



VUMA FM ANNUAL COMPLIANCE REPORT

MARCH 2021

2019/2020 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, 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 relevant legislation and Regulations.

The purpose of the report is to give an account of Vuma FM (Pty) Ltd ("Vuma 103 FM"/"the Licensee")'s performance for the 2019/2020 financial year. Aspects of compliance that are measured comprise of 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 Access Fund and South African Music Content Regulations.

2. BACKGROUND

Vuma 103 FM holds an Individual Commercial Sound Broadcasting Service ("I-CSBS") licence and a Radio Frequency Spectrum ("RFS") licence (collectively referred to as "licences") for the provision of services to Durban, Donnybrook, Eshowe, Glencoe,

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)

Kokstad and Newcastle in the Province of KwaZulu-Natal. The Authority first issued Vuma 103 FM with its licences on 25 May 2012.

3. COMPLIANCE ASSESSMENT

3.1. Ownership and Control

Clause 1.1 of the licence provides that:

"Name of Entity: Vuma FM (Pty) Ltd"⁵.

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:

<i>KNI</i>	<i>-13%;</i>
<i>Sisulu Family Trust</i>	<i>-15%;</i>
<i>Rita Maud Motanyane</i>	<i>-4%;</i>
<i>Mr Lincoln Matjele</i>	<i>-2%;</i>
<i>Mr Muzi Majozi</i>	<i>-2%;</i>
<i>Pastor Sizwe Daphne Chili</i>	<i>-2%;</i>
<i>Reverend Abe Sibiya</i>	<i>-2%;</i>
<i>Times Media Pty (Ltd)</i>	<i>-60%"</i>

According to the Licensee's submitted notification and compliance submission, Vuma 103 FM is 100% owned by the Blackstar Holdings Group (Pty) Ltd. However, the application by Vuma 103 FM to change its shareholding structure is under review and has not been finalised by the Authority.

For purposes of the current report though, the shareholding in the Licensee as it stands, it complies with Regulation 2(1) of the Standard Terms and

⁵ Appendix A: Vuma 103 FM's I-CSBS Licence

Conditions for Individual Broadcasting Services, 2010 as amended at the time of writing this report.

3.2 Geographic Coverage Area

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

"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 confirms that the licensed geographic coverage area remains as is defined and specified in its licences.

The Licensee complies with clause 2 of the schedule to its 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 during programmes such as *"Good to Go"*, *"Till Noon"*, *"The Drive"* and *"KZN in 60 minutes"* or the English news bulletin would be followed or preceded by the isiZulu news bulletin, an hour later. The Licensee confirms that proficiency in English and isiZulu is a requirement for all their presenters and journalists. Voice notes, Facebook and WhatsApp messages from listeners are also in English and isiZulu.

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 Licensee's submission⁶ disputes clause 4 as follows:

The interpretation of clause 4 is extremely problematic for the Licensee and it leads to non-compliance. Clause 4 which was granted to previous owners of the radio station in 2012, is self-contradictory, inconsistent and vague since a music genre cannot be exclusive and at the same time be predominant. Also, the obligation for the format to be exclusively gospel music, then makes it impossible to broadcast 40% talk. Gospel music is considered inspirational and spiritual, then the 10% requirement in clause 4 contradicts the exclusive and predominant gospel music led requirement. The Licensee filed an amendment application with the Authority's Licensing Division on, 29 July 2020 in an attempt to remedy its inability to comply with the obligations of clause 4.

The Authority's monitoring exercise confirmed the Licensee broadcasts more music and considerable talk in programs such as *"It's all about the money"*, *"Women in Conversation"* and *"KZN in 60 minutes"*. The 60% music and 40% talk format is adhered to. The Licensee broadcasts gospel music notably between 05h00 and 06h00 on Mondays to Saturdays, between 05h00 and 10h00 on Sundays and the rest of the South African performance period, is filled with popular music.

The Licensee is partially compliant with its format as outlined in clause 4 of the schedule to 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"

⁶ Appendix B: Annual Compliance Report March 2020

The Licensee, through its submission⁷ admits and acknowledges its inability to meet the obligation of clause 5 and has filed an amendment application with the Authority's Licensing Department. The monitoring exercise confirmed that Vuma 103 FM broadcasts on average nine (9) international tracks and five (5) local tracks in an hour. The Licensee is not required to broadcast a rigid playlist, the requirement is that the South African music is spread evenly throughout the performance period.

The Licensee also submitted audio files of South African musician interviews such as Steve Kekana (30 minutes), Skwatta Kamp (60 minutes), Spikiri (20 minutes), Ntsiki Mazwai (20 minutes) and new local artists Udumo Lwabasha (4 minutes) and Vukani (4 minutes).

The Licensee broadcasts on average 40% South African music per week.

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:

- *"DA interim Leader John Steenhuisen slams ANC led municipalities, says corruption will forever rob the future of this country. Steenhuisen was speaking on the sidelines of his Party's State of the Nation Address that was outside City Hall in Durban yesterday.*

⁷ Appendix B: Annual Compliance Report March 2020

- *His comments follow the postponement of former Ethekewini Mayor's case Zandile Gumede on charges of corruption and was released on R50 000 bail – what we do see again and again is to give cronies and connected few the opportunity and leaving ordinary people out on the street. A group of insiders sitting in there looking after themselves, their families and their chomies whilst people out here on the streets are desperate for work”;*
- *“The South African Broadcasting Corporation has refuted claims that it misled South Africans by claiming sabotage was behind the broadcasting of an incorrect version of the speech by President Cyril Ramaphosa last year. The public broadcaster aired a rehearsal of the speech President Ramaphosa gave on gender-based violence in September”;*
- *“Umnyango wezobuciko nesiko esifundazweni uthi konke sekumi ngomumo ngomcimbi womkhosi wamaganu nozobanjelwa namhlanje emachubeni komkhulu ngeke Ngwavuma enyakatho nesifundazwe. Lomcimbi ungowo kuqala nosozowenzeka iminyaka yonke kukholakala ukuthi uzohanjelwa yiningi nokubalwa kubo abantu abasuka emazweni angaphandle”;* and
- *“Inkamapani ephakelela kuleli ngogesi I Eskom seyi zwakalisa ukunqunyanyiswa kwamandla ka gesi kusezakuqhubeka futhi kule mpelasonto kuze kube ngomsombuluko ekuseni”.*

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 from 06h00 to 18h00 and four (4) news bulletins at 07h00, 09h00, 11h00 and 13h00 on weekends.

The Licensee broadcasts an average of fifty-two (52) minutes and sixteen (16) minutes of news on weekdays and weekends respectively.

The Licensee is partially 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 monitoring exercise confirmed that Vuma 103 FM is compliant with the above obligation.

The Licensee complies 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 which include the South African Police Service, Provincial Municipalities, Accredited News websites, Paramedic services and South African Government Departments.

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

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 (180 minutes).

The programme unpacks news stories that have made headlines. The topics that were discussed among others, were: the 2 day ANC PEC Lekgotla where in one programme, the spokesperson Ricardo Mthembu was in the studio to share what was discussed at the Lekgotla, corruption trial of former President Jacob Zuma as he is receiving medical attention in Cuba; a 37 year-old Verulam mother who killed herself and her two children, MEC of Social Development Nonhlanhla Khoza was in the studio to discuss how the department is assisting the family and the other two children who are left behind. 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 significantly over 30% but the notification filed by the Licensee is still under review by the Authority. **(see clause 1.2 above).**

The Licensee's compliance with clause 7 of the schedule to its licence 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 submitted its workforce demographics to determine whether there is equitable representation in all occupational categories and levels in its workforce. Vuma 103 FM submitted their skills and development training initiatives⁸.

The Licensee has submitted that training was provided for six (6) news interns and two (2) Information Technology (technical) interns between the months of April 2019 to March 2020.

The Licensee complies with clause 8.1 of the schedule to its licence.

Clause 8.2 of the schedule to the I-CSBS licence provides for:

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

The Licensee provided information on the makeup of its news team.

The Licensee complies 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 submitted information on its workforce and 97% are historically disadvantaged persons.

The Licensee complies with clause 8.3 of the schedule to its licence.

4. REGULATIONS

4.1 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

⁸ Appendix B: Annual Compliance Report March 2020

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

The Licensee complies with the ICASA Compliance Procedure Manual Regulations.

4.2 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 of March 2016, state 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 around 40% (**see 3.5**) of South African music per week. Some of the local tracks played are: Micasa "*Heavenly Sent*", La Souce "*Emafini*", Mandoza ft Mdu "*50/50*", Afrotrraction "*Ngimtholile*", Scelo Gowane "*Uma Esehamba*", Lebo Mathosa "*Feel Free*" and many more.

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

4.3 Regulations on Standard Terms and Conditions for Individual Broadcasting Services, 2010⁹

The Licensee has filed a notification with the Authority to change its shareholding structure. The notification is under review by the Authority.

⁹ Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010 as amended.

The Licensee complies with the Standard Terms and Conditions for Individual Broadcasting Services.

4.4 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") 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".

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's financial year ends on 30 June and the USAF fees were paid directly to the MDDA on 09 December 2020 i.e. within six (6) months after the financial year end of Vuma FM.

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

4.6 ICASA General Licence Fees Regulations, 2012

Schedule 2 of the General Licence Fees Regulations as published in *Government Gazette* No. 36323 dated, 28 March 2013 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(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 submitted its audited financial statements on 07 December 2020 and paid its annual licence fees on 09 December 2020 in accordance with the prescribed regulatory timeframes.

The Licensee complies with the ICASA General Licence Fees Regulations.

5. CONCLUSION

In general, Vuma FM, appears to have been compliant. However, there were areas of non-compliance that the Licensee will be notified of, regarding the non-compliance with the gospel music obligation, the 50% South African music obligation and the weekend news minutes requirement.

6. TERMS OF REFERENCE

Appendix A: Vuma 103 FM's I-CSBS licence and RFS licence;

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Appendix C: ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016.

Appendix E: Standard Terms and Conditions for Individual Broadcasting Services, 2016 as published in *Government Gazette* No. 39875 dated, 30 March 2016, as amended.

Appendix F: USAF Regulations, 2011 as published in *Government Gazette* No. 34010 dated, 10 February 2011.

Appendix G: General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013, as amended.

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