



IGAGASI 99.5 ANNUAL COMPLIANCE REPORT

MARCH 2021

2019/2020 ANNUAL COMPLIANCE REPORT

RADIO iGAGASI 99.5 (PTY) LTD BROADCASTING AS iGAGASI 99.5

Licence Period: 17 December 2018 – 16 December 2028

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 monitor compliance by broadcasters with the terms and conditions of their licences, the three Acts and any other relevant legislation and Regulations.

The purpose of the report is to give an account of Radio iGagasi 99.5 (Pty) Ltd ("iGagasi 99.5"/ "the Licensee")'s compliance for the 2019/2020 financial year. Aspects of compliance that are measured comprise of the geographic coverage, language(s) of broadcast, broadcast content format, training and skills development equity, staff development and employment equity plan, general programming obligations, ownership by individuals from historically disadvantaged groups, Regulations regarding Standard Terms and Conditions for Individual Broadcasting Services, General Licence Fees Regulations, Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund and South African Music Content Regulations.

2. BACKGROUND

iGagasi 99.5 holds an Individual Commercial Sound Broadcasting Service ("I-CSBS") licence and a Radio Frequency Spectrum ("RFS") licence (collectively referred to as "licences"), to provide broadcasting services to the Durban Metropolitan, Ulundi, Glencore, Port Shepstone and Greytown in the Province of KwaZulu-Natal. The Authority issued iGagasi 99.5 with its renewed licences on 17 December 2018.

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

² ICASA Act, 2000 (Act No. 13 of 2000), as amended

³ Electronic Communications Act, 2005 (Act No. 36 of 2005)

⁴ Broadcasting Act, 1999 (Act No. 4 of 1999)

3. COMPLIANCE ASSESSMENT

3.1. Ownership and Control

Clause 1.1 of the I-CSBS licence provides that:

"Name of Company/Entity: Radio iGagasi 99.5 (Pty) Ltd".

The Licensee is Radio iGagasi 99.5 (Pty) Ltd as stipulated in its licences.

The Licensee complies with clause 1.1 of its licence.

Clause 1.2 of the I-CSBS licence provides that:

"Shareholders: Makana Radio Communications (Pty) Ltd (100%)".

The Licensee, in its annual submission, reflected its shareholder name as MRC (Pty) Ltd. There is no record of the notification, advising the Authority of its shareholder name change. The Compliance Department will investigate this change.

The Licensee does not comply with clause 1.2 of its licence.

Clause 1.3 of the I-CSBS licence provides for:

"Ownership held by persons from historically disadvantaged groups:

- | | |
|---|---------------|
| <i>(a) Tsiya Radio (Pty) Ltd</i> | <i>41.48%</i> |
| <i>(b) Kagiso Media Investments (Pty) Ltd ("LWI")</i> | <i>14.39%</i> |
| <i>(c) Victory Parade Trading 55 (Pty) Ltd</i> | <i>8.69%"</i> |

The Licensee's shareholding structure regarding historically disadvantaged group equity ownership, has not changed and remains at 65%.

The Licensee complies with clause 1.3 of its licence.

3.2. Geographic Coverage Area

Clause 3 of the schedule to the I-CSBS licence stipulates that the geographic coverage area is:

"Durban Metropolitan, Port Shepstone, Ulundi, Glencore and Greytown as per the technical specifications attached to the Licensee's radio frequency spectrum licence".

The Licensee confirms that the geographic coverage area remains as it is defined and specified in its licences⁵.

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

3.3. Broadcast Language(s)

Clause 4 of the schedule to the I-CSBS licence states that:

"Principal languages

4.1 English - 50%; and

4.2 isiZulu – 50%."

The monitoring exercise confirmed that the Licensee broadcasts interchangeably in English and isiZulu. For example, presenters converse in both English and isiZulu; during a news bulletin, a news reader will read the first news item in English and the following news item is read in isiZulu or a news item is read in isiZulu and is then supported by a sound bite in English. Comments left by listeners on the Licensee's Facebook page and recorded voice notes that are sent through by listeners on the WhatsApp line are a mix of isiZulu and English.

The Licensee complies with clause 4 of the schedule to its I-CSBS licence.

3.4. Format

Clause 5 of the schedule to the I-CSBS licence provides for:

"The Licensee shall have a programming format of music in an adult contemporary jazz format".

The monitoring exercise confirmed that the Licensee offers an adult contemporary jazz playlist ("popular music") that includes, Rhythm and Blues with Rock influences, Soul, Pop, Gospel and Easy Listening.

The following artists were featured: Alicia Keys "*Brand New Me*", Zola "*Stars*", John Legend "*Refuge (When Its Cold Outside)*", Adele "*Some One Like You*", Jezel Brothers "*Mbonge*", Joyous Celebration "*Nguwe*", Chris Brown "*Grass Ain't Greener*" , Sun-El Musician ft. Ami

⁵ Appendix B: Signed ICASA Report March 19 – February 20

Faku "Into Ingawe", Howard Hewitt "Mercy", Brian McKnight "Shoulda, Woulda, Coulda", Justin Bieber "Yummy", S'Villa "Thula" and many more.

The Licensee complies with clause 5 of the schedule to its I-CSBS licence.

4. GENERAL PROGRAMMING OBLIGATIONS

Clause 6.1 of the schedule to the I-CSBS licence stipulates that:

"The Licensee shall broadcast a minimum of thirty (30) minutes of news per day between 05h00 and 23h00".

The Authority's monitoring exercise confirmed that iGagasi 99.5 broadcasts news bulletins on top of the hour from 06h00 to 18h00 during weekdays, at 07h00, 09h00, 11h00, 13h00 and 17h00 on Saturdays and Sundays and news headlines at 06h30, 07h30, 08h30, 16h30 and 17h30. Each news bulletin is averaging between four (4) and five (5) minutes. The monitoring exercise also determined that, during some news bulletins there are live crossings to a reporter who is interviewing a public representative (Councilor, Mayor, Member of the Executive Council etc) and the live crossings lengthens the news bulletins to between seven (7) and eight (8) minutes. On average, the Licensee broadcasts fifty-four (54) minutes of news on weekdays and over thirty (30) minutes of news on weekends.

The following are some of the news items detected during monitored:

- *"Isifo esiqubuke e China, I Coronavirus kubukeka ngathi sekungekhe siqandeke siyaqhubeka nokubhebhethaka njengoba sesi chaphazeleke nakumanye amazwe. E Philippines sekuqinisekiswa ukufa kumntu oyedwa obevakashele e China, kanti estatimenteni esikhisiwe kuthiwa ufike esevele esasitholile lesisifo";*
- *"Former South African President under the apartheid regime, FW de Klerk says the amendment of Section 25 of the Constitution will create unneeded uncertainty for private owners. He raised a number of his concerns during an interview with ENCA. It has been thirty years since the unbanning of political parties. He says expropriation of land without compensation will divide the nation"; and*
- *"Owayesakuba nguMongameli wezwe u Kgalema Motlanthe usencome isishoshowu sobandlululo uBen Turok ngamakhono athi ayayisiza kakhulu I ANC ngeyikhathi eyinzima. I ANC ibihleli inkonzo yokukhumbula uTurok odlule emhlabeni ngo*

December wonyaka odlule eseneminyaka engu 92 ubudala. U Motlanthe uthi, u Turok akazange abe nomona nolwazi ayenalo futhi wayehlezi ecobelana ngalo.

- *When the structural adjustment program of the World Bank and the IMF were wreaking havoc in the emerging economies of African countries, comrade Ben was one of its fiercest critiques and took umbrage with the toxic prescripts of these institutes. Never one to shy away from challenges, never an armchair critique and never a doctrine. Comrade Ben buckled down to the task of testing his thoughts”.*

The Licensee complies with clause 6.1 of the schedule to its I-CSBS licence.

Clause 6.2 of the schedule to the I-CSBS licence states that:

“Should the Licensee source news material from a source other than itself the source(s) thereof shall be disclosed during the news broadcast”.

The Authority’s monitoring exercise confirmed the Licensee does disclose the source(s) of news material acquired elsewhere. The Licensee reported sources such as the social media platform Twitter and the twenty-four (24) hour news channels ENCA and Sky News.

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

Clause 6.3 of the schedule to the I-CSBS licence provides that:

“The Licensee shall broadcast news for an average of six (6) minutes every hour between 06h00 and 09h00 on all weekday mornings. News shall be broadcast in English and isiZulu”.

The monitoring exercise confirmed that between 06h00 and 09h00, the Licensee broadcasts six (6) minute news bulletins broken down into five (5) minute on the hour and a one (1) minute headline. The Licensee broadcasts news in both English and isiZulu.

The Licensee complies with clause 6.3 of the schedule to its I-CSBS licence.

Clause 6.4 of the schedule to the I-CSBS licence stipulates that:

“In compiling news and information programmes, the Licensee shall reflect on news from the Continent”.

The Licensee broadcasts news and information from mainly South Africa and the rest from the African Continent and these are some of the news items monitored:

- *"The Development Bank of Southern Africa is strongly refuting that it was politically pressured to give SAA a R 3.5 billion loan"; and*
- *"20 people were killed and 16 injured during a stampede in Tanzania. The incident happened during a church service at a stadium in the northern town of Moshe near the slopes of Mount Kilimanjaro and 5 children were among the victims".*

The Licensee complies with clause 6.4 of the schedule to its I-CSBS licence.

5. TRAINING AND SKILL DEVELOPMENT OBLIGATIONS

Clause 7.1 of the schedule to the I-CSBS licence stipulates that:

"The Licensee shall put particular emphasis on training and development of staff from historically disadvantaged groups".

During the period under review, according to the Licensee's submission, training and development of staff was in respect of people from historically disadvantaged groups. Training was undertaken in areas such as General Management, Accounting Management, Public Management, Journalism, Digital Marketing and Social Media⁶.

The Licensee complies with clause 7.1 of the schedule to its I-CSBS licence.

Clause 7.2 of the schedule to the I-CSBS licence provides that:

"The Licensee shall establish an employee training programme and shall spend a minimum of R500 000 (five hundred thousand Rand) over the licence period thereon".

The Licensee reported⁷, that for the year under review it has spent three hundred and sixty-one thousand nine hundred and forty-six Rand (R361 946.00) on training.

The Licensee complies with clause 7.2 of the schedule to its I-CSBS licence.

Clause 7.3 of the schedule to the I-CSBS licence stipulates that:

"The Licensee shall actively pursue the appointment of more women on-air presenters".

⁶ Appendix B: Signed ICASA Report March 19 – February 20

⁷ Appendix B: Signed ICASA Report March 19 – February 20

According to the Licensee's submission, there are thirty-four (34) male and eleven (11) female on-air presenters.

The Licensee complies with clause 7.3 of the schedule to its I-CSBS licence.

Clause 7.4 of the schedule to the I-CSBS licence provides for:

"The Licensee to regularly receive and train interns and students from tertiary institutions across South Africa".

During the period under review, the Licensee employed four (4) interns.

The Licensee complies with clause 7.4 of the schedule to its I-CSBS licence.

6. REGULATIONS

6.1. ICASA South African Music Content Regulations, 2016

Regulation 3(2) of the ICASA South African Music Content Regulations, as published in *Government Gazette* No. 39844 dated, 23 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 confirmed that on any given day, the Licensee's playlist includes between 45 - 55% South African music. The music genres range from House, Classic Soul, Afro Pop, Gospel, Kwaito and Rhythm and Blues. The South African music played by the Licensee include, amongst others, Siphokazi *"Usizi Lwam"*, Teargas *"Wake Up"*, Naak Musiq ft Mampintsha *"AmaBenjamin"*, Amanda Black ft Anthony Hamilton *"Vuka"* and many more.

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

6.2. Regulations on Standard Terms and Conditions for Individual Broadcasting Services, 2010⁸ as amended.

Clause 1.2 of the Licensee's Individual Commercial Sound Broadcasting Service ("I-CSBS") licence reflects the shareholders of Radio iGagasi 99.5 (Pty) Ltd as Makana Radio Communications (Pty) Ltd. However, the Licensee's annual compliance submission reflected the shareholders of the Licensee as MRC MEDIA (Pty) Ltd.

The Compliance Department is investigating a possible contravention of Regulation 2(1) A of the Amended Standard Terms and Conditions for Individual Broadcasting Services, 2016.

6.3. Universal Service and Access Fund Regulations, 2011

Regulation 3(1) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund ("USAF") as published in the *Government Gazette* No. 34010 on 10 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".

Further, Regulation 3(2) provides that:

"A BS Licensee who has paid an annual contribution to the Media Development and Diversity Agency (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 has paid its USAF contribution as required by Regulations 3(1) and 3(2) of the Universal Service and Access Fund Regulations⁹.

The Licensee complies with Regulations 3(1) and 3(2) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund.

⁸ Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010 as amended.

⁹ Appendix C: Recon of Payments

6.4. ICASA General Licence Fees Regulations, 2012¹⁰

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 licensed revenue (revenue from its licensed services).

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 Annual Financial Statements, or;*
- b) financial statements signed by the accounting officer of the Licensee where the Licensee is not 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 audited Annual Financial Statements and has paid the required annual licence fees.

The Licensee complies with the ICASA General Licence Fees Regulations.

6.5. ICASA Compliance Procedure Manual Regulations, 2011

The Licensee is required in terms of the Compliance Procedure Manual Regulations as published in the *Government Gazette* No. 34863 dated, 15 December 2011 to submit a Form 12A which reports on all complaints received during the financial year under review. According to the Licensee's submission, they received two (2) complaints. On 30 October 2019, the Licensee received a complaint regarding gender-based violence and the complaint was resolved within five (5) days. On 22 December 2019, the Licensee received a complaint regarding a song that promotes drug use and that complaint was resolved in less than three (3) weeks.

The Licensee complies with the ICASA Compliance Procedure Manual Regulations

¹⁰ General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013.

7. CONCLUSION

For the 2019/2020 financial year, the Licensee is compliant with most of its I-CSBS licence terms and conditions and applicable Regulations.

However, the Licensee appears to have changed its shareholder without submission of the required notice to the Authority and compliance with the Regulations in that regard. The Authority will take up the matter with radio iGagasi, during the 2021 financial year.

8. TERMS OF REFERENCE

- 8.1.** Appendix A: Radio iGagasi 99.5 (Pty) Ltd I-CSBS licence and RFS licence;
- 8.2.** Appendix B: Signed ICASA Report March 19 – February 20;
- 8.3.** Appendix C: Recon of Payments;
- 8.4.** Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016;
- 8.5.** Appendix E: Regulations on Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010, as amended;
- 8.6.** Appendix F: USAF Regulations 2011, published in *Government Gazette* No. 34010 dated, 10 February 2011;
- 8.7.** Appendix G: ICASA General License Fees Regulations 2012, published in *Government Gazette* No. 36323 dated, 28 March 2013 as amended. (Amendment published in *Government Gazette* No. 37521 dated, 02 April 2014); and
- 8.8.** Appendix H: ICASA Compliance Procedure Manual Regulations 2011, published in *Government Gazette* No. 34863 dated, 15 December 2011.