



LM RADIO ANNUAL COMPLIANCE REPORT

MARCH 2022

2020/21 ANNUAL COMPLIANCE REPORT

LM RADIO

Licence Period : 18 July 2014 - 17 July 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 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 ensure compliance by broadcasters with the terms and conditions of their licence and relevant legislation and regulations.

The purpose of the report is to provide an overview of LM Radio’s performance for the 2020/21 financial year. Aspects of compliance that are measured comprise of the service licence’s conditions of Geographic Coverage Area, Broadcast Language, Format, Local content Obligations, General Programming Obligations, Training and Skills developments and Ownership and Control Obligations. Furthermore, the report will measure compliance with regulations that includes South African Music Content, Standard Terms and Conditions for Individual Licensees, Universal Service and Access Fund Regulations, General Licence Fee Regulations and the Code of Conduct for Broadcasters.

2. BACKGROUND

The Authority issued a commercial broadcasting licence to Extriserve (Pty) Ltd broadcasting as LM Radio for ten (10) years from the date of issuance⁵. The Licensee has been licensed to provide broadcasting services to Gauteng Province as defined in their radio spectrum licence

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

² Act No. 13 of 2000, as amended

³ Act No. 36 of 2005

⁴ Act No. 4 of 1999

⁵ LM Radio Service Licence

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

Clause 3 of the service licence stipulates that the geographic coverage is:

"Gauteng Province as defined in the coverage map attached to the Licensee's radio frequency spectrum licence".

The Licensee broadcast on 702 kHz on AM with Sentech as their signal distributor.

The Licensee complies with its geographic coverage obligations.

3.2 Broadcast Language

Clause 4 of the service licence stipulates that:

"Principal Language shall be English"

The monitoring exercise confirmed that LM Radio predominantly broadcasts in English.

The Licensee complies with its language obligations.

3.3 Format

Clause 5.1 of the service licence stipulates that:

"The Licensee shall have a programming format that of 75 % "golden oldie" and nostalgic adult contemporary music".

The monitoring exercise confirmed that the Licensee's programming is dominated by nostalgic adult contemporary songs such as *Curiosity Killed the Cat – Down to Earth, Cat Stevens – Matthew & Son, Billy Ocean – Caribbean Queen* amongst others.

Clause 5.2 of the service licence stipulates that:

"The Licensee's programming format shall be supported by a speech content which shall comprise of a mixture of informative discussion and news related to lifestyle, music content, information, travel, weather, and public service messages of no more than 25%, ranging from 10 – 15% during peak times and 5 – 10% of peak

times. The Licensee's peak time shall be from 06H00 to 09H00 and 16H00 to 18H00 on weekdays".

The monitoring exercise confirmed that the Licensee's programming is music driven supplemented by speech. The speech content is mostly informative content which includes the weather, travel competitions, music quiz with listeners' engagements amongst others.

The Licensee complies with their format

3.4 General Programming Obligations

Clause 7.1 of the service licence stipulates that:

"The Licensee shall broadcast news bulletins at peak times during weekdays at 06H00, 07H00, 08H00, 17H00 and 18h00. The Licensee shall broadcast news for a total of thirty (30) minutes per day. The Licensee shall broadcast a weekly average of 25% news from Gauteng area, 35% national news and 40% international news.

The Licensee broadcasts news weekdays during from 06H00 until 18H00 in the morning. The news reports average three (3) minutes per bulletins for an overall daily of thirty-nine (39) minutes of news.

The following news items were monitored:

- *The South African Federation of Trade Unions (SAFTU) says the end of the government's special Covid 19 grant will plunge marginalised and unemployed people even further into poverty. Considering the ailing economy, the federation says it's in the best interest of vulnerable citizens to have the grant extended.*
- *Treasury this week says revenue collection from taxes was looking good. This as Finance Minister Tito Mboweni prepares to table the budget on the 24th of February. During the midterm budget policy statement in October, Mboweni said they wanted to raise 40 billion rands through additional taxes in the next four financial years.*
- *Nepal has banned two Indian climbers and their team leader for six years from mountaineering in the country after an investigation found they had*

faked their 2016 climb up Mt Everest. Narender Singh Yadav and Seema Rani Goswami's climb was certified by the tourism department at the time.

The Licensee complies with clause 7.1 of its service licence.

Clause 7.2 of the service licence stipulates that:

"The Licensee will broadcast news in English".

The Licensee's news bulletins are read in English.

The Licensee complies with clause 7.2 of its service licence.

Clause 7.4 of the service licence stipulates that:

"The Licensee shall broadcast community events relating to its coverage area".

The monitoring exercise couldn't find any community events that were broadcast by the radio station. The radio station in their submission note that due to the National State of Disaster lockdown, there was no community events that they could broadcast.

3.5 Ownership and Control structure of the Licensee

Clause 8 of the service licence stipulates that:

Until the publication of ownership and control regulation, the Licensee shall for the duration of this licence maintain at least thirty percent (30%) ownership and control of the station by persons from historically disadvantaged groups.

The Licensee's submission indicates that there is a thirty five percent (35%) shareholding by persons from historically disadvantaged groups.

The Licensee complies with clause 8 of the service licence.

3.6 Promise of Performance

Clause 9.1 of the service licence stipulates that:

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

The Licensee submitted that they have not employed a local news team due to financial constraints⁶.

The Licensee failed to comply with clause 9.1 of the service licence.

Clause 9.2 of the service licence stipulates that:

"At least 70% of the employees employed by the Licensee shall be historically disadvantaged persons from the licensed coverage area".

The Licensee's submits that it only has nine (9) permanent employees which excludes independent contractors. Of the total permanent employees, all fall under the category of historically disadvantaged persons⁷.

The Licensee complies with clause 9.2 of the service licence.

Clause 9.3 of the service licence stipulates that:

"The Licensee shall establish an employee training programme and shall spend a minimum of R1 116 000 (one million one hundred and sixteen thousand rand) over the licence period.

The Licensee submits that they have for the period under review spent one hundred and forty-four thousand rands on training. It should be noted that the clause can only be assessed at the end of the licence period for the accumulative training spend.

Clause 9.4 of the service licence stipulates that:

"The Licensee shall assist in the development of broadcasting knowledge and skills amongst historically disadvantaged groups in the industry by "adopting" at least one (1) community sound broadcaster within the broadcasting coverage areas and provide them with, among other things, managerial and technical training through holding workshops and hand-on experiential training at LM Radio".

⁶ Appendix B

⁷ Ibid

The Licensee submits that due to the National State of Disaster imposed on the country which included restriction on movement of people, they couldn't comply with the above-mentioned clause.

Clause 9.5 of the service licence stipulates that:

"The Licensee shall provide the following amount annually to be used for annual broadcasting sound engineering, journalism training, programme presenting and production, sale and marketing, and news gathering internship (s) to persons from historically disadvantaged groups from the licensed coverage area".

The Licensee submits that is not able to comply with this clause due to the company operating under loss since inception.

The Licensee failed to comply with clause 9.5 of the service licence.

Clause 9.6 of the service licence stipulates that:

"The Licensee must provide at least two (2) minutes of airtime per day to promote corporate social responsibility initiatives such as awareness of HIV & AIDS, cancer, poverty alleviation, job creating and any other social objective".

The Licensee submits that they have dedicated eight hundred and twenty minutes of airtime for the Shout for Masks campaign to assist with the collecting and distributing of masks to vulnerable communities⁸.

The Licensee complies with clause 9.6 of their service licence.

4. REGULATIONS

4.1 South African Music Content

Regulation 3.2 of the ICASA Regulations on South African Music as published on 23 March 2016 stipulates that:

"A holder of a commercial sound broadcasting licence must ensure that after eighteen (18) months from the date of gazette of these Regulations, a minimum of 35% of the musical works broadcast in the performance period consist of South

⁸ Appendix B

African music and that such South African music is spread reasonably evenly throughout the performance period"

The Licensee submits that they broadcast an average of twenty (20%) percent of South African music which is less than the quotas for individual licences⁹. Some of the local songs that were played includes *Tamara Dey – It's Disco*, *Johnny Clegg & Savuka – Africa*, *Dr Victor & Rasta Rebels – Pretty Belinda* amongst others.

The Licensee failed to comply with the South African music content regulations.

4.2 Standard Terms and Conditions for Individual Broadcasting Licences

During the period under review, the Authority did not identify any non-compliance by LM Radio with the Standard Terms and Conditions for Individual Licences.

4.3 Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund

Regulation 3 of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF), published in Government Gazette, No. 34010 of 10 February 2011, stipulates that:

1) *"Every holder of a licence granted in terms of Chapters 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".*

(2) *"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".*

The Licensee had not submitted proof of payment for USAF by the time the report

⁹ Appendix C

was compiled.

The Licensee failed to comply with the USAF Regulations.

4.4 General Licence Fees Regulations

Regulation 3 (1) of the General Licence Fees Regulations published on Government Gazette No. 36323 of 28 March of 2013 stipulates that:

"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 BS Licences".

Schedule 2 provides for Licensees to pay an annual licence fee in accordance with their licensed revenue and to be calculated using the set formula.

Regulation 7(a) (b)(c) of Schedule 3 provides that Annual Licence Fees:

- 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 made their payment and attached proof of payment thereof.

The Licensee complies with the General Licence Fees Regulations.

4.5 Code of Conduct for Broadcasters

The Licensee is a member of the National Association of Broadcasters ("NAB") and complaints in relation to the Code of Conduct by Broadcasters are administered by the Broadcasting Complaints Commission of South Africa ("BCCSA").

5. CONCLUSION

The Licensee has complied with most of its licence conditions except certain clauses of their promise of performance, music regulations and financial obligation.

6. TERMS OF REFERENCE

Appendix A: LM Radio Licence;

Appendix B: Compliance Submission;

Appendix C: Form 9A