



# **KOFIFI FM ANNUAL COMPLIANCE REPORT**

**MARCH 2022**

# 2020/2021 ANNUAL COMPLIANCE REPORT

## WESTBURY COMMUNITY DEVELOPMENT CENTRE TRUST BROADCASTING AS KOFIFI FM

**LICENCE PERIOD: 01 July 2016 to 30 June 2021**

### 1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution<sup>1</sup>, the ICASA Act<sup>2</sup>, the Electronic Communications Act (ECA)<sup>3</sup> and Broadcasting Act<sup>4</sup> 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 Kofifi FM performance for the 2020/2021 financial year. Aspects of compliance that are measured comprise of the Geographic Coverage, Community participation, Programming Obligations and Standard Terms and Conditions.

Furthermore, the report will measure compliance with regulations that include South African Music Content, Standard Terms and Conditions, and the ICT Covid-19 National Disaster Regulations<sup>5</sup> first published in April 2020 and the subsequent amendments following the proclamation of the State of National Disaster.

The ICT Covid-19 National Disaster Regulations as amended have introduced exemptions with specific service licence conditions and/or revised quotas and such will be reflected in the body of the report accordingly.

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<sup>1</sup> The Constitution of the republic of South Africa, No 108 of 1996

<sup>2</sup> Independent Communications Authority of South Africa Act, Act No. 13 of 2000, as amended

<sup>3</sup> Electronic Communications Act No. 36 of 2005

<sup>4</sup> Broadcasting Act No. 4 of 1999

<sup>5</sup> The ICT COVID-19 National Disaster Regulations, 2020 as published in *Government Gazette* No. 43207 dated, 06 April 2020, as amended.

## 2. BACKGROUND

Kofifi FM hold a Class Sound broadcasting service licence<sup>6</sup>. The radio station's mandate is to provide sound broadcasting service in Westbury, South of Johannesburg, Sophiatown and surrounding areas within the City of Johannesburg, as set out in the Licensee's radio frequency spectrum licence.<sup>7</sup>

## 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: Westbury Community Development Centre Trust.*

*1.2 Name of the Station: Kofifi FM.*

*1.3 Control of the licence: Control shall vest in the Trustees of a Non-profit trust known as Westbury Community Development Centre Trust."*

The monitoring exercise revealed that the Licensee is still Westbury Community Development Centre Trust. The name of the Licensee's radio station is Kofifi FM.

According to Kofifi FM's Constitution, the Board shall consist of a minimum of seven (7) and maximum of twelve (12) members. The board members are elected in an Annual General Meeting and the term of office shall serve for a period of two (2) years.

The Licensee did not submit current list of Board members who were elected in its last elective AGM as per their Constitution. The control of the Licensee could not be verified by monitoring exercise whether it is still in the hands of the Board members of an association known as Westbury Community Development Centre Trust.

**The Licensee did not comply with clause 1.3 of the licence.**

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<sup>6</sup> Appendix A: Kofifi FM broadcasting licence

<sup>7</sup> *Ibid*

### **3.2 Licence Period**

Clause 2 of the licence states that:

*"2.1 The effective date of the licence is 01 July 2016*

*2.2 The licence shall expire on the 30 June 2021"*

Kofifi FM's licence is effective from 01 July 2016 to 30 June 2021.

The Licensee submitted the renewal application to the Authority, in time.

**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 in Westbury, South of Johannesburg, Sophiatown and surrounding areas within the City of Johannesburg, as set out in the Licensee's radio frequency spectrum licence"*

Kofifi FM provides 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 geographic community residing within the geographic coverage specified herein"*

Kofifi FM provides a sound broadcasting services in Westbury, South of Johannesburg, Sophiatown and surrounding areas within the City of Johannesburg, 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 attendance thereof by members of the community; and*

*4.2.3 The Licensee shall hold Annual General Meeting (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."*

Regulation 4 (12A) of The ICT COVID-19 National Disaster Second Amendment Regulations, suspends the requirement for licensees to hold any community meetings or AGMs and submission of proof of holding either of the said meetings.

**Therefore, findings on compliance with this clause of the licence were not made for the period under review. The suspension of holding either of the said the meetings, was made by the Authority to mitigate the risk of non-compliance by all community broadcasters due to the Covid 19 pandemic.**

### **3.5 Programming**

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

*5.1.1 Talk vs. Music: 60% Talk and 40% Music.*

Sixty per cent (60%) talk during the performance period weekly, is equal to three thousand five hundred and twenty-eight (3 528) minutes per week.

Regulation 4(11) of The ICT COVID-19 National Disaster Regulations, suspends the requirement for licensees to submit programming logs and recordings to the Authority, quarterly.

However, Class Sound Broadcasting Licensees were not exempt by The ICT COVID-19 National Disaster Regulations, to submit monthly programming logs in form 8A,8B and 8C as per the ICASA Procedure Manual Regulation, 2011.

The Licensee did not submit the log-sheet indicating the average minutes of talk and music broadcast by Kofifi FM per week.

### **The licensee does not comply with clause 5.1 of the licence**

#### *5.2"Local News and information:*

*5.2.1 The Licensee shall broadcast a total of eighty (80) minutes of news per day, of which fifty (50) minutes will be allocated to local news, twenty (20) minutes national news and ten (10) minutes international news.*

The Licensee did not submit their log-sheet Form 8A. However, the monitoring exercise revealed that Kofifi FM broadcasts news bulletins every hour between, 06h00 and 18h00 on weekdays except during the religious ceremony held between 12h00 and 13h00 on weekdays. The bulletins are broadcast for approximately three (3) minutes at the top of the hour. On average, a total of thirty-nine (39) minutes including BBC news is broadcast each day, during the South African performance period. The news monitored include local, national, and international news.

The Licensee does not broadcast news per day on weekends.

The following are some of the news excerpts monitored:

- *"Quality assurance exam board UMalusi has approved the release of the 2020 national senior certificate national results. The council found no irregularities that could compromise credibility of exams. The department of basic education is required to block the results of centres or candidates who are implicated in irregularities. UMalusi council chairperson John Volmink says the investigation into the leakage of mathematics paper two and physical science paper two is not yet complete and will continue until finalized."*

- *“An off duty 28-year-old police constable from Mpumalanga allegedly shot the father of her child aged 33 as well as her five-month baby girl before taking her own life. This according to the police happened on Saturday the 13<sup>th</sup> of February. Preliminary investigations suggested that this may have been as a result of history of domestic violence as the two are set to have fought a lot recently.”*

**The licensee did not comply with sub clause 5.2.1 of the licence**

*5.3 South African Music Content:*

*5.3.1 The Licensee shall broadcast a South African music content of 80%.*

The Licensee did not submit the Form 8A, indicating the average of the South African music content broadcast each week.

The ICT COVID-19 National Disaster Regulations, regulation 4 sub-regulation 8C provides that Sound broadcasting service Licensees shall comply with the local content music quotas.

The monitoring exercise revealed that Kofifi FM broadcast local and foreign music content. Some of the local artist monitored include Brenda Fassie, Yvonne Chakachaka, Judith Sephuma, Prince Kaybee and Tresor Ft Msaki amongst others. The monitoring could not verify the percentage of the South African music quota.

**The licensee did not comply with sub clause 5.3.1 of the licence**

*5.4 Language(s) of broadcast:*

*5.4.1 Afrikaans – 40%;*

*5.4.2 English – 60%;*

The monitoring exercise revealed that Kofifi FM broadcast mainly in English and Afrikaans as per the licence.

**The licensee complied with clause 5.4 of the licence.**

Clause 5.5 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 proforma of the log to be kept will be supplied by the Authority."*

The Licensee did not submit the log of programmes broadcast to the Authority as required by clause 5.5.

**The licensee did not comply with clause 5.5 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,

Regulation 4 (1) of the ICT COVID-19 National Disaster Amendment Regulations, provides, that Licensees are exempt from the responsibility to resolve complaints received within the time frames prescribed by the Authority in its Regulations. For the year under review, the Licensee did not receive any complaints and therefore, none was escalated to the Authority.

**The Licensee complied with the Compliance Procedure Manual Regulations**

### **4.2 South African Music Content Regulations<sup>8</sup>**

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 period<sup>9</sup>"*

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<sup>8</sup> Appendix B: ICASA South African Music Content Regulations 2016

<sup>9</sup> *Ibid*

The monitoring exercise revealed that Eldos FM broadcast local and foreign music content. Some of the local artist monitored include Brenda Fassie, Yvonne Chakachaka, Judith Sephuma, Prince Kaybee and Tresor Ft Msaki among others. The monitoring could not verify the percentage of the South African music quota.

### **The licensee did not comply with the Regulations**

#### **4.3 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Services Licences<sup>10</sup>**

Regulations Regarding Standard Terms and Conditions for Class Licences 2016. Regulation 7 sub-regulation 7 (d) provides as follows:

*"The Board of Directors/Trustees and station management must not occupy dual roles with regard to being managers/presenters at the radio station."*

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

The monitoring exercise revealed that the programme manager has dual roles at the station. A programme manager is also presenting a show at the radio station which is contrary to the above Regulations.

### **The licensee did not comply with the Regulations**

## **5 CONCLUSION**

Radio Kofifi FM did not comply generally with most provisions of its licence conditions and applicable Regulations in the past. The non-compliance on the control of the Entity and the dual role, will be addressed with the Licensee and referred to the Complaints and Compliance Committee if not rectified in the next review.

## **7. TERMS OF REFERENCE**

Appendix A: Kofifi FM broadcasting licence

Appendix B: ICASA South African Music Content Regulations 2016

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

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<sup>10</sup> Appendix C: Standard Terms and Conditions for Class Licences 2016