



# **WHALE COAST FM ANNUAL COMPLIANCE REPORT**

**MARCH 2020**

# 2018/2019 ANNUAL COMPLIANCE REPORT

## BREAKTHROUGH ADVENTURES NPC BROADCASTING AS WHALE COAST FM

Licence Period: 03 July 2014 – 02 July 2019

### 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> and 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. 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 mentioned already and any relevant legislation and Regulations.

This report is intended to give account of Whale Coast 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 and Regulations Regarding Standard Terms and Conditions.

### 2. BACKGROUND

On 3 July 2014, a class broadcasting service licence was issued to Breakthrough Adventures NPC broadcasting as Whale Coast FM. As per the license, Whale Coast FM provides services to Overstrand and Theewaterskloof Local Municipalities in the Overberg District, as set out in the Licensee's Radio Frequency Spectrum license.

### 3. COMPLIANCE ASSESSMENT

#### 3.1 Licensee

Clause 1 of the Schedule of Whale Coast FM's licence provides that:

*"The Licence<sup>5</sup> is issued to:*

*1.1. Name of entity: Breakthrough Adventures NPC*

*1.2. Name of the Station: Whale Coast FM*

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

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

<sup>3</sup> Electronic Communications Act No 36, 2005.

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

<sup>5</sup> Annexure A: Whale Coast FM's Broadcasting Service Licence

*1.3. Control of the Licensee: Control shall vest in the governing body of Breakthrough Adventures NPC.”*

The Licensee did not submit any changes regarding clause 1 of its Schedule to its licence to the Authority.

**The Licensee complies with clause 1 of the Schedule to its service licence.**

### **3.2 Licence Period**

Clause 2 of the Schedule of Whale Coast FM’s licence provides that:

*"2.1 The effective date of the licence: 03 July 2014.*

*2.2 The licence shall expire on 02 July 2019.”*

During the period under review, the licensee submitted a renewal application and was issued a renewed community broadcasting services licence on 29 May 2019. The renewed community broadcasting services licence is valid until 02 July 2024.

**The Licensee complies with clause 2 of the Schedule to its service licence.**

### **3.3 Licence Area**

Clause 3 of the Schedule to Whale Coast FM’s licence provides that:

*"The Licensee shall provide services to Overstrand and Theewaterskloof Local Municipalities in the Overberg District Municipality, as set out in the Licensee’s radio frequency spectrum license.”*

Whale Coast FM’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 Licensee has gone beyond its licenced area.

**The Licensee complies with clause 3 of the Schedule to its service licence.**

### **3.4 Community**

Clause 4.1 of the Schedule to Whale Coast FM’s licence provides that:

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

The Licensee confirms that its services are offered to the geographic community residing within its coverage area.

**The Licensee complies with clause 4.1 of its service licence.**

Clause 4.2 of the Schedule to Whale Coast FM's licence provides that:

*"4.2 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 the attendance thereof by members of the community.*

*4.2.3 The Licensee shall hold Annual General Meetings (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 appeared before the Complaints and Compliance Committee ("CCC") on 8 June 2018. The Authority's ruling was handed down on 28 October 2018 where it was found that there was no evidence that the licensee held meetings with the community that it serves and encouraged the community within its coverage area to participate in 'ownership' of the station.<sup>6</sup> The ruling was that a community meeting be held before 16 March 2019. Subsequent to the CCC ruling, the Licensee held the community meeting on 16 March 2019 and submitted the necessary documentation in relation thereto. It was also ordered that the Licensee hold a further community meeting before end July 2019. This meeting falls outside of the period under review of this annual compliance report.

The Licensee held an AGM on 25 October 2019. The documentation relating thereto was submitted to the Authority.

**The Licensee complies with clause 4.2 of the schedule to its License.**

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<sup>6</sup> Anthony Duke and Others v Breakthrough Adventures NPC case number: 277/2018 (CCC), ad par 12.

### 3.5 Programming

Clause 5.1.1 of the Schedule of Whale Coast FM's licence provides that:

**"Local News and Information:** *The Licensee shall broadcast a total of thirty (30) minutes of news per day of which 60% shall be local, 20% regional, 10% national and 10% international.*

Some of the news that was covered during the period under review include:

- *"South Africa is ranked 11<sup>th</sup> among the top twenty countries mismanaging waste. This was revealed during a meeting of Parliament's Portfolio Committee on Environmental Affairs, where a possible banning of single use plastic products was discussed. Eye Witness News reports that the stats come from a 2015 study conducted by Georgia University in the USA."*
- *"President Cyril Ramaphosa sal vandag in Durban die internasionale arbeidsorganisaie se verslag oor toekomstige werksgeleenthede in Suid-Afrika bekend stel. Die verslag identifiseer uitdagings waarmee werkers te make het en maak voorstelle oor hoe probleme oorkom kan word. President Ramaphosa en die Sweedse Eerste Minister, Stefan Löfven, is gesamentlik voorsitters van die kommissie wie se internasionale verslag in Januarie in Switserland bekend gemaak is."*
- *"The State Capture Commission has extended the appointment of its acting secretary, Peter Pedler, until the end of March. The commission said that its investigation related to Dr Khotso de Wee, who went on special leave in January has not been completed. Former Bosasa executive, Angelo Agrizzi, implicated de Wee in corruption during his testimony. De Wee allegedly received bribes from Bosasa for a 2013 tender, while he was still the Chief Operating Officer at the Department of Justice and Correctional Services."*
- *"Die saak tussen die Minister van Openbare Ondernemings, Pravin Gordan, en die leiers van die EFF, Julius Malema en Floyd Shivambu, sal vandag in die gelykheidshof in Johannesburg hervat word. Gordan het die EFF leiers aangekla van crimen injuria, die aanhitsing tot geweld en laster. Malema het verlede jaar in 'n skerp aanval op Gordan gesê dat hy bevoordeel is deur staatskaping."*

During the period under review, the monitoring exercise found that the Licensee broadcast news for an average total duration of thirty (30) minutes per day. The average duration of a news bulletin is four (4) minutes. The monitoring exercise found that although the Licensee meets the requirement of thirty (30) minutes, local news does not

make up sixty percent (60%) of its total news broadcast. News is dominated by regional, national and international stories.

**The Licensee is partially compliant with clause 5.1.1 of the Schedule to its licence.**

Clause 5.1.2 of the Schedule to Whale Coast FM's licence provides that:

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

Some of the South African music that was found during the period under review include amongst others:

*Feltz & Schalzieg & Engelbrecht "Die Mooiste Vier Woorde"; The Vanilla "Suburb Boy"; Shaun Jacobs "End of the Road"; ADAM "Engele Sing"; Stanley June "Holding On"; Riana Nel "Tot Die Einde"; OsMoSiS "Between the Silences"; Yebo Nkosi "Hlengiwe Mhlaba"; Lusanda Spiritual Group "Intlungu"; Dumi Mkokstad "Mayenzeke"; Richard Van Der Westhuizen "Genadewater".*

The Licensee after having received communication from the Compliance Department, that it was not meeting the required South African music content quota took remedial steps to increase its South African music content. The Licensee increased its South African music content to seventy percent (70%) before the end of the period under review.

**The Licensee complies with clause 5.1.2 of the Schedule its licence.**

Clause 5.1.3 of the Schedule to Whale Coast FM's licence provides that:

***"Talk vs. Music: 50% Talk and 50% Music."***

The monitoring exercise found that the format of the Licensee is balanced between talk and music. The licensee regularly broadcast talk content such as educational programming, interviews with guests, radio dramas, political analysis, sports news, financial updates and news stories from around the world.

**The Licensee complies with clause 5.1.3 of the Schedule to its licence.**

Clause 5.1.4 of the Schedule to Whale Coast FM's licence states that:

***"Language(s) of broadcast***

*5.1.4.1 Afrikaans – 40%;*

*5.1.4.2 English – 40%; and*

*5.1.4.3 isiXhosa – 20%."*

The monitoring exercise found that English is the dominant language of broadcast by the Licensee and covers the majority of its programming and music. Afrikaans is not represented on equal footing as English, as required by the broadcasting services licence. The monitoring exercise found that isiXhosa is broadcast after 18h00 during weekdays and on Sundays after 07h00 and represents twenty percent (20%) of the languages broadcast by the Licensee.

**The Licensee is partially compliant with clause 5.1.4 of the Schedule to its licence.**

### **3.6 Promise of Performance**

Clause 8.1 of the Schedule to Whale Coast FM's licence provides that:

*"The Licensee shall provide for the participation of community members in the affairs of the station in the following ways:*

*8.1.1 Special phone-in programmes by members of the community.*

*8.1.2 School services to be accommodated in terms of programming and their input.*

*8.1.3 Spiritual support and programmes aimed at the elderly and senior members of the community, including youth.*

*8.1.4 Participation in the development and education of the Afrikaans Christian Culture"*

During the period under review, the monitoring exercise found that the Licensee provides opportunity for its listeners to call in and participate in programming throughout the week.

The Licensee broadcasts "*Education on Air*" that tackles educational topics such as reading and includes interviews with teachers and learners from schools in the coverage area of the licensee.

The Licensee broadcasts spiritual inserts every morning and focuses on providing spiritual support through its programming on Sundays. Gospel music, sermons, prayers and motivational messages is broadcast in all the languages of broadcast.

The programming is of relevance to the elderly and senior members of the community, without alienating the youth. These programmes aid the development and education of the Christian Culture.

The monitoring exercise found that school services are accommodated in programming. Further, the monitoring exercise found that the Licensee broadcasts spiritual

programming that is of relevance to the elderly and the youth. These spiritual programming facilitate the development and education of Christian Culture. Opportunity is provided by the Licensee to its listeners to phone in and participate in its programming.

**The Licensee complies with clause 8.1 of the Schedule to its service licence.**

#### **4. REGULATIONS**

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

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

*"A holder of a community sound broadcasting service licence must ensure that after eighteen 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 evenly throughout the performance period"*<sup>7</sup>.

During the period under review, the Licensee submitted that it increased its South African music content to seventy percent (70%) after being informed that it did not meet the requirement. This was confirmed during the monitoring exercise. Examples of South African music content has been identified above under clause 5.1.2.

**The Licensee complies with the Regulations on South African Music Content.**

##### **4.2 Compliance Procedure Manual – Form 12A**

The Licensee is required, in terms of the Compliance Procedure Manual Regulations<sup>8</sup>, to submit a Form 12A which reports on all complaints received during each financial year.

The Licensee has submitted form 12 A in accordance with the Compliance Procedure Manual Regulations.

**The Licensee complies with the above-mentioned regulation.**

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<sup>7</sup> Appendix B: ICASA South African Music Content Regulations, 2016 as published in Government Gazette No. 39844 dated, 23 March 2016.

<sup>8</sup> Appendix C: ICASA Compliance Procedure Manual Regulations, 2011 as published in Government Gazette No. 34863 dated, 15 December 2011.



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

The Authority is satisfied that during the period under review the Licensee did not contravene the Regulations on Standard Terms and Conditions for Class Licences<sup>9</sup>.

### **The Licensee complies with the Standard Terms and Conditions for Class Broadcasting Service Licence.**

## **5. CONCLUSION**

The monitoring exercise found that during the period under review, the Licensee was generally compliant with its obligations. The monitoring exercise, however, identified an area of non-compliance regarding the percentage of local news, broadcast by the Licensee.

The licensee will be approached regarding the areas of non-compliance, for Whale Coast FM to provide the Authority with an action plan, to ensure that there is an increase of its local news broadcast in line with the licence terms and conditions.

## **6. TERMS OF REFERENCE**

- 6.1** Annexure A: Whale Coast FM's Class broadcasting service and spectrum licence;
- 6.2** Annexure B: Regulations on South African Music Content;
- 6.3** Annexure C: Compliance Procedure Manual Regulations; and
- 6.4** Annexure D: Regulations on Standard Terms and Conditions for Class Licences.

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<sup>9</sup> Appendix D: Standard Terms and Conditions for Class Licensees, 2010 as published in Government Gazette No. 33296 dated, 14 June 2010, as amended.