



# **XK FM**

# **ANNUAL COMPLIANCE**

# **REPORT**

**MARCH 2020**

# **2018/2019 ANNUAL COMPLIANCE REPORT**

## **SOUTH AFRICAN BROADCASTING CORPORATION (SABC) BROADCASTING AS XK FM**

**LICENCE PERIOD: 18 DECEMBER 2008 - 17 DECEMBER 2018**

### **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>, 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. Among the responsibilities of the Authority is the task to ensure compliance by broadcasting service Licensees with the terms and conditions of their licence and any relevant legislation and/or Regulations.

The purpose of the report is to give an account of XK 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 Format, Local Content Obligations, General Programming Obligations, Training and Skills Development, Finances, Complaints, South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund (USAF) Regulations and Regulations on the Code on People with Disabilities.

### **2. BACKGROUND**

XK FM is an Individual Sound Broadcasting Service Licensee of the South African Broadcasting Corporation (SABC). Its languages of broadcast are! Xun and Khwe. The radio station's mandate is to provide a full spectrum service to the geographic area of the Northern Cape Province, together with parts of Platorand and surrounding areas. The radio station is located in Kimberly, in the Northern Cape Province. According to the Broadcast Research Council of South Africa (BRC), the listenership figures for the last quarter of the period under review was 1 000<sup>5</sup>, and 50% decrease from the same period in the previous year.

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

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

<sup>3</sup> Act No. 36 of 2005

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

<sup>5</sup> <https://brcsa.org.za/brc-ram-radio-listening-jul18-dec18-oct18-mar19/>

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Ownership and Control**

Clause 1 of the licence stipulates that:

- 1.1 Name of company/entity: The South African Broadcasting Corporation*
- 1.2 Shareholders: The State shall hold one hundred (100%) percent of the shares of the Corporation*
- 1.3 Ownership by persons from historically disadvantaged groups: N/A*

There were no changes on the name and shareholding of the Licensee. XK FM forms part of the public service division of the SABC and is 100% owned by the State.

**The Licensee complies with clauses 1.1, 1.2 and 1.3 of the schedule to its licence.**

#### **3.2 Geographic Coverage Area**

Clause 2 of the schedule to the licence states that:

*"The geographic coverage area is as defined in the map attached to the radio frequency spectrum licence".*

According to the frequency spectrum licence, the radio station's coverage area is Kimberly, an area in the Northern Cape, together with parts of Platorand and surrounding areas. The Licensee maintains that its coverage area is as defined in the frequency spectrum licence. No complaints were received by the Authority regarding the radio station's non-compliance with clause 2 above.

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

#### **3.3 Language(s)**

Clause 3 of the schedule to licence states that the language of broadcast is as follows:

*"Principal Language: Xun and Khwe".*

The Authority's monitoring exercise of the radio station's programmes confirmed that XK FM's principal languages of broadcast are! Xun and Khwe, with a mixture of

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Afrikaans content through news and current affairs syndicated from Radio Sonder Grense (RSG) and used in interviews.

**The Licensee complies with clause 3 above.**

### **3.4 Format**

Clause 4.1 of the schedule to the licence states that:

*"The service authorised by this licence forms part of the public service division of the Licensee".*

Clause 4.2 of the schedule to the licence stipulates that:

*"The licensed service shall be a full-spectrum service".*

XK FM forms part of the public service station of the SABC and offers a full-spectrum service to its audience as outlined in the licence. This was confirmed during the Authority's monitoring exercise which found that the station broadcasts different topical issues of national interest as well as a balanced mixture of music.

**The Licensee complies with clause 4.1 and 4.2 of the schedule to its licence.**

### **3.5 Local Content Obligations**

Clause 5 of the schedule to the licence stipulates that:

*"In each licence year, the Licensee shall, within thirty (30) days of end of the quarter, submit to the Authority written records indicating the extent of:*

*Clause 5.1 different genres; and*

*Clause 5.2 South African Music Content in programme material broadcast in the licensed service during that quarter, in each instance, distinguishing between genres, providing the relevant details in relation to prime time and the period between 05h00 and 23h00 daily ("the South African broadcast period"), and expressing relevant details both as an aggregate in minutes and as a percentage of the total of all such programming material".*

XK FM submitted its quarterly reports for the period under review. The figures on the reports were verified during the Authority's monitoring exercise. XK FM's compliance with the quotas set out by the Authority for the 2018/2019 financial year.

### **3.5 General programming obligations**

#### **3.5.1 General**

Clause 6.1.1 stipulates that:

*"The Licensee shall ensure that its programming adequately reflects the diversity of South Africa's Religions".*

The SABC's editorial policy<sup>6</sup> stipulates that:

*"Religious programmes should take account of regional factors, target audiences, language and cultural preferences, and the devotional needs of specific groups."*

During the period under review, the monitoring exercise revealed that XK FM programmes contained religious content suitable to the iXun and Khwe speaking community. The Licensee catered for different cultures in the iXun and Khwe community and different religious groups.

The religious content was verified when every morning between 06:00 – 06:10, a short sermon is held by a pastor from a chosen church.

#### **The Licensee complies with clause 6.1.1 of the schedule to its licence.**

Clause 6.1.2 of the schedule to the licence stipulates that:

*"The Licensee shall take reasonable steps to provide programming that reflects the cultural and tradition needs of the audience".*

XK FM's programming content is true to the culture and tradition of its audience. This is reflective in its coverage of news which take place in both languages of broadcast as well as its choice of music content, which is reflective of its audiences' needs. The monitoring exercise revealed that 08:20-09:00 there is a nation building program addressing different cultural needs.

#### **The Licensee complies with clause 6.1.2 of the schedule to its licence.**

Clause 6.1.3 of the schedule to the licence stipulates that:

*"The Licensee shall during the South African performance period, provide programme material that caters and has due regard for the interests of all sectors of South African society and shall provide programming on health-related issues, gender issues relevant to all age groups".*

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<sup>6</sup> An extract from the Licensee's Editorial Policy

Monitoring of XK FM's programming line-up confirmed that the radio station caters for the interests of all sectors of South Africa. The following programmes, among others, were monitored:

- *"Social Cohesion/Better life"*: a weekly show between 09:20 – 10:00 focusing on different issues that affect the community.

### **The Licensee complies with clause 6.1.3 of the schedule to its licence.**

#### **3.5.2 News and Current Affairs**

Clause 6.2.1 of the schedule attached to the licence stipulates that:

*"The Licensee shall broadcast at least thirty (30) minutes of news programming each day during the South African performance period".*

The SABC's quarterly submissions report that the Licensee broadcasts at least 70 minutes of news on each day. The monitoring exercise identified at least 52 minutes of news on each weekday. The following were some of the news excerpts monitored:

- *"Die kredietgraderingsagentskap, Standard and Poor's, het sy vooruitsig vir Eskom van negatief te stabiel verander. Dit volg op die minister van finansies, Tito Mboweni se aankondiging in sy begrotingsrede dat Eskom vir die volgende drie jaar 23 miljard rand sal ontvang. Die beleërde kragvoorsiener het skuld van ruim 400 miljard rand en sukkel om die krag aan te hou. Standard and Poor's sê Eskom het die meeste van sy befondsingsbehoefte vir die huidige finansiële jaar verkry en ongeveer 'n derde van sy befondsingsbehoefte vir aanstaande jaar. Eskom het S&P se aankondiging verwelkom, en sê dit verleen erkenning dat die kragvoorsiener se likiditeit verbeter het."*
- *"Die minister van polisie, Bheki Cele, het 'n nuwe waarnemende hoof van die Onafhanklike Polisieondersoekdirektoraat aangestel. Victor Senna sal voortaan aan die stuur van die eenheid wees. Dit volg te midde van 'n regstryd deur Robert McBride en ander om die besluit van die Parlement se Polisieportefeuljekomitee om te keer om nie McBride se kontrak te hernu nie. McBride het groot lof ontvang vir die manier waarop hy beweerde korrupte senior polisiebeamptes aan die kaak gestel het. Senna beklee tans die pos van finansiële hoof by Opod."*

- *"Die tesourier van Eskom, André Pillay, sê die voormalige uitvoerende hoof, Sean Maritz, het 'n langtermyn-leningsooreenkoms met die Chinese finansiële konsultant, Huarong, onderteken wat Eskom verbind het tot die betaling van heffings van sowat 260 miljoen rand, sonder om goedkeuring van die raad te kry. Pillay het voor die Kommissie na Staatskaping getuig.*

*Hy sê Maritz het die ooreenkoms onderteken ondanks 'n vorige raadsbesluit ingevolge waarvan hy nie by magte was om die ooreenkoms te onderteken nie, en eerder 'n korttermyn-ooreenkoms moes onderhandel. Pillay sê Maritz het op navraag gesê dat hy die goedkeuring van die minister gehad het."*

### **The Licensee complies with clause 6.2.1 of the schedule to its licence.**

Clause 6.2.2 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast at least thirty (30) minutes of current affairs programming each day during the South African performance period"*.

The Licensee's quarterly reports indicate that XK FM broadcasts 116 minutes of current affairs programming per day during the South African performance period.

The monitoring exercise found *Bori Ku* broadcast on weekdays between 17:00 – 18:00 and *Morosani* broadcast between 13:00 – 14:00. Various topics are discussed from parliament; unions; the running of SOE's as well as politics in general. Some of the content on the current affairs programs are sourced from Radio Sonder Grense (RSG) whereas most of the content is self-generated in accordance with the SABC's editorial policies.

### **The Licensee complies with clause 6.2.2 of the schedule to its licence.**

Clause 6.2.3 stipulates that:

*"The Licensee shall in the production of its news and current affairs programming:*

- (i) Exercise full editorial control in respect of the contents of such programming;*
- (ii) Include matters of international, national, regional and where appropriate, local significance;*
- (iii) Meet the highest standards of journalistic professionalism;*
- (iv) Provide fair, unbiased, impartial and balanced coverage independent from governmental, commercial or other interference; and*

- (v) *Provide reasonable opportunity for the public to receive a variety of points of view on matters of public concern”.*

The Licensee’s editorial policies indicate that it exercises full editorial control in respect of contents of its programming. The editorial policies further indicate that the Licensee endeavours to meet the highest standards of journalistic professionalism.

Furthermore, it provides fair, unbiased and impartial coverage independent from government, commercial or other forms of interference.

**The Licensee complies with clause 6.2.3 of the schedule to its licence.**

### **3.5.3 Programming targeted at Children**

Clause 6.3.1 of the schedule to the licence stipulates that:

*“The Licensee shall, in the provision of the licensed service, broadcast at least one (1) hour programming targeted at children (as contemplated in section 10(1) (g) of the Broadcasting Act) per week during the South African performance period”.*

The Licensee submitted that it broadcasts at least 600 minutes of children’s programming per week. The monitoring exercise confirmed that the licensee broadcasts children’s programmes relevant to young audiences and broadcast during times where children are available.

**The Licensee complies with clause 6.3.1 of the schedule to its licence.**

Clause 6.3.2 of the schedule to the licence stipulates that:

*“In the production of its children’s programming, the Licensee shall ensure that children’s programming is:*

- (i) broadcast at the times in the day when children are available to listen;*
- (ii) Targeted at and appropriate for children between the ages of nought (0) to six (6) years and seven (7) to twelve (12) years respectively; and*
- (iii) educational and is made from children’s point of view”.*

The following programme was among children’s programming identified:

- *Nalibali*, an educational programme on Early Childhood Development, broadcast between 09:00 and 09:20.



This programme was broadcast from a child's point of view and catered for the age groups as mentioned above. The programme was broadcast at the times when children were expected to be home. The programme was found to be educational in nature.

**The Licensee complies with clause 6.3.2 of the schedule to its licence.**

#### **3.5.4 Educational Programming**

Clause 6.4 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast at least five (5) hours of educational programming (as contemplated in section 10(1) (e) of the Broadcasting Act) per week within the South African performance period".*

The Licensee's quarterly submissions indicate that XK FM broadcasts on average 640 minutes of educational programming weekly.

The Authority's monitoring exercise confirmed that the Licensee broadcasts educational programmes such as *"Learner Support"* which is a program that supports learners on study matters, study methods and subject choices at school.

**The Licensee complies with clause 6.4 of the schedule to its licence.**

#### **3.5.5 Informal Knowledge-Building (IKB) Programmes**

Clause 6.5 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast at least three (3) hours of informal knowledge building programming per week within the South African performance period".*

The Licensee's quarterly submission reports that XK FM broadcast at least 210 minutes of Informal Knowledge Building programming per week within the South African Performance Period.

The monitoring exercise found the following IKB program amongst others:

*"Brothers for Life"* broadcast between 11:00 and 11:30 weekdays. This is a show that discuss issues affecting communities in different ways and promotes solidarity and social cohesion.

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

### **3.6 Training and Skills Development Obligations**

Clause 7 of the schedule licence stipulates that:

- "7.1 The Licensee must adopt and implement equal opportunity employment Practice.*
- 7.2 The Licensee must ensure that its management and staff are representative of South African society and that its human resource policies take into account the development of managerial, production, technical and other skills and expertise, particularly with regard to the historically disadvantaged persons.*
- 7.3 The Licensee shall endeavour to achieve fair and reasonable participation by historically disadvantaged persons with respect to:*

- (a) its management and control structures*
- (b) skills development*
- (c) enterprise development; and*
- (d) procurement*

*7.4 The Licensee must, within thirty (30) days of the end of each financial year, provide the Authority the written information regarding its compliance with the above requirements."*

The Licensee is in its third year of its three (3) year employment equity plan. During the period under review, the Licensee submits that it successfully implemented employment equity and transformation objectives in line with the relevant legislation which ensured that diversity and inclusion is managed in a non-discriminatory environment. The Licensee implemented various initiatives that was aligned to its employment equity plan and was intended to create awareness, to educate and to challenge employees understanding on different topics relating to diversity and inclusion.

The Licensee submitted its Employment Equity and Transformation report for the period under review. The report indicated that the Licensee made significant progress against its employment equity targets and goals as set out in the employment equity plan <sup>[1]</sup>.

The Licensee during the period under review achieved a level two (2) BBBEE status and received a total score of 19,61 out of 20 for its Management Control/Employment equity element.

The Licensee delivered 2534 training interventions to 1567 employees during the period under review. Of the 1567 employees, 1088 was trained in accordance with the Workplace Skills Programme and 479 were trained based on operational requirements.

The Licensee submitted that 88% of employees that were trained were from the designated groups (Black, Coloured, Indian). 54,56% were females and 2,55% were employees with disabilities.

The Licensee submitted its Training and Skills Development that provides a detailed breakdown of its compliance with the above requirements, for the period under review, to the Authority for the period under review<sup>[2]</sup>.

**The Licensee complies with its training and skills developments obligations.**

### **3.7 Provision of Audited Financial statements to the Authority**

Clause 8 of the schedule to the licence stipulates that:

*“The Licensee shall provide the Authority with the audited annual financial statements of the licensed service within four (4) months of the end of the licensee’s financial year, provided that the licensee may on good cause apply to the Authority for extension”.*

The Licensee submitted its Audited Financial Statements for the 2018/2019 financial year within the stipulated timeframe.

**The Licensee complies with clause 8 of its licence.**

## **4. REGULATIONS**

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

Regulation 3 (1) of the South African Music Content<sup>8</sup> as published on 23 March 2016 stipulates that:

*“A holder of a public sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting of these Regulations, a minimum of 60% increasing to 70% in the following year, of the musical works broadcast in the performance period, consist of South African music and that South African music is spread evenly throughout the performance period.”*

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<sup>7</sup> Appendix D: Training and Skills Development Report.

<sup>8</sup> South African Music Content Regulations

The licensee submits that it broadcasts 100% South African music content. The monitoring exercise confirmed that the licensee broadcasts only South African music.

### **The Licensee complies with regulation 3.2 of the South African Music Content Regulations.**

#### **4.2 Regulations regarding Standard Terms and Conditions for individual licences**

Regulation 11 (3) of the standard terms and conditions<sup>9</sup> stipulates that:

*"A station must clearly identify itself at intervals of not more than thirty (30) minutes."*

There was no incident of non-compliance with the Standard Terms and Conditions for Individual Licences found during the period under review.

### **The Licensee complies with the regulations on standard terms and conditions for individual Licensees.**

#### **4.3 Universal Service and Access Fund Regulations**

Regulation 3 of the USAF Regulations<sup>10</sup> stipulates that:

- (1) *"Every holder of a licence granted in terms of Chapters 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of its Annual Turnover to the Fund".*
- (2) *"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 Authority received a Section 18A certificate as confirmation of payment from the MDDA and the Licensee submitted proof of payment<sup>11</sup> to the Authority.

### **The Licensee complies with the regulations in respect of Universal Service and Access Fund.**

#### **4.4 Regulations on the Code on People with Disabilities**

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<sup>9</sup> Regulations regarding the Standard Terms and Conditions for Individual Licensees

<sup>10</sup> Published in *Government Gazette* No. 34010 dated, 10 February 2011.

<sup>11</sup> Proof of SABC's contribution to the USAF.

Clause 3.1 (a) of the ICASA Code on People with Disabilities 2007<sup>12</sup>, states that:

*“Broadcasting service licensees must ensure that their services are made available and are accessible to people with disabilities”.*

The SABC conducted different campaigns to encourage disability declarations for the reasonable accommodation of employees with disabilities.

Further, accessibility audits were conducted and the SABC has started to implement the audit findings to ensure that the physical workplace is accessible for persons with disabilities.

Clause 3.1 (c) states that:

*“Broadcasting service licensees must monitor the effectiveness of their service through surveys as well as contact with organisations of and for people with disability and stakeholders”.*

During the period under review, the Licensee conducted the SABC National Disability Committee quarterly meetings to monitor and evaluate progress against its Disability mainstreaming objectives. The Licensee hosted National Disability Rights Awareness Month from 3 November until 3 December. During this period the SABC created internal disability awareness activities.

The following were some of the disability awareness campaigns hosted by the Licensee:

- National Bind Buddy Day;
- Albinism Awareness;
- Deaf Awareness; and
- Casual day.

The Licensee further conducted verifications of all declared disabilities and identification of reasonable accommodation needs, as well as participation in career exposure initiatives through its *Take A Girl To Work* initiative that focused on scholars with disabilities.

The SABC also reported that employees with disabilities represent 2.34%, an increase from the previous reporting period. Employees with disabilities are employed on different occupational levels with majority representation on the Skilled, Technical and academically qualified levels.

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<sup>12</sup> Published in *Government Gazette* No. 30441 dated, 7 November 2007.

Further, Producers are encouraged to establish relationships with organisations for people with disabilities to use for content when the need arises.

To improve the representation of employees with disabilities, the SABC's recruitment efforts will remain targeted.

The SABC also intend to accelerate disability declaration campaigns that will aid in the improvement of employees with disability representation as well as providing reasonable accommodation.

### **The Licensee complies with the Code on People with Disabilities.**

## **4.5 COMPLAINTS**

Form 12A: Complaints Report of the Compliance Procedure Manual Regulations read with the Code of Conduct for Broadcasters requires that broadcasters complete the form bi-annually in accordance with the Licensees' Financial Year.

There were no complaints received by the licensee during the period under review. Furthermore, no complaints were escalated to the Authority.

## **5. CONCLUSION**

During the period under review, the Licensee complied with its licence terms and conditions and related regulations that govern public broadcasters.

## **6. TERMS OF REFERENCE**

- 6.1** Appendix A: XK FM's Broadcasting Service Licence;
- 6.2** Appendix B: XK FM's Frequency Spectrum Licence;
- 6.3** Appendix C: Extract from the Licensee's Editorial Policy;
- 6.4** Appendix D: Training & Skills Development Report;
- 6.5** Appendix E: Standard terms and conditions for individual licensees;
- 6.6** Appendix F: Universal Service and Access Fund Regulations;
- 6.7** Appendix G: Regulations on the code for people with disabilities; and
- 6.8** Appendix H: Proof of SABC's Contribution to USAF