The monitoring exercise confirmed that Vuma FM broadcasts far less than 50% South African music. The number of international tracks played surpasses local tracks. The non-adherence was further validated by the Licensee's own submission⁷ that they broadcast under 30% of South African music on a weekly basis.

The Licensee does not comply with clause 5 of the schedule to its licence.

3.6 General Programming Obligations

Clause 6.2 of the schedule to the licence states that:

"The Licensee will broadcast its news in English and isiZulu".

The monitoring exercise confirmed that the Licensee broadcasts its news bulletins in both English and isiZulu. For example, during the week the Licensee broadcasts thirteen (13) news bulletins between 06h00 and 18h00, eight (8) in English and five (5) in isiZulu. It should also be noted that some of the sound bites can either be in English or isiZulu during a news bulletin.

The following are among the news stories covered for the period under review:

⁷ Appendix C: Vuma FM - ICASA Reports 010119-310319

- *"Black Business Council is calling for the removal of the Imperial Group CEO Mark Lamberti as an Eskom Board member, Public Enterprises Minister Pravin Gordhan is reportedly seeking legal advice on the Lamberti issue. Lamberti was found to have impaired the dignity of a Black woman by referring to her as a female employment equity candidate. Cosatu's spokesperson Sizwe Pamla says as Cosatu they welcome and support the fact that women have now started to stand for themselves;*
- *Corruption Watch South Africa released a statement regarding a tremendous increase of corruption in this Province and in the Gauteng Province compared to other Provinces. Cases reported to Corruption Watch increased by 25% in the previous year. The latest Corruption Watch report reveals that schools have the most reported cases of corruption at 15%. The South African Police Service is next highest with 6%, traffic and licensing department account for 5% of cases whilst health & housing departments both sit at 4%. Almost half of all corruption reports are from Gauteng followed by KwaZulu Natal with 13% while the Western Cape has the third highest at 8%; and*
- *The ANC's entire NEC will today visit late struggle icon Winnie Madikizela Mandela's home in Soweto to pay their respects. Madikizela Mandela passed away on Monday at Milpark hospital in Johannesburg at the age of eighty-one (81). Yesterday scores of dignitaries and prominent personalities visited the home of the anti-apartheid icon. President Cyril Ramaphosa has declared a special official funeral to honour the woman who became the face of anti-apartheid resistance for a period spanning three (3) decades."*

The Licensee complies with clause 6.2 of the schedule to its licence.

Clause 6.3 of the schedule to the licence states that:

"The Licensee shall broadcast news on a regular basis, a total of fifty-two (52) minutes each weekday and twenty-four (24) minutes on weekends between 05h00 and 23h00".

The Authority's monitoring exercise confirmed that the Licensee's bulletins are three (3) to four (4) minutes in duration. The Licensee broadcasts thirteen (13) news bulletins during the week and three (3) news bulletins at 07h00, 10h00 and 12h00 on weekends. The Licensee broadcasts an average of forty-six (46) minutes and eleven (11) minutes of news on weekdays and weekends respectively. The Licensee's own submission states that the Licensee broadcasts thirty-nine (39) minutes of news on weekdays⁸. The non-compliance is confirmed by the Licensee.

The Licensee is non-compliant with clause 6.3 of the schedule to its licence.

Clause 6.4 of the schedule to the licence provides for:

"The Licensee shall ensure that 55% of its news content is local, 35% national and 10% international news per day".

The Licensee's submission indicates that Vuma FM broadcasts 62% local and regional news, 33% national news and 5% international news⁹.

The Licensee is partially compliant with clause 6.4 of the schedule to its licence.

Clause 6.5 of the schedule to the licence states that:

"Should the Licensee source news material from news/source other than itself, the source(s) thereof shall be disclosed to the Authority"

The Licensee submitted its news sources to the Authority. Sources used are IOL, Independent Newspapers, Stringers, News 24, Television News Channels, NGOs, the Community, police and paramedics, Twitter and Government Departments. During one of the news bulletins, Mpumalanga News newspaper was quoted as a news source that was used.

The Licensee complies with clause 6.5 of the schedule to its licence.

⁸ Appendix C: Vuma FM – ICASA Reports 010119 -310319

⁹ Appendix C: Vuma FM - ICASA Report 010119-310319

Clause 6.6 of the schedule to the licence provides for:

"The Licensee shall broadcast thirty (30) minutes of current affairs programming per week day. It will further ensure that the ninety per cent (90%) of current affairs be in isiZulu. Eighty per cent (80%) of the current affairs programming is to be generated from the coverage area".

The monitoring exercise confirmed that the Licensee broadcasts a current affairs programme on weekdays called "KZN in 60 minutes" between 19h00 to 20h00 on Mondays to Wednesdays. The programme unpacks news stories that have made headlines. The topics that were discussed among others, were: the memorial service of Winnie Mandela, the Congress of the Democratic Alliance, KwaZulu Natal ANC Women's League to honour Winnie Mandela, allegations of KwaZulu Natal ANC's attempts to discredit President Cyril Ramaphosa and form a splinter Political Party and the appearance of former President Jacob Zuma in court, to face corruption charges. The current affairs programme is presented predominantly in IsiZulu.

The Licensee complies with clause 6.6 of the schedule to its licence.

3.7 Ownership and control structures of the Licensee

Clause 7 of the schedule to the licence stipulates that:

"The Licensee shall for the duration of this licence maintain at least thirty per cent (30%) ownership and control of the station by persons from historically disadvantaged groups"

According to the Licensee's submission, ownership by persons from historically disadvantaged groups is at 58% but the notifications filed by the Licensee are still under the Authority's consideration (see clause 1.2 above).

The Licensee's compliance with clause 7 is therefore inconclusive.

3.8 Special Conditions

Clause 8.1 of the schedule to the licence provides for:

"The Licensee must comply with the requirements of the Employment Equity Act 55 of 1998 and the Skills Development Act 97 of 1998".

The Licensee did not submit its workforce demographics to determine equitable representation in all occupational categories and levels in its workforce. Vuma 103 FM submitted their skills and development training initiatives¹⁰. The Licensee has submitted that training was provided for three (3) news interns and one (1) Information Technology intern between the months of July 2018 to June 2019.

The Licensee is partially compliant with clause 8.1 of the schedule to its licence.

Clause 8.2 of the schedule to the licence provides for:

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

The Licensee did not provide information on the makeup of its news team.

The Licensee is non-compliant with clause 8.2 of the schedule to its licence.

Clause 8.3 of the schedule to the licence states that:

"At least 50% of the employees employed by the Licensee shall be historically disadvantaged persons".

The Licensee did not submit information on its workforce (see clause 8.1 above).

The Licensee is non-compliant with clause 8.3 of the schedule to its licence.

¹⁰ Appendix C: Vuma FM - ICASA Reports 010119-310319

4. REGULATIONS

4.1 Complaints Received

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 submitted Form 12A and reported that they did not receive complaints for the period under review¹¹.

The Licensee complies with the Compliance Procedure Manual Regulations.

4.2 South African Music Content Regulations

The ICASA South African Music Content Regulations, as published on the 23 of March 2016, stipulates that:

"A holder of a commercial sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting these Regulations, a minimum of 35% of the musical works broadcast in the performance period, consists of South African music and that such South African music is spread evenly throughout the performance period".

The Authority's monitoring exercise determined that the Licensee plays under 30% (see 3.5) of South African music per week.

The Licensee is non-compliant with the ICASA South African Music Content Regulations.

¹¹ Appendix D: Vuma FM – ICASA Reports 010419 - 300619

4.3 Regulations Regarding Standard Terms and Conditions for Individual Licences

The Licensee has two (2) pending notifications with the Authority to change its shareholding structure. The notifications are being reviewed by the Authority.

The Licensee complies with the Standard Terms and Conditions for Individual Licences Regulations.

4.4 Universal Service and Access Fund Regulations

Regulation 3(1) of the New Universal Service and Access Fund (USAF) Regulations as published in the Government Gazette No. 34010 of February 2011, provides 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) further provides 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 of the same financial year"

The Licensee's financial year ends on 30 June and the USAF fees are due within six (6) months after the financial year ends (by 31 December 2019).

The Licensee paid its annual contribution towards USAF directly to the MDDA on 22 January 2020 and is therefore partially - compliant with the USAF Regulation.

4.6 General Licence Fees Regulations

Schedule 2 of the General Licence Fees Regulations provides for Individual Commercial Broadcasting Service Licensees to pay annually to the Authority a

licence fee of between 0.15% to 0.35% of its gross profit.

Schedule 3(1) of the General Licence Fees Regulations provides for the format for submission of financial statements for the purpose of calculating licence fees.

Schedule 3(2) of the General Licence Fees Regulations provides that:

"All licence holders must submit within six (6) months of their financial year end:

a) audited financial statements, or;

b) financial statements signed by the accounting officer of the Licensee where the Licensee is legally obliged to provide audited financial statements"

Schedule 3(6) of the General Licence Fees Regulations provides that:

"All payments in respect of Annual Licence Fees are due annually"

The Licensee has submitted its calculations and financial statements, however, paid its annual licence fees on 30 January 2020 and not on the due date (31 December 2019)

The Licensee is therefore partially - compliant with the General Licence Fees Regulations.

5. CONCLUSION

The Licensee failed to comply with the ICASA South African Music Content Regulations and clauses 5, 6.3, 8.2 and 8.3 of its licence. The Licensee also partially complies with clauses 4, 6.4 and 8.1 of its service licence, the USAF Regulations and the ICASA General Licence Fees Regulations. The Licensee is violating programming provisions that are prescribed in their service licence which is an indication of non-adherence to compliance with the document that affords them the right to be on air. The Compliance and Consumer Affairs Division ("CCA") will refer the Licensee to the Complaints and Compliance Committee ("CCC"), for adjudication.

6. TERMS OF REFERENCE

- 6.1** Appendix A: Broadcasting Research Council of South Africa
- 6.2** Appendix B: Vuma FM's service licence
- 6.3** Appendix C: ICASA Report 010119-310319
- 6.4** Appendix D: ICASA Report 010419-300619
- 6.5** Appendix E: ICASA Compliance Procedure Manual Regulations, 2011 as published in Government Gazette No. 34863 dated, 15 December 2011.
- 6.6** Appendix F: ICASA South African Music Content Regulations, 2016 as published in Government Gazette No. 39844 dated, 23 March 2016.
- 6.7** Appendix G: Standard Terms and Conditions for Individual Broadcasting Services, 2016 as published in Government Gazette No. 39875 dated, 30 March 2016, as amended.
- 6.8** Appendix H: USAF Regulations, 2011 as published in Government Gazette No. 34010 dated, 10 February 2011.
- 6.9** Appendix I: General Licence Fees Regulations, 2012 as published in Government Gazette No. 36323 dated, 28 March 2013, as amended.