



WITBANK FM ANNUAL COMPLIANCE REPORT

MARCH 2022

2020/2021 ANNUAL COMPLIANCE REPORT

WITBANK FM

LICENCE PERIOD: 12 FEBRUARY 2019 – 11 FEBRUARY 2024

1. PREFACE

The Independent Communications Authority of South Africa (“Authority”) has a statutory mandate in terms of the Constitution, the ICASA Act, the Electronic Communications Act (“ECA”) and the Broadcasting Act 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.

The purpose of the report is to give an account of Witbank FM’s compliance performance with the terms and conditions as set out in its licence for the 2020/2021 financial year. Aspects of compliance that are measured comprise of the Licence Area, Community, Programming, ICT COVID-19 National Disaster Regulations, South African Music Content Regulations and Regulations regarding Standard Terms and Conditions for Class Licensees.

2. BACKGROUND

Witbank FM is a class broadcasting service licensee serving the geographic community of Emalahleni Local Municipality in the Nkangala District Municipality, Mpumalanga Province. For the period under review there was no audience measurement report from the Broadcast Research Council of South Africa (BRC), however, for the licensee, the listenership figures for the previous reporting period were, 71 000¹.

¹ <https://brcsa.org.za/brc-ram-listenership-report-jan19-dec19/>

3. COMPLIANCE ASSESSMENT

3.1 Licensee Details

Clause 1 of the schedule to the licence stipulates that:

1.1 Name of Entity: Witbank FM

1.2 Name of the Station: Witbank FM

1.3 Control of Licensee: Control shall vest in the Board of Directors of Witbank FM.

The Authority notes that there was no change of name filed by Witbank FM, however the station continues to identify itself as Witbank FM despite being informed to apply for the change on the relevant forms in the Process and Procedure Regulations read with the Standard Terms and Conditions for Class Licensees regulations.

The licensee did not comply with clause 1 of the licence.

3.2 Licence Period

Clause 2 of the schedule to the licence stipulates that:

2.1 The effective date of the Licence is 12 February 2019

2.2 The Licence shall expire on 11 February 2024.

Witbank FM is in possession of a valid licence and the licence is valid until 11 February 2024 as stated on the licence.

The Licensee complies with clause 2 of the licence.

3.3 Licence Area

Clause 3 of the schedule to the licence provides that the Licensee's coverage area is as outlined below:

"The Licensee shall provide services to Potchefstroom and surrounding area as set out in the Licensee's radio frequency spectrum licence."

The radio frequency spectrum licence outlines the radio station's coverage area to be one of a local municipal footprint. The license has previously indicated that there is a possible interference with its frequency in Witbank and requested the Broadcasting Compliance Unit (BCU) to assist in this regard. The BCU referred the licensee to the Broadcasting Frequency Spectrum Division for further assistance.

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

3.2 Community

Clause 4.1 of the schedule to the licence stipulates that:

"The Licensee shall provide services to a geographic community residing within the geographic coverage area as specified herein."

The Licensee provides broadcasting services to the areas in Emalahleni Local Municipality in the Nkangala District Municipality and other nearby areas.

The Licensee complies with clause 4.1 of the schedule to the licence.

Clause 4.2 of the schedule to the licence provides as follows:

"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 2 (two) meetings annually with its community focusing on programming and programming policies of the station".

4.2.2, "The Licensee shall furnish the Authority with proof of such meetings as well as the attendance thereof by members of the community".

For the period under review, there was an exemption on the above-mentioned obligation under the provisions of the ICT COVID-19 National Disaster Regulations.

Clause 4.2.3 The Licensee shall hold Annual General Meetings (AGM) for the following purposes:

4.2.3.1 To provide feedback on the Licensee's compliance with license 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".

For the period under review, there was an exemption on the above-mentioned obligation under the provisions of the ICT COVID-19 National Disaster Regulations.

3.3 Programming

Clause 5.1.1 of the schedule to the licence provides for the radio station's format as follows:

"Local News and Information: The licensee shall broadcast sixty-percent (60) local, twenty percent (20) provincial, ten percent (10) national and ten percent (10) international news per day."

For the period under review, and in line with the ICT COVID-19 National Disaster Regulations, the performance period was shortened by a period of at least four (4) hours, which resulted in some programmes not airing as per regular programming schedule.

The following extracts of news was found during the monitoring exercise:

- *"A 36-year-old suspect is expected to appear before the Witbank Magistrates' Court tomorrow, Friday 05 February 2021. The suspect is alleged to have been involved in the murder case where an 86-year-old woman was robbed of her belongings and brutally killed from an old age home at Witbank on Sunday, 31 January 2021. The man was arrested after he handed himself over to the authorities at Mondeor Police Station in Gauteng on Wednesday, 3 February 2021. This was after a manhunt was launched by police following an incident in which the elderly woman was murdered. The investigation revealed that her vehicle, a white Honda Jazz and her belongings were stolen during the incident and fortunately the vehicle became a positive catalyst for the investigation as it was later*

recovered left abandoned in Krugersdorp on Monday, February 2021. After finding the car, they then strongly believed that the suspect could also be around Gauteng. This prompted them to intensify their search and whilst busy following positive leads on his whereabouts, their counterparts from Mondeor station informed them that the suspect that they were looking for, has handed himself over, hence his appearance.

- *The South African Police Service (SAPS) in Mpumalanga on Saturday welcomed the life imprisonment term handed down this week to a man convicted of killing his former girlfriend and mother of his four children about a year ago. Lucky Alfred Mhlanga, 34, was sentenced in the Mpumalanga Division of the High Court, sitting in Breyten, on Thursday for murdering his 28-year-old former girlfriend with whom he fathered four children, Mpumalanga SAPS spokesperson Brigadier Leonard Hlathi said in a statement.*
- *"The victim Zinhle Happiness Nkabinde's lifeless body was discovered on 15 February 2020 after she was reported missing on 10 February 2020. "The court heard how Nkabinde was physically abused by Mhlanga repeatedly to a point where she sought solace from authorities by applying for a protection order against the violent father of her children," he said. Despite the efforts she took to protect herself, Mhlanga "continued to make her life miserable to the extreme that on" December 26, 2019, he physically assaulted her at a farm in Piet Retief and she then reported the matter to the police who arrested him for violation of the protection order.*
- *A 25-year-old man is due to appear before the Bethal Magistrate's Court on Wednesday, 17 February 2021, following his arrest on Monday, 15 February 2021 at Standerton. The suspect allegedly committed murder in December 2017, at Emzinoni near Bethal. On the said day, the suspect was allegedly involved in a heated argument with another man at a tavern where they had a fight, at which the other man who was 25 years old, was fatally stabbed. The suspect then reportedly fled the scene and he had been in hiding ever since.*

- *Police resiliently conducted their investigation where they eventually made a breakthrough on Monday hence the court appearance of the suspect."*

Clause 5.1.2 of the schedule to the license provides that:

"South African Music Content: 80%"

The Licensee does not submit its monthly log sheets in accordance with the Compliance Procedure Manual. The monitoring exercise however found on average 80% of South African music.

The Licensee complies with its South African Music Content obligation.

Clause 5.1.3 Local Content:

"Talk vs Music: 60% Talk and 40% Music."

For the period under review, and in line with the ICT COVID-19 National Disaster Regulations, the performance period was shortened by a period of at least four (4) hours, which resulted in some programmes not airing as per regular programming schedule.

3.4 Language(s) of broadcast

Clause 5.1.4 of the schedule to the licence provides that the languages of broadcast are as follows:

5.1.4.1 isiZulu – 30%;

5.1.4.2 Sepedi – 30%

5.1.4.3 isiNdebele – 20%

5.1.4.4 English – 20%.

The monitoring exercise confirmed a balanced mix of all languages in clause 5.1.4 though its normal programming and news content.

The licensee partially complies with its language quotas.

Clause 5.2 of the schedule to 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 pro-forma of the log to be kept will be supplied by the Authority"

The licensee submits its logs of programmes in accordance with the Compliance Procedure Manual.

The licensee complies with clause 5.2 of the schedule to its licence.

3.5 Notices and Addresses

Clause 7 of the schedule to the licence stipulates that:

"The licensee chooses the following as its principal address"

7.1 Postal Address: P O Box 17024, Emalahleni Central, 1035

*7.2 Physical Address: 5546 Hectaway Drive, Lynville Municipal Offices, Kwa-Guqa
1039*

The licensee confirms that its offices are situated at the above-stated address and that there haven't been any changes in that regard.

The Licensee complies with clause 7 of its licence.

4. REGULATIONS

4.1 South African Music Content

Regulation 3 (3) of the Regulations on South African Music Content as published on 23 March 2016 stipulates that:

"A holder of a community sound broadcasting licence must ensure that after eighteen (18) months of the gazetting of these regulations, a minimum of 60%, increasing by 10% annually to reach 80% of the musical works broadcast in the performance period, consist of South African music and that such South African music is spread reasonably evenly throughout the said period".

The monitoring exercise reflects at least 80% of South African Music Content. The Licensee's playlist is a balanced combination of almost all genres including Afro pop, kwaito, house, jazz, and traditional music. Artists found on the playlist include MAJOR; Afrotraction; Press; Thulani; Museeq IQ; Shimza; Reece Madlisa; Vusi Nova; Nathi; Mzukulu; Busi Mhlongo; Zahara; Maleh and many more.

The Licensee complies with the South African Music Content Regulations.

4.2 Regulations regarding Standard Terms and Conditions for Class Licenses

For the period under review, the Licensee did not comply with the change of name obligation in the standard terms and conditions for class licences.

The Licensee did not comply with the regulations on Standard Terms and Conditions for Class Licenses.

5. CONCLUSION

For the period under review, the licensee generally complied with its licence conditions, save for the infringement under its name change notification which was not done. Broadcasting Compliance Unit will take up the matter with the Licensee to ensure full compliance with the Regulations. Due to the suspension of some obligations because of the ICT COVID-19 National Disaster Regulations, licensees were exempted from compliance with certain obligations accordingly.

6. TERMS OF REFERENCE

- 6.1 Witbank FM Class broadcasting service and spectrum licence
- 6.2 Regulations on South African Music Content
- 6.3 Regulations on Standard Terms and Conditions for Class Licences

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