



UKHOZI FM ANNUAL COMPLIANCE REPORT

MARCH 2022

2020/2021 ANNUAL COMPLIANCE REPORT

SOUTH AFRICAN BROADCASTING CORPORATION BROADCASTING AS UKHOZI FM

Licence Period : 19 December 2018 to 18 December 2028

1. PREFACE

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution,¹ the Broadcasting Act,² the ICASA Act,³ and the Electronic Communications Act⁴ to regulate broadcasting activities in South Africa in the public interest. The Authority is tasked with monitoring compliance by broadcasters with the terms and conditions of their licences, the three Acts and any other relevant legislation and Regulations.

The following report is intended to give an account of Ukhozi FM ("the Licensee")'s performance for the 2020/2021 financial year. Aspects of compliance that are measured comprise of the geographic coverage, language(s) of broadcast, broadcast content format, local content obligations, general programming obligations, training and skills development obligations, finances, South African Music Content Regulations, Regulations regarding Standard Terms and Conditions for Individual Broadcasting Services, Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund, Compliance Procedure Manual Regulations and ICT Covid-19 Regulations first published in April 2020 and the subsequent amendments following the proclamation of the State of National Disaster.

The ICT Covid-19 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.

2. BACKGROUND

Ukhozi FM holds an Individual Public Sound Broadcasting Service ("I-PSBS") licence and a Radio Frequency Spectrum ("RFS") licence (collectively referred to as "licences") for provision of services to the geographical areas of Gauteng,

¹ The Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996)

² Broadcasting Act, 1999 (Act No. 4 of 1999)

³ ICASA Act, 2000 (Act No. 13 of 2000), as amended

⁴ Electronic Communications Act, 2005 (Act No. 36 of 2005)

Eastern Cape, Free State, KwaZulu Natal and Mpumalanga Provinces. Ukhozi FM forms part of the South African Broadcasting Corporation ("SABC") and was issued its licences on 19 December 2018.

3. COMPLIANCE ASSESSMENT

3.1 Ownership and Control

Clause 1.1 of the licence stipulates that:

"Name of the Company/Entity: The South African Broadcasting Corporation"

Further, clause 1.2 of the licence provides that:

"Shareholders: The State: 100%"

Furthermore, clause 1.3 of the licence stipulates that:

"Ownership held by persons from historically disadvantaged groups: NA"

Ukhozi FM forms part of the public service of the SABC and is 100% owned by the State.

The Licensee complies with clauses 1.1, 1.2 and 1.3 of its licence.

3.2 Geographic Coverage Area

Clause 2 of the schedule to the licence stipulates that:

"The geographic coverage area is as defined in the map attached to the radio frequency spectrum licence".

According to the RFS licence, the radio station's coverage areas are: Gauteng, Eastern Cape, Free State, KwaZulu Natal and Mpumalanga Provinces. The Licensee confirms that its coverage area is as defined and specified in its RFS licence.

The Licensee complies with clause 2 of the schedule to its licence.

3.3 Language(s)

Clause 3 of the schedule to the licence stipulates that:

"Principal Language: isiZulu".

The Authority's monitoring exercise confirmed that the radio station's principal language of broadcast is isiZulu.

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

3.4 Format

Clause 4.1 of the schedule to the licence stipulates that:

"The service authorised by this licence forms part of the public service division of the Licensee".

Further, clause 4.2 of the schedule to the licence stipulates that:

"The licensed service shall be a full-spectrum service".

Ukhozi FM is a public radio station of the SABC and offers a full-spectrum service to its audience as outlined in its licence.

The Licensee complies with clauses 4.1 and 4.2 of the schedule to its licence.

3.5 Local Content Obligations

Clause 5 of the schedule to the licence stipulates that:

"In each licence year, the Licensee shall, within thirty (30) days of end of the quarter, submit to the Authority written records indicating the extent of:

5.1 different genres; and

5.2 South African Music Content, in programme material broadcast in the licensed service during that quarter, in each instance, distinguishing between genres, providing the relevant details in relation to prime time and the period between 5h00 and 23h00 daily ("the South African broadcast period"), and expressing the relevant details both as an aggregate in minutes and as a percentage of the total of all such programming material".

Regulation 4(11) of the ICT COVID -19 National Disaster Regulations, as published in *Government Gazette* No. 43207 dated, 06 April 2020, stipulates that:

"The requirement for licensees to submit programming logs and recordings to the Authority quarterly is suspended. Licensees are however still required to keep the requisite programming logs for submission at the Authority's request".

However, the SABC submitted Ukhozi FM's quarterly reports for the period under review, the reports reflect a week's sample for each quarter.

3.6 General Programming Obligations

3.6.1 General

Clause 6.1.1 of the schedule to the licence stipulates that:

"The Licensee shall ensure that its programming adequately reflects the diversity of South Africa's religions".

Furthermore, clause 6.1.2 of the schedule to the licence stipulates that:

"The Licensee shall take reasonable steps to provide programming that reflects the cultural and traditional needs of the audience".

Clause 6.1.3 of the schedule to the licence stipulates that:

"The Licensee shall, during the South African performance period, provide programme material that caters and has due regard for the interests of all sectors of South African society and shall provide programming on health-related issues, gender issues relevant to all age groups".

3.6.2 News and Current Affairs

Clause 6.2.1 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least sixty (60) minutes of news programming each day during the South African performance period".

Further, clause 6.2.2 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least sixty (60) minutes of current affairs programming each day during the South African performance period".

Furthermore, clause 6.2.3 of the schedule to the licence stipulates as follows:

"The Licensee shall in the production of its news and current affairs programming:

- (i) Exercise full editorial control in respect of the contents of such programming;*
- (ii) include matters of international, national, regional and where appropriate, local significance;*
- (iii) meets the highest standards of journalistic professionalism;*

- (iv) *provide fair, unbiased, impartial and balanced coverage independent from governmental, commercial or other interference; and*
- (v) *provide a reasonable opportunity for the public to receive a variety of points of view on matters of public concern”.*

3.6.3 Programming targeted at Children

Clause 6.3.1 of the schedule to the I-PSBS licence stipulates that:

“The Licensee shall in the provision of the licensed service, broadcast at least one (1) hour of programming targeted at children (as contemplated in section 10(1)(g) of the Broadcasting Act) per week during the South African performance period”.

Further, clause 6.3.2 of the schedule to the licence stipulates that:

“In the production and presentation of its children’s programming, the Licensee shall ensure that such children’s programming is:

- (i) broadcast at times of the day when children are available to listen;*
- (ii) targeted at and appropriate for children between the ages of nought (0) to six (6) years and seven (7) to twelve (12) years respectively;*
- (iii) educational and is made from children’s point of view”.*

3.6.4 Educational Programming

Clause 6.4 of the schedule to the licence stipulates as follows:

“The Licensee shall broadcast at least five (5) hours of educational programming (as contemplated in section 10 (1) (e) of the Broadcasting Act) per week within the South African performance period”.

3.6.5 Drama

Clause 6.5 of the schedule to the licence stipulates that:

“The Licensee shall broadcast at least two and a half (2 ½) hours of drama per week within the South African Performance period”.

3.6.6 Informal Knowledge-Building Programmes

Clause 6.6 of the schedule to the licence stipulates that:

“The Licensee shall broadcast at least three (3) hours of informal knowledge building programming per week within the South African performance period”.

Regulation 4(7) of the ICT COVID -19 National Disaster Regulations, as published in *Government Gazette* No. 43207 dated, 06 April 2020, stipulates that:

"The performance period for both sound and television broadcasting shall run from 07h00 to 21h00".

In addition, regulation 4(8B) of the ICT COVID -19 National Disaster Amendment Regulations, as published in *Government Gazette* No. 43279 dated, 05 May 2020, provides that:

"Sound broadcasting service Licensees are exempted from compliance with specific programming requirements in terms of licence conditions during the National State of Disaster".

The Licensee is exempt from complying with the General Programming Obligations of its licence during the National State of Disaster.

3.7 Training and Skills Development Obligations

Clause 7 of the schedule to the licence stipulates that:

7.1 *"The Licensee must adopt and implement equal opportunity employment Practices".*

7.2 *"The Licensee must ensure that its management and staff are representative of South African society and that its human resource policies take into account the development of managerial, production, technical and other skills and expertise, particularly with regard to the historically disadvantaged persons".*

7.3 *"The Licensee shall endeavour to achieve fair and reasonable participation by historically disadvantaged persons with respect to:*

(a) its management and control structures;

(b) skills development;

(c) enterprise development; and

(d) procurement".

7.4 *"The Licensee must, within thirty (30) days of the end of each financial year, provide the Authority the written information regarding its compliance with the above requirements."*

The Licensee submitted its Employment Equity and Transformation report and its Annual Skills Development report for the period under review (2020/2021) to the Authority.

However, Regulation 4(8B) of the ICT COVID -19 National Disaster Amendment Regulations, as published in *Government Gazette* No. 43279 dated, 05 May 2020, provides that:

"Sound broadcasting service Licensees are exempted from compliance with promises of performance in terms of licence conditions during the National State of Disaster".

The Licensee is exempt from complying with clause 7 and its sub-clauses of the schedule to its licence during the period under review

3.8 Submission of audited financial statements to the Authority

Clause 8 of the schedule to licence stipulates that:

"The Licensee shall provide the Authority with the audited annual financial statements of the licensed service within six (6) months of the end of the licensee's financial year, provided that the licensee may on good ground shown apply to the Authority for extension".

The Licensee submitted its audited annual financial statements to the Authority within the prescribed timelines.

The Licensee complies with clause 8 of the schedule to its licence.

4. REGULATIONS

4.1 ICASA Compliance Procedure Manual Regulations, 2011⁵

Ukhozi FM is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A: ECN/S and BS Complaints Reporting form, which a Licensee should complete and submit, with details of all complaints received in each financial year. The SABC submitted its complaints report in accordance with the Regulations regarding the Code of Conduct for Broadcasting Service Licensees.

⁵ ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

During the period under review, Ukhozi FM received four (4) complaints. On 29 October 2020 the Licensee received a complaint, the complainant took offence with the presenter's comment was suggesting that, only girl children need to be developed and felt it was a blatant gender-based discrimination against boy children. The Licensee responded to the complainant on 16 November 2020.

The Licensee received a second complaint on 24 November 2020 from the show "Vuka Mzansi Breakfast Show" about a song that the complainant felt encourages smoking, drinking and a loose life and should not be played on a national broadcaster. The Licensee responded to the complainant on 25 November 2020.

A third complaint was received on 11 January 2021 regarding an inappropriate song that is loaded with profanity on "Ukhozi FM Top 20". The Licensee responded to the complainant on 18 January 2021.

On 04 February 2021, the Licensee received a misrepresentation and material omission complaint during a news bulletin. According to the complainant, the news reader provided incorrect translation from English to IsiZulu which could lead to serious misunderstanding by listeners. The Licensee responded on 09 February 2021.

Accordingly, it is the understating of Broadcasting Compliance that, all the complaints above were resolved also to the satisfaction of the complainants.

The Licensee complies with the ICASA Compliance Procedure Manual Regulations.

4.2 ICASA South African Music Content Regulations, 2016

Regulation 3(1) of the ICASA South African Music Content Regulations as published in the *Government Gazette* No. 39844 dated, 23 March 2016 stipulate that:

"A holder of a public sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting of these Regulations, a minimum of 60%, increasing to 70% in the following year, of the musical works broadcast in the performance period, consist of South African and that such South African music is spread evenly throughout the performance period".

The Authority's monitoring exercise determined that the Licensee's playlist includes between 73% and 74% South African music during the South African broadcast period and identified the following local artists: Dumi Mkokstad "*My God Is Too Much*", Kwesta "*Njandini*", Mthunzi "*Uhlale Ekhona*", Phindi P "*Siyabonga*", Berita ft Amanda Black "*Siyathandana*", Mafrika ft Paras "*Sondela*", Heavy K "*Wena*" 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, 2010

During the year under review, the Authority did not find any non-compliance by Ukhozi FM with the Regulations on Standard Terms and Conditions for Individual Broadcasting Services as published in *Government Gazette* No. 33294 dated, 14 June 2010 as amended.

The Licensee complies with the Regulations on 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") as published in the *Government Gazette* No. 34010 on 10 February 2011, stipulates that:

"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".

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 made the prescribed payment directly to the MDDA and submitted proof thereof to the Authority.

The Licensee complies with Regulations 3(1) and 3(2) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund.

5. CONCLUSION

For the 2020/2021 financial year, the Licensee complies with all its I-PSBS licence terms and conditions and applicable Regulations.

6. TERMS OF REFERENCE

- 6.1 Appendix A: Ukhozi FM's I-PSBS licence and RFS licence
- 6.2 Appendix B: SABC's Editorial Policy;
- 6.3 Appendix C: SABC Employment Equity, Transformation and Skills Report;
- 6.4 Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016;
- 6.5 Appendix E: ICASA Compliance Procedure Manual Regulations 2011, published in *Government Gazette* No. 34863 dated, 15 December 2011;
- 6.6 Appendix F: USAF Regulations 2011, published in *Government Gazette* No. 34010 dated, 10 February 2011; and
- 6.7 Appendix G: Regulations on Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010, as amended.
- 6.8 Appendix H: ICT COVID – 19 National Disaster Regulations as published in *Government Gazette* No. 43207 dated, 06 April 2020 as amended. (Amendments published in *Government Gazette* No. 43279 dated, 05 May 2020; *Government Gazette* No. 43707 dated, 11 September 2020; *Government Gazette* No. 43945 dated, 27 November 2020 and *Government Gazette* No. 44374 dated, 31 March 2021.

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