



# **EAST COAST RADIO ANNUAL COMPLIANCE REPORT**

**MARCH 2022**

## **2020/21 ANNUAL COMPLIANCE REPORT**

### **KTH MEDIA INVESTMENTS (PTY) LTD BROADCASTING AS EAST COAST RADIO (PTY) LTD**

**Licence Period: 17 December 2018 – 16 December 2028**

#### **1. PREFACE**

The Independent Communications Authority of South Africa (“Authority”) has a statutory mandate in terms of the Constitution, the ICASA Act and the Electronic Communications Act (“ECA”) to regulate broadcasting activities in South Africa in the public interest. Among the responsibilities of the Authority is the task to ensure compliance by broadcasters with the terms and conditions of their licence<sup>1</sup>, the Electronic Communications Act (“ECA”), the ICASA Act and any relevant legislation or regulation.

The report seeks to give an account of East Coast Radio’s compliance with the terms and conditions, as set out in its licence, in the financial year that ended March 2021. Aspects of compliance that are measured in the report, will be different to the norm. And the deviation from the norm was brought about by the introduction of the ICT Covid-19 Regulations in April 2020<sup>2</sup>, following the proclamation of the State of National Disaster.

The ICT Covid-19 Regulations considered the effect of the National Lockdown on the administration of the Broadcasting Sector and exempted Licensees from compliance with most of their obligations. Apart from the exemptions provided by the ICT Covid-19 Regulations, the reduced South African Performance Period, would likely distort the licensees’ programming output when measured against the licence obligations.

Consequently, therefore, the report will measure fewer aspects of compliance compared to ordinary annual compliance reports.

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<sup>1</sup> East Coast Radio Broadcasting Service License

<sup>2</sup> ICT Covid-19 Regulations as amended

## **2. BACKGROUND**

East Coast Radio started out as Radio Port Natal (RPN Stereo), back in 1967. In 1994, what was then rebranded as RPN Stereo was sold to Kagiso Media Group. During the 2008 licence conversion, the Authority converted an Individual Broadcasting Service licence belonging to Kagiso Media group into a 10-year service licence and the Licensee has gone from strength to strength since those days. In June 2019, the Authority renewed East Coast Radio's service license for another 10-year term ending, December 2028. To date, East Coast Radio boasts a listenership estimated at well over a million listeners.

## **3. COMPLIANCE ASSESSMENT**

### **3.1 Licensee**

Clause 1 of East Coast FM's licence reads as follows:

*1.1 Name of Company/Entity: KTH Media Investments (Pty) Ltd.*

*1.2 Shareholders: KTH Media Holdings (Pty) Ltd 100%*

*1.3 Ownership held by persons from historically disadvantaged groups: 43.39%*

In a letter dated 17 September 2021, East Coast Radio submitted that at the end of the 2021 Financial Year, the Licensee's HDG was standing at 64% recorded as "black shareholding". The change in the Licensee's shareholding came as a result of KTH Media Holdings taking over shares from the Tiso Black Star Group. Therefore, East Coast Radio is wholly owned by KTH Media Holdings.

**East Coast Radio complied with clause 1.1, 1.2 and 1.3 of its licence.**

### **3.2 Name of Station**

Clause 1 East Coast Radio's schedule to the licence prescribes that the name of the station shall be: "*East Coast Radio*"

There have been no reported changes to the Licensee's name of station. All communication received by the Authority from the Licensee, indicates that there have been no changes to the name.

**The Licensee complied with clause 1 of the schedule to its licence.**

### **3.3 Geographic coverage area**

Clause 2 of East Coast Radio's schedule to the licence provides that the coverage area shall be as follows:

*"KwaZulu-Natal, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence<sup>3</sup>".*

East Coast Radio submits that it broadcasts in KwaZulu-Natal and as specified in their radio frequency spectrum licence. In the year that is currently under review, the Authority received no complaints indicating interference by the Licensee in areas outside its footprint.

**The Licensee complied with clause 2 of its licence.**

### **3.4 Broadcast Language**

Clause 3 of East Coast Radio's schedule to the licence prescribes that the Licensee's language of broadcast shall be as follows:

*"Principal Language: English"*

The Licensee's annual submission confirms that East Coast Radio broadcasts in English.

**The Licensee complied with clause 3 of its licence.**

### **3.4 Format**

Clause 4 of East Coast Radio's schedule provides as follows:

*"The Licensee shall have a programming format of music in an adult contemporary format providing a mix of music and information (including coverage of community affairs)."*

East Coast Radio's 2021 Annual Compliance submission describes the Licensee's format as "hot adult contemporary". The Licensee submits that this is echoed in its music line up.

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<sup>3</sup> East Coast Radio's Frequency Spectrum Licence

The Authority can confirm that East Coast Radio provides a music line up that can only be defined as “adult contemporary”.

East Coast Radio continues to cover matters involving its geographic coverage area and these are mostly witnessed during news coverage.

### **The Licensee has complied with clause 4 of its licence.**

#### **3.5 Local Content Obligations**

Clause 5.1 of East Coast Radio (Pty) Ltd’s schedule to the licence stipulates that:

*“The Licensee shall adhere to a four-point plan, namely:*

*5.1.1 supporting a minimum of ten live music performances per annum.*

East Coast Radio annual submission reads: “There were no live music performances held during the period under review due to the State of National Disaster which prohibited hosting events”.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee’s compliance with this clause for the period under review.

*5.1.2 profiling a minimum of fifty South African Composers per annum;*

According to the Licensee’s submission<sup>4</sup>, at least two hundred and sixty-five minutes of interviews was set aside for interviews which served to profile South African music composers.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee’s compliance with this clause for the period under review.

*5.1.3 engaging in a minimum of ten joint promotions and competitions with record companies and advertisers per annum;*

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<sup>4</sup> East Coast Radio’s list of profiled South African Composers

East Coast Radio's annual submission cites the Covid-19 limitations and the economic frustrations suffered by the advertisers and record companies as factors that stood against their compliance with this clause.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause for the period under review.

*5.1.4 playing and promoting local music demonstration tapes (demo tapes) in the form of a three-hour show on Sunday which is dedicated to showcasing local artists and to be part of music playlist."*

East Coast Radio hosts the "Play Local" show which is a three-hour slot between 18h00 and 21h00 on Sundays. The show serves as a platform for brand new music showcasing as well as a driver for local music promotion. On its weekly line-up, the show will feature new artists from KZN.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause for the period under review.

Clause 5.2 provides as follows: "The Licensee shall host:

*5.2.1 at least one ECR live music concert per annum.*

East Coast Radio's annual submission cites the Covid-19 limitations and the economic frustrations suffered by the advertisers and record companies as factors that stood against their compliance with this clause.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause for the period under review.

*5.2.2 The live concert must host a minimum of fifty South African musicians, at least one featured artist must be from KwaZulu-Natal."*

East Coast Radio's annual submission cites the Covid-19 limitations and the economic frustrations suffered by the advertisers and record companies as factors that stood against their compliance with this clause.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause for the period under review.

### **3.6 General Programming Obligations**

Clause 6.1 of the Licensee's schedule to the licence provides that:

*"The Licensee shall spend a minimum of two million [Rand] (R2 000 000) per annum on the production and presentation of news of which one million Rand (R1 000 000) to be used to employ a news team specifically to produce local news."*

East Coast Radio reports to have spent at least two million five hundred and thirty-five thousand, nine hundred and eighty-one Rand (R2 535 981) on the production and presentation of news. At least 96% of the Licensee's spend in this regard, was spent on payment of salaries to the Licensee's news team while the balance was spent on external sources and correspondents for the production of local news.

#### **The Licensee complied with clause [7]6.1 of the Licence.**

Clause 6.2 stipulates that:

*"At least 50% of news emphasised shall be local and regional news."*

East Coast Radio prides itself on their commitment to the production of local and regional news. In their presentation, the Licensee shows – in an information graph format – that at their best, they would produce at least 600 local and regional news stories out of approximately 900 news stories. This translates to at least 66% of the Licensee's news content labelled news of local and regional origin.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents.

Therefore, the Authority will not measure the Licensee's compliance with this clause for the period under review.

Clause 6.4 provides:

*"The Licensee shall broadcast news on a regular basis for a minimum of thirty (30) minutes each day between 05h00 and 23h00."*

According to Radio East Coast's submissions, the Licensee broadcasts an average of 59 minutes of news per day.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause for the period under review.

Clause 6.5 provides 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 Licensee always discloses its news sources during and after bulletins. East Coast Radio's sources are:

- i. Online Newswires;
- ii. Sky News
- iii. Local and International News correspondents via the AFP (Agence France-Presse)

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause for the period under review.

### **3.7 Training and Skills Development Obligations**

Clause 7.1 of the Licensee's schedule to the licence states the following:

*"The Licensee shall at least five hundred thousand Rand (R500 000) per annum on training and skills development for persons from historically disadvantaged groups."*



The Licensee's annual submission suggests that the Licensee prides itself in training and developing the skills of its human resource.

According to the above submission, East Coast Radio spent a total of six hundred and forty-seven thousand one hundred and eighty-seven rand (R647,187) on the training and development of persons from historically disadvantaged groups. Sales, Finance & Admin and Marketing took a bigger share of the training budget.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause for the period under review.

Clause 7.2 prescribes as follows:

*"A minimum of 6% of payroll will be spent on staff development which equates to one million five hundred rands (R1 500 000) per annum."*

In the year that ended June 2021, the Licensee spent an amount of eight hundred and sixty-nine thousand nine hundred and fifty-seven rand (R869,957) on staff development. This represents a shortfall of six hundred and thirty thousand, and 43 Rand (R630,043). According to the Licensee this is due to some training interventions that could not be implemented due to the National State of Disaster which limited business activities including training and development.

The Licensee's compliance with this obligation can be traced back to previous years of measuring its compliance with it. There has never been a finding that the Licensee failed to comply with clause 8.2 of its licence previously. As such the Licensee's intent to comply with this clause in the year of under review, it is not in doubt.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause for the period under review.

Clause 7.3 provides as follows

*"The Licensee shall provide funding for at least two (2) employees to obtain international training and exposure, with at least one (1) of whom must be a historically disadvantaged person."*

East Coast Radio uses the services of Phil Dowse an “international consultant” to expose its employees to international training. In the year that is currently under review, the Licensee – through Phil Dowse the “International Consultant” – gave training to 23 employees and at least 73% of the trained personnel were individuals from historically disadvantaged groups.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. The Authority, therefore, will not measure the Licensee’s compliance with this clause for the period under review.

Clause 7.4 reads as follows:

*"The Licensee shall provide at least ninety thousand Rand (R90 000) annually to be used for broadcasting engineering internship(s) to persons from historically disadvantaged groups.*

In the year under review East Coast Radio took in at least one intern and spent one hundred and twenty-three thousand four hundred and seventy-six rand (R123,476) on his salary and his mentorship costs.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. Therefore, the Authority will not measure the Licensee’s compliance with this clause.

Clause 7.5 prescribes as follows:

*"The Licensee shall provide an annual internship in the news department to the value of one hundred and eighty thousand Rand (R180 000) to:*

- a) A person from a historically disadvantaged group; and*
- b) A person from a KwaZulu-Natal based community sound broadcasting service Licensee.*

East Coast FM spent an amount of two hundred and seventy-eight thousand eight hundred and ninety-seven rand (R278,897) on internship salaries and mentorship costs for two more black and female individuals. Both interns – in their news department – were from KwaZulu Natal based community sound broadcasters.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause.

### **3.8 Ownership and control structures of the Licensee**

Clause 8.1 of East Coast Radio's schedule to the License gives the following instruction:

*"The Licensee shall maintain at least thirty five percent (35%) control of the station within the geographic coverage area."*

Clause 8.1 is no longer applicable as the Authority approved the Licensee's exemption on 24 March 2005.

Clause 8.2 gives the following obligation:

*"The Licensee shall ensure that there are [at] least two (2) women on its Board of Directors, at least one of whom is an independent Black woman with no relationship to the shareholders."*

According to East Coast Radio's annual submission Ms B Ngonyama and Ms K Makhohliso are two females serving in the Licensee's Board of Directors. Both women are black and their status within the board is labelled as "Independent Non-Executive Director". The Licensee reports that the board of directors have no relationship with the shareholders.

### **East Coast Radio complied with clause 8[9].2 of the licence.**

Clause 8.3 provides:

*"Until the publication of the ownership and control regulations, the Licensee shall maintain at least fifty percent (50%) ownership and control of the station by persons from historically disadvantaged groups."*

In March 2021, ICASA published the Regulations in respect of the Limitations of Control and Equity Ownership by Historically Disadvantaged Groups (HDGs) and the application of the ICT Sector Code, 2021. According to Regulation 3(4) of the said regulation, an Individual Licensee must have a minimum of 30% of its ownership equity held by historically disadvantaged groups.

East Coast Radio is a division of Kagiso Media and KTH Holdings takes 100% of the shareholding. According to the Licensee, ownership held by historically disadvantaged groups currently sits at 64%.

KTH Media Holdings (Pty) Ltd complied with clause 8.3 of its licence.

## **4. REGULATIONS**

### **4.1 Compliance Procedure Manual**

#### **4.1.1 Form 12A** Complaints Report

East Coast Radio is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A which reports on all complaints received during each financial year. In September 2021, East Coast Radio submitted its complaints report along with its Annual Compliance Submission. According to this report, the Licensee received no complaints during the period under review.

**The Licensee complied with the Compliance Procedure Manual Regulations where the submission of Form 12A is concerned.**

### **4.3 South African Music Content Regulations**

Regulation 3(2) of the ICASA South African Music Content Regulations, 2016<sup>5</sup> as published on 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 of these Regulations, a minimum of 35% 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."*

East Coast Radio has always carried its tag line – "your number one music radio station" – with so much pride. That says the Licensee is more music than talk. Ideally, East Coast Radio takes on a lot of on-air interviews with various musicians and composers of South African origin.

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<sup>5</sup> ICASA South African Music Content Regulations, 2016

Their offering would – ideally – be coupled with the promotion of local music concerts and would contribute towards the Licensee’s South African Music quotas by way of Format Factors. With the National State of Disaster, East Coast Radio could not host their promotional in-studio interviews for concerts as concerts were not allowed. That had the potential of negatively affecting the Licensee’s South African Music quota output. However, the Licensee maximised with the on-air profiling of music composers and the number of tracks played on air.

Importantly, East Coast Radio’s programming profile featured around 40% South African music in its offering. The music artists who are constant feature on East Coast Radio, were the following: Vusi Nova, Donald, AKA, Unathi, Freddy L, Lloyd Cele, Micasa, Crazy Whiteboy, Something Soweto, Johnny Clegg, Toya Delazy, Casper Nyovest, Elvis Blue, DJ Chinaman, Anathi, Freshly Ground, Mafikizolo, Bongo Muffin, Freshly Ground and others.

### **East Coast Radio complied with regulation 3.2 of the Regulations on South African Music Content.**

#### **4.4 Universal Service and Access Fund**

Regulation 3(1) stipulates that:

*"Every holder of a licence granted in terms of Chapter 3 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of the annual turnover, derived from the licensee’s licence activity, to the Fund" (See appendix G)<sup>6</sup>.*

Regulation 3(2) stipulates that:

*"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".*

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<sup>6</sup> Universal Service and Access Fund Regulations

East Coast Radio paid its contribution to the Universal Service and Access fund as prescribed by the Regulations Regarding the Universal Service and Access Fund for Individual Licensees.

### **The Licensee Complies with Universal Service and Access Fund Regulations.**

#### **4.5 ICASA General Licence Fees Regulations<sup>7</sup>**

**4.5.2 Regulation** 3(1) of the ICASA General License Fees Regulations provides as follows:

*"The annual Licence fees prescribed in these regulations and as set out in Schedule 2 apply to holders of Individual and Class ECS licences, Individual Licences, Individual and Class ECNS licences and Individual Commercial BS licences".*

Regulation (5) of Schedule 3 of the regulations further provides as follows:

*"Where a legal entity holds any combination of a BS Licence, ECS Licence and or/or ECNS Licence, such entity may calculate the licence fee based on the information contained:*

*a) On the audited Annual Financial Statements of the licensed entity."*

While Regulation (7) of Schedule 3 makes the following prescriptions:

*"Annual Payments*

*a) are due annually based on the Licensee's Financial Year;*

*b) are due and payable within 6 months from the end of the licensee's financial year;*

*c) may only be paid by way of an electronic transfer or via direct deposit into the Authority's bank account."*

The Licensee paid its annual licence fee contribution as per the provisions of this regulation.

### **East Coast Radio complied with the ICASA General Licence Fee Regulations.**

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<sup>7</sup> ICASA General Licence Fee Regulations

## **5. CONCLUSION**

East Coast Radio has complied with its licence conditions and the relevant Regulations during the year under review.

## **6. TERMS OF REFERENCE**

**Appendix A:** East Coast Radio's broadcasting service licence

**Appendix B:** ICT Covid-19 Regulations as amended

**Appendix C:** East Coast Radio's Frequency Spectrum Licence

**Appendix D:** List of profiled South African Music Composers

**Appendix E:** South African Music Content Regulations

**Appendix F:** Universal Service and Access Fund Regulations

**Appendix G:** General Licence Fee Regulations