



# **HEART 104.9 FM ANNUAL COMPLIANCE REPORT**

**MARCH 2022**

# **2020/2021 ANNUAL COMPLIANCE REPORT**

## **RADIO HEART 104.9 (PTY) LTD BROADCASTING AS HEART 104.9 FM**

**Licence Period: 18 December 2018 – 17 December 2028**

### **1. PREFACE**

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution<sup>1</sup>, the Independent Communications Authority of South Africa Act<sup>2</sup> (ICASA Act), 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.

This report is intended to give account of Radio Heart 104.9 (Pty) Ltd compliance for the 2020/2021 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, languages, Format, Local Content Obligations, General programming Obligations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations, General Licence Fees Regulations.

### **2. BACKGROUND**

Radio Heart 104.9 (Pty) Ltd, broadcasting as Heart 104.9 FM (Heart 104.9 FM) is an Individual Commercial Sound Broadcasting Service Licensee providing a programming mix of music and information to the Cape Town, Cape Town Fringe, Overberg and West Coast areas in the Western Cape Province<sup>5</sup>.

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Licensee**

Clause 1 of Heart 104.9 FM's licence provides that:

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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> Appendix A: Heart 104.9 FM's Broadcasting Service License.

- "1.1 *Name of Company/Entity: Radio Heart 104.9 (Pty) Ltd.*
- 1.2 *Shareholders: Makana Radio Communications (Pty) Ltd (100%)*
- 1.3 *Ownership held by persons from historically disadvantaged groups:*
- Tsiya Radio – 59.96%*
- Kagiso Media Investments (Proprietary) Limited – 20.02%*
- Victory Parade 55 (Proprietary) Limited – 20.02%*"

The monitoring exercise confirmed that the information under clause 1 remained as prescribed. The matter regarding the name change of its stakeholder Makana Radio Communications has at the time of writing this report is not finalised.

### **The Licensee complies with clause 1 of its licence.**

#### **3.2 Name of Station**

Clause 1 of the Schedule to the Licensee's licence provides:

**"Name of Station:** *Heart 104.9 FM*"

The name of the station is Heart 104.9 FM as prescribed by the license. The monitoring exercise confirmed that the Licensee identifies itself as Heart 104.9 FM to its audience and uses the Heart 104.9 FM in its official branding.

### **The Licensee complies with clause 1 of the Schedule to its licence.**

#### **3.3 Geographic Coverage Area**

Clause 2 of the Schedule to the Licensee's licence provides that:

**"Coverage Area:** *Cape Town, Cape Town Fringe, Overberg and West Coast areas as defined on the coverage map attached to the Licensee's Frequency Spectrum Licence.*"

The Licensee provides services to the coverage areas as defined on the coverage map attached to the Licensee's Frequency Spectrum Licence.

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

#### **3.4 Broadcast Language**

Clause 3 of the Schedule to the Licensee's licence provides that:

**"Broadcast Language:** *Principal Language: English*"

The monitoring exercise confirmed that the principal broadcast language of the Licensee is English.

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

### **3.5 Format**

Clause 4 of the Schedule to the Licensee's licence states that:

*"The format of the station is an adult contemporary jazz format."*

The monitoring exercise confirmed that the format of the Licensee's broadcasting is an adult contemporary jazz format.

**The Licensee complies with clause 4 of the Schedule to its licence.**

### **3.6 General Programming Obligations**

Clause 5.1 of the Schedule to the Licensee's licence states:

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

Some of the news coverage, found during the monitoring exercise, include:

- *"Opposition parties in the Western Cape are accusing the DA led administration of failing to deal with Gender Based Violence cases. This all relates to allegations against a Senior Provincial Police officer and a Councillor in the Drakenstein Municipality."*
- *"Agriculture MEC, Ivan Meyer, has said the issue of farmworker transport will receive urgent attention. His statement follows recommendations tabled before the standing committee in a bid to address the prevalence of accidents involving these farmworkers. Last month, officials of the Department and Agri-Western Cape appeared before the committee and amongst the recommendations include that no more than fifty percent of the licensed capacity of the vehicle is exceeded."*
- *"Parliament has confirmed that a fire broke out at the old assembly building last night, which Cape Town firefighters managed to contain. The fire affected certain areas including several upper floor offices and committee rooms. The lower floor was not affected but has been left flooded due to the activation of the fire sprinkler system. The rest of the building has not been affected. An investigation into the cause and the extent of the damage has now begun."*

- *"A Cape Town teacher and her family are facing poverty after a racism altercation with a Houtbay school. Nicole Abrahams was one of the whistle-blowers at the Disa Primary School when news broke of numerous cases of alleged racial discrimination within its walls. An investigation then led to the principal and several other white staff members resigning abruptly."*

The monitoring exercise found that the Licensee broadcast a minimum of thirty (30) minutes of news each day between the period of 05h00 and 23h00. The average total amount of news is forty-five (45) minutes per day, and the average news bulletin is four (4) minutes and thirty (30) seconds while the average news headlines is twenty (20) seconds.

#### **The Licensee complies with clause 5.1 of the Schedule of its licence.**

Clause 5.2 of the Schedule of the Licensee's licence states:

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

The monitoring exercise found that the Licensee discloses the source of news material during the news broadcast in circumstances where it is an external news material source. External sources of news include SAPA, Sister Stations, Press Releases, Online News Sources and Voice of America.

#### **The Licensee complies with clause 5.2 of the Schedule of its licence.**

Clause 5.3 of the Schedule to the Licensee's licence reads as follows:

*"The Licensee shall broadcast news for an average of six minutes every hour between 06h00 – 09h00 on all weekdays mornings."*

The monitoring exercise found that during all weekday morning, during the period between 06h00 and 09h00, the Licensee broadcast an average of six (6) minutes of news every hour.

#### **The Licensee complies with clause 5.3 of the Schedule to its licence.**

Clause 5.4 of the Schedule to the Licensee's licence reads:

*"In compiling news, the Licensee shall include news from the African continent."*

The monitoring exercise found that the Licensee includes news from the African continent in its news broadcast. News from the African continent makes up about eighty (80) percent of the total amount of international news as broadcast by the Licensee.

**The Licensee complies with clause 5.4 of the Schedule to its licence.**

Clause 5.5 of the Schedule's to the Licensee's licence states:

*"In compiling information programmes, the Licensee shall give due regard to the character of its audience."*

The Licensee has set up an internal research team to gather information from its listeners with the aim of understanding the wants of the listeners. Further, the year-on-year growth of the Licensee's target market is indicative that due regard is given to the character of its audience in the compilation of its information programmes.

**The Licensee complies with clause 5.5 of the Schedule to its licence.**

**3.6 Training and skills development**

Clause 6.1 of the Schedule to Heart 104.9 FM's licence reads:

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

The Licensee submits that training and development was a challenge during the period under review due to the lockdown restrictions imposed on the country in the light of the Covid-19 pandemic. However, the Licensee did emphasize that the training and development of staff from historically disadvantaged groups did take place and that the staff complement of the station comprises of forty (40) employees of which twenty-six (26), are Coloured People, six (6) Africans and two (2) Indians.

**The Licensee complies with clause 6.1 of the Schedule to its licence.**

Clause 6.2 of the Schedule to Heart 104.9 FM's licence states:

*"The Licensee shall establish an employee training programme and shall spend a minimum of one million, one hundred and sixteen thousand rand (R1 116 000.00) over the licence period."*

The Licensee has met and exceeded the requirement to spend a minimum of one million, one hundred and sixteen thousand rand on its employee training programme over the licence period. However, the Licensee continues to spend on its employee training programme. For the period under review, the Licensee invested an additional amount of R451, 598 on training and development.

**The Licensee complies with clause 6.2 of the Schedule to its licence.**

Clause 6.3 of the Schedule to Heart 104.9 FM's licence reads:

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

During the period under review, the Licensee's On-Air talent remained stable with the female presenters like *Suga, Jo-Dee Butler and Jenny Moris*. The Licensee further indicated that it has embarked on sourcing new talent for possible line-up changes over the next two years. The Authority will be able to monitor the Licensee's compliance once this process has been concluded.

**The Authority is yet to monitor compliance with clause 6.3 of the Schedule to its licence.**

Clause 6.4 of the Schedule to Heart 104.9 FM's licence states:

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

The Licensee states that due to the nature of the internship, they did not accommodate any interns on premises during the period under review, due to the covid-19 pandemic.

**The Authority did not monitor compliance with clause 6.4 of the Schedule to its licence.**

## **4. REGULATIONS**

### **4.1 Compliance Procedure Manual – Form 12A**

The Licensee is required, in terms of the Compliance Procedure Manual Regulations<sup>6</sup>, to submit a Form 12A which reports on all complaints received during each financial year.

The Licensee submitted the required Form 12A during the period under review.

**The Licensee complies with the Compliance Procedure Manual, as stated above.**

#### **4.2 Regulations regarding Standard Terms and Conditions for Individual Licensees**

The Authority is satisfied that during the period under review the Licensee did not contravene the regulation in respect of the Standard Terms and Conditions for Individual Licensees<sup>7</sup>.

**The Licensee complies the Standard Terms and Conditions for Individual Broadcasting Service Licensees.**

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

Regulation 2 of the Regulations on South African Music as published on 23 March 2016 provides that:

*"A holder of a commercial sound broadcasting service licence must ensure that after eighteen (18) months of the 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"*<sup>8</sup>.

The Licensee submits that it broadcasts an average of thirty-five (35%) percent of South African music tracks.

Some of the new tracks that were promoted during the period under review:

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<sup>6</sup> ICASA Compliance Procedure Manual Regulations, 2011 as published in Government Gazette No. 34863 dated, 15 December 2011.

<sup>7</sup> Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in Government Gazette No. 33294 dated, 14 June 2010, as amended.

<sup>8</sup> ICASA South African Music Content Regulations, 2016 as published in Government Gazette No. 39844 dated, 23 March 2016.



Khaya "Move"; Craig Lucas "Anti-sociable"; DJ Giggs Superstar ft. Dr Duda & Genevieve "I Don't Care"; The Kiffness ft. Mathew Gold "Sugarman"; Beatenberg "Rafael"; Brenda Fassie "Vuli Ndlela"; Mario Ogle "Can't Stop Loving You"; TiMO ODV ft. Sarah Jackson "Save Me"; Vicky Sampson "Love Will Shine On You".

Above and beyond the South African music tracks, the Licensee regularly conducts interviews with South African artists, promotes new tracks and covers live music. These format factors contribute to the Licensee's overall South African music content. The monitoring exercise as undertaken during the period under review confirmed that the Licensee on average broadcasts more thirty-five (35) percent of South African music.

### **The Licensee complies with the Regulations on South African Music.**

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

Regulation 3 (1) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund, 2011<sup>9</sup> state that:

*"Every holder of a 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 its Annual Turnover to the fund (USAF)."*

Further, Regulation 3 (3) states that:

*"A Broadcasting Service Licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution against its prescribed annual contribution to the fund."*

The Licensee made the required payment on 28 August 2020 and submitted the proof thereof to the Authority during the period under review.

### **The Licensee complies with the USAF Regulations.**

#### **4.5 General Licence Fees**

Regulation 3 (1) of the General Licence Fees Regulations<sup>10</sup> state that:

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<sup>9</sup> USAF Regulations, 2011 as published in Government Gazette No. 34010 dated, 10 February 2011.

<sup>10</sup> General Licence Fees Regulations, 2012 as published in Government Gazette No. 36323 dated, 28 March 2013, as amended.

*"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 and class ECNS licences and individual commercial Broadcasting Service licences."*

Schedule 2 of the General Licence Fees regulations provide for Individual Commercial Broadcasting Services Licensees to pay an annual licence fee of 1.5% of gross profit to the Authority.

Regulation 4(b) and (c) of Schedule 3 state that:

*"(b) In respect of payment, such are due and payable within 6 months from 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."*<sup>11</sup>

The Licensee made its general licence fees payment on 28 August 2020 and submitted the proof thereof to the Authority.

**The Licensee complies with the General Licence Fees Regulations.**

## **5. CONCLUSION**

The monitoring exercise as undertaken during the period under review found that the Licensee did comply with all the obligations monitored by the Authority as outlined in this report.

## **6. TERMS OF REFERENCE:**

- 6.1 Appendix A: Heart 104.9's Licence
- 6.2 Appendix B: Heart 104.9's Report
- 6.3 Appendix C: Regulations Regarding Standard Terms and Conditions for Individual Licensees
- 6.4 Appendix D: South African Music Regulations
- 6.5 Appendix E: USAF Regulations
- 6.6 Appendix F: General Licence Fees Regulations

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<sup>11</sup> *Ibid.*