



INAKEKELO FM ANNUAL COMPLIANCE REPORT

MARCH 2021

Dr. K Modimoeng (Chairperson), P Kadi, Y Kedama, Dr. C Lewis, Adv. L Mkumatela, Adv. D Qocha,

T Semane, PJ Zimri, (Councillors), WA Ngwepe (CEO)

2019/2020 ANNUAL COMPLIANCE REPORT

INAKEKELO COMMUNITY RADIO STATION BROADCASTING AS INAKEKELO FM

LICENCE PERIOD: 10 January 2019 to 09 January 2024

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 Act (ECA)³ and 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, and any relevant legislation and regulations.

The purpose of this report is to give an account of Inakekelo FM performance for the 2019/2020 financial year. Aspects of compliance that are measured comprise of the Geographic Coverage, Community participation, Programming Obligations and Standard Terms and Conditions.

2. BACKGROUND

Inakekelo FM hold a Class Sound broadcasting service licence⁵. The radio station's mandate is to provide sound broadcasting service to the community of Dr J.S Moroka Local Municipality in the Mpumalanga Province, as set out in the Licensee's radio frequency spectrum licence.⁶

3. COMPLIANCE ASSESMENT

3.1 Control Structure

Clause 1 of the licence states that:

"The Licence is issued to:

1.1 Name of Company/Entity: Inakekelo Community Radio Station.

1.2 Name of the Station: Inakekelo FM.

¹ The Constitution of the republic of South Africa, No 108 of 1996

² Independent Communications Authority of South Africa Act, Act No. 13 of 2000, as amended

³ Electronic Communications Act No. 36 of 2005

⁴ Broadcasting Act No. 4 of 1999

⁵ Appendix A: Inakekelo FM broadcasting licence

⁶ *Ibid.*

1.3 Control of the licensee: Control shall vest in the Board of Inakekelo Community Radio Station."

There were no changes reported by the Licensee to its control structure during the period under review and there were no management contracts lodged with the Authority.

According to Inakekelo FM's constitution, the board shall consist of not less than six (6) members. The board members are elected in an Annual General Meeting and shall serve for a period of one (1) year and eligible for re-election again and again.

The Licensee submitted a list of six (6) board members that were elected in its last elective AGM. The control of the Licensee is still in the hands of the board members of a non-profit organisation known as, Inakekelo Community Radio Station.

The Licensee complies with clause 1.1 to 1.3 of the licence.

3.2 Licence Period

Clause 2 of the licence states that:

"2.1. The effective date of the licence: 10 January 2019.

2.2. The licence shall expire on 09 January 2024."

Inakekelo FM's licence is valid and expires on 09 January 2024.

The Licensee complies with clause 2 of the licence.

3.3 Geographic Coverage Area

Clause 3 of the licence stipulates that:

"The Licensee shall provide services to Dr JS Moroka Local Municipality in Mpumalanga Province, as set out in the Licensee's radio frequency spectrum licence"

Inakekelo FM provide services to the areas stipulated in its licence.

The Licensee complies with clause 3 of the licence.

3.4 Community

Clause 4.1 of the licence states that:

"The licensee shall provide services to a geographic community residing within the geographic coverage area specified herein".

Inakekelo FM provides a sound broadcasting services to the geographic community residing within the geographic coverage of Dr J.S Moroka Local Municipality in the Mpumalanga Province, as set out in the Licensee's radio frequency spectrum licence.

The Licensee complies with clause 4.1 of the licence.

Clause 4.2 of the licence provides 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) meetings annually with its community on programming and programme-related matters for the selection and provision of programmes.

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; and

During the year under review, the Licensee did not submit proof of two (2) meetings with the community on programme related matters.

The Licensee does not comply with clause 4.2.1 and 4.2.2 of its sub clauses of the licence.

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 convened an AGM that was held on 4 June 2019 at Inakekelo FM premises and submitted proof of AGM minutes to the Authority. The minutes provide feedback on compliance issues with licence conditions. The records also provide feedback on the overall financial performance of the radio station. The board members were also re-elected during the AGM as per Licensee 's founding documents. In total, a complete list of six (6) board members were re-elected by more than two thirds majority of the members in attendance.

The annual general meeting was attended by the Board Members of the company as per the provision of their constitution in section 4.2 which is in line with Schedule 1 section 5 par (1) (a) and (b) and clause 4.2.3.3 of the Licence.

The Licensee complies with clause 4.2.3 and its sub clauses of the licence.

3.5 Programming

Clause 5.1 of the licence states that the Licensee shall provide programming as follows:

5.1.1 "News and information: The Licensee shall broadcast news to a total of seventy-five (75) minutes per day, of which 60% shall be local, 30% national news and 10% international news.

5.1.2 South African Music Content: 70%.

5.1.3 Format: 60% talk and 40% Music.

5.1.4 Language(s) of broadcast:

5.1.4.1 Ndebele – 50%;

5.1.4.2 English – 40%; and

5.1.4.3 Sepedi – 10%."

The Licensee did not submit programme recordings and programme log sheets indicating total minutes per week and the monthly percentage of talk, the radio station is broadcasting. Submission of information for the annual compliance report must be in line with Form 8A as per the regulations.

The Licensee submitted recordings which were not audible, making it impossible to monitor content.

The licensee did not comply with clause 5.1 of the licence

Clause 5.2 of the licence provides that:

"The Licensee shall keep a log of programmes broadcast which must be submitted on a monthly basis to the Authority. A pro-forma of the log to be kept will be supplied by the Authority."

The Licensee does not keep the log of programmes broadcast and does not submit the logs to the Authority as required by clause 5.2.

The licensee did not comply with clause 5.2 of the licence

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.

For the year under review, the Licensee did not submit any forms to the Authority.

The Licensee does not comply with the Compliance Procedure Manual Regulations

4.2 South African Music Content Regulations⁷

Regulations 3 (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%, increased by 10% annually to reach 80% of the musical work in the performance period, consist of South African music and that such South African music is spread evenly throughout the performance period⁸"

⁷ Appendix B: ICASA South African Music Content Regulations 2016

⁸ Ibid.

The Licensee failed to submit audible recordings to the Authority, monitoring exercise could not be conducted in order to determine compliance with SA Music Content Regulations.

The licensee did not comply with the Regulations

4.3 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Services Licences⁹

During the year under review, the Licensee did not comply with the standard terms and conditions for class licences.

The Licensee did not comply with regulation 10A (2) and (13) of the Regulations on the Standard Terms and Conditions under general obligations of licensees, which requires the Licensee to provide information to the Authority upon request.

Inakekelo FM did not comply with Standard Terms and Conditions for Class Broadcasting Service Licences.

5 CONCLUSION

Inakekelo FM did not comply with most provisions of its licence conditions and applicable regulations. Compliance unit will follow up with the Licensee, to ensure full compliance. However, should the Licensee not comply in full, Inakekelo FM will be advised of the decision to refer them to the Complaints and Compliance Committee (CCC), for a hearing for noncompliance.

6. TERMS OF REFERENCE

6.1 Appendix A: Inakekelo FM broadcasting licence

6.2 Appendix B: ICASA South African Music Content Regulations 2016

6.3 Appendix C: Regulations Regarding Standard Terms and Conditions for Class Licences 2016

End

March 2021

⁹ Appendix C: Standard Terms and Conditions for Class Licences 2016