



# **XK FM ANNUAL COMPLIANCE REPORT**

**MARCH 2022**

# **2020/2021 ANNUAL COMPLIANCE REPORT**

## **SOUTH AFRICAN BROADCASTING CORPORATION (SABC) BROADCASTING AS XK 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 ICASA Act<sup>2</sup>, 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.

The purpose of the report is to give an account of XK FM's compliance 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 Format, Local Content Obligations, General Programming Obligations, Training and Skills Development, Finances, Complaints, South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund (USAF) Regulations and Regulations on the Code on People with Disabilities and The ICT Covid-19 Regulations first published in April 2020 and the subsequent amendments following the proclamation of the State of National Disaster.<sup>5</sup>

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

### **2. BACKGROUND**

XK FM is an Individual Sound Broadcasting Service Licensee of the South African Broadcasting Corporation (SABC). Its languages of broadcast are !Xun and Khwe.

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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> The ICT COVID-19 National Disaster Regulations, 2020.

The radio station's mandate is to provide a full spectrum service to the geographic area of the Northern Cape Province, together with parts of Platorand and surrounding areas. The radio station is located in Kimberly, in the Northern Cape Province.

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Ownership and Control**

Clause 1 of the licence stipulates that:

- 1.1 Name of company/entity: The South African Broadcasting Corporation*
- 1.2 Shareholders: The State shall hold one hundred (100%) percent of the shares of the Corporation*
- 1.3 Ownership by persons from historically disadvantaged groups: N/A*

There were no changes on the name and shareholding of the Licensee. XK FM forms part of the public broadcasting service of the SABC and it is 100% owned by the State.

**The Licensee complies with clauses 1.1, 1.2 and 1.3 of the schedule to its licence.**

#### **3.2 Geographic Coverage Area**

Clause 3 of the schedule to the licence states that:

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

According to the frequency spectrum licence, the radio station's coverage area is Kimberly, an area in the Northern Cape, together with parts of Platorand and surrounding areas. The Licensee maintains that its coverage area is as defined in the frequency spectrum licence. No complaints were received by the Authority regarding the radio station's non-compliance with clause 3 above.

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

#### **3.3 Language(s)**

Clause 4 of the schedule to licence states that the language of broadcast is as follows:

*"Principal Language: !Xun and Khwe".*

The Authority's monitoring exercise of the radio station's programmes confirmed that XK FM's principal languages of broadcast are !Xun and Khwe, with a mixture of Afrikaans content through news and current affairs syndicated from Radio Sonder Grense (RSG) and used in interviews.

**The Licensee complies with clause 4 above.**

### **3.4 Format**

Clause 5.1 of the schedule to the licence states that:

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

Clause 5.2 of the schedule to the licence stipulates that:

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

XK FM forms part of the public service station of the SABC and offers a full-spectrum service to its audience as outlined in the licence. This was confirmed during the Authority's monitoring exercise which found that the station broadcasts different topical issues of national interest as well as a balanced mixture of music.

**The Licensee complies with clause 5.1 and 5.2 of the schedule to its licence.**

### **3.4 Local Content Obligations**

Clause 6 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:*

*Clause 6.1 different genres; and*

*Clause 6.2 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 05h00 and 23h00 daily ("the South African broadcast period"), and*

*expressing relevant details both as an aggregate in minutes and as a percentage of the total of all such programming material”.*

The ICT Covid-19 National Disaster Regulations exempt Licensees from submitting quarterly reports as stipulated in their licence terms and conditions. However, Licensees were required to keep the information and submit to the Authority upon request. The SABC submitted XK FM’s quarterly reports for the period under review in line with the ICT Covid-19 National Disaster Regulations. The Reports indicated the different genres, the South African music content and programming material for the period under review.

### **The Licensee complies with clause 5 of its licence.**

## **3.5 General programming obligations**

### **3.5.1 General**

Clause 7.1.1 stipulates that:

*“The Licensee shall ensure that its programming adequately reflects the diversity of South Africa’s Religions”.*

The SABC’s editorial policy<sup>6</sup> stipulates that:

*“Religious programmes should take account of regional factors, target audiences, language and cultural preferences, and the devotional needs of specific groups.”*

During the period under review, the monitoring exercise revealed that XK FM programmes contained religious content suitable to the iXun and Khwe speaking community. However, the programmes were broadcast outside of the South African performance period. It was confirmed during the monitoring exercise that every morning religious content is broadcast between 06:00 – 06:10, where a short sermon is held by a pastor from a chosen church.

The ICT COVID-19 National Disaster Regulations, regulation 4 sub-regulation 7 provides that the performance period for both sound and television broadcasting will run from 07h00 to 21h00.

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<sup>6</sup> An extract from the Licensee’s Editorial Policy

Sound broadcasting Licensees were exempt from compliance with specific programming requirements and promises of performance during the National State of Disaster. Therefore, findings on compliance with this clause of the licence were not made/determined during the period under review.

Clause 7.1.2 of the schedule to the licence stipulates that:

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

XK FM's programming content is true to the culture and tradition of its audience. This is reflected in its coverage of news which take place in both languages of broadcast as well as its choice of music content, which also reflects the needs of its audiences.

The monitoring exercise revealed that during the 08:20-09:00, slot there is a nation building program addressing different cultural needs.

**The Licensee complies with clause 7.1.2 of the schedule to its licence.**

Clause 7.1.3 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".*

Monitoring of XK FM confirmed that the radio station caters for the interests of all sectors of South Africa. The following programmes, among others, were monitored:

- *"Social Cohesion/Better life"*: a weekly show between 09:20 – 10:00 focusing on different issues which are of interest to different societies in South Africa.

**The Licensee complies with clause 7.1.3 of the schedule to its licence.**

**3.5.2 News and Current Affairs**

Clause 7.2.1 of the schedule attached to the licence stipulates that:

*"The Licensee shall broadcast at least thirty (30) minutes of news programming each day during the South African performance period".*

The monitoring exercise identified at least 48 minutes of news on each weekday. The following were some of the news excerpts monitored:

- *"Nog 38 sterftes weens Covid-19 is in die jongste verslagperiode aangemeld, wat Suid-Afrika se dodetal op 16-duisend-976 te staan bring. Die land se totale bevestigde gevalle het ook met duisend-573 gestyg tot meer as 681-duisend. In die afgelope vyf dae is tussen duisend-500 en duisend-800 nuwe gevalle per dag aangemeld. Die herstelkoers staan steeds op 90-persent, wat beteken dat daar tans sowat 49-duisend aktiewe gevalle is."*
- *"Suid-Afrika se grootste vakbond federasie – COSATU – en die vakverbond – SAFTU – hoop om vandag talle hoofsentra tot stilstand te bring met hulle staking oor kwessies soos korrupsie, werksverliese, die salarisgeskil in die staatsdiens, asook die regering se versuim om gesondheidswerkers toe te rus met persoonlike beskermde drag te midde van die coronaviruspandemie. COSATU het werkers wat landwyd aan die staking gaan deelneem versoek om tydens plakkaatoptogte die noodsaaklike fisiese afstand te handhaaf, of in konvoi te ry, of andersins eerder tuis te bly. SAFTU se hoofsekretaris, Zwelinzima Vavi het vroeër gesê vandag se staking is die perfekte tydsberekening, omdat die coronaviruspandemie die krisis in die staat se gesondheidstelsel ontbloot het."*
- *"Die Minister van Polisie, Bheki Cele en die Minister van Staatsveiligheid, Ayanda Dlodlo sal na verwagting vandag die familie van die vermoorde plaasbestuurder, Brendan Horner op Paul Roux in die Vrystaat besoek. Die 21-jarige Horner is vroeër die maand in die omgewing van Paul Roux vermoor. Die Ministers sal met verskeie strukture van georganiseerde landbou vergader om oplossings te probeer vind om die spanning in die gebied te probeer ontloot."*

**The Licensee complies with clause 7.2.1 of the schedule to its licence.**

Clause 7.2.2 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast at least thirty (30) minutes of current affairs programming each day during the South African performance period".*

The monitoring exercise found *Bori Ku* broadcast on weekdays between 17:00 – 18:00 and *Morosani* broadcast between 13:00 – 14:00. Various topics are discussed from parliament; unions; the running of SOE's as well as politics in general. Some of the content on the current affairs programs are sourced from Radio Sonder Grense (RSG) whereas most of the content is self-generated in accordance with the SABC's editorial policies.

**The Licensee complies with clause 7.2.2 of the schedule to its licence.**

Clause 7.2.3 stipulates that:

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

The Licensee's editorial policies indicate that it exercises full editorial control in respect of contents of its programming. The editorial policies further indicate that the Licensee endeavours to meet the highest standards of journalistic professionalism. Further, the editorial policies aim to provide fair, unbiased and impartial coverage independent from government, commercial or other forms of interference.

**The Licensee complies with clause 7.2.3 of the schedule to its licence.**



### **3.5.3 Programming targeted at Children**

Clause 7.3.1 of the schedule to the licence stipulates that:

*"The Licensee shall, in the provision of the licensed service, broadcast at least fifteen (15) minutes of programming targeted at children (as contemplated in section 10(1) (g) of the Broadcasting Act) per week during the South African performance period".*

The monitoring exercise confirmed that the licensee broadcasts children's programmes relevant to young audiences and broadcast during times where children are available, to tune into the programme concerned.

The following broadcast programme focusing on children was monitored:

- Nali ibali on weekdays between 09h00 and 10h00.

#### **The Licensee complies with clause 7.3.1 of the schedule to its licence.**

Clause 7.3.2 of the schedule to the licence stipulates that:

*"In the production of its children's programming, the Licensee shall ensure that such children's programming is:*

- (i) broadcast at the times in 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; and*
- (iii) educational and is made from children's point of view".*

The following programme was among children's programming identified:

- *Nalibali*, an educational programme on Early Childhood Development, broadcast between 09:00 and 09:30.

The programme was broadcast from a child's point of view and catered for the age groups as mentioned above. The programme was broadcast at the times when children were expected to be home. The programme was found to be of an educational nature.

#### **The Licensee complies with clause 7.3.2 of the schedule to its licence.**

### 3.5.4 Educational Programming

Clause 7.4 of the schedule to the licence stipulates that:

*"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".*

The ICT COVID-19 National Disaster Regulations, regulation 4 sub-regulation 7 provides that the performance period for both sound and television broadcasting will run from 07h00 to 21h00.

Regulation 4 sub-regulation 8B provides that Sound broadcasting service Licensees are exempt from compliance with specific programming requirements and promises of performance in terms of licence conditions during the National State of Disaster.

**Therefore, findings on compliance with this clause of the licence was not made/determined during this review period.**

### 3.5.5 Informal Knowledge-Building (IKB) Programmes

Clause 7.5 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 sub-regulation 8B provides that Sound broadcasting service Licensees are exempted from compliance with specific programming requirements and promises of performance in terms of licence conditions during the National State of Disaster.

**Therefore, findings on compliance with this clause of the licence was not made/determined during this review period.**

## 3.6 Training and Skills Development Obligations

Clause 8 of the schedule to the licence stipulates that:

*"8.1 The Licensee must adopt and implement equal opportunity employment Practice.*

*8.2 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.*

*8.3 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*

*8.4 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 plan<sup>7</sup> report and its Training and Skills Development that provides a detailed breakdown of its compliance with the above requirements to the Authority for the period under review<sup>8</sup> within 30 days of the end of the financial year.

The reports indicate that the Licensee has adopted and implemented equal opportunity employment practices and showed that the Licensee has remained committed to diversity and inclusion in the workplace. Its workforce represents the different groups of South African society.

The report further shows that the licensee delivered 765 training interventions for 690 employees. Of the total 690 employees, 491 were Africans, 67 were Coloureds, 41 were Indians, 91 were whites and 14 employees living with disabilities. The Licensee further endeavours to ensure that females are empowered and therefore 53,62% of the total employees trained, were female. Thus, confirming that the Licensee's policies consider the development of managerial, production, technical and other skills and expertise, particularly regarding the historically disadvantaged persons.

Fair and reasonable participation by historically disadvantaged persons is evident at all occupational levels and in decision-making positions.

**The Licensee complies with the entirety of clause 8 of the Schedule of its Licence.**

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<sup>7</sup> Appendix B: SABC Employment Equity and Transformation: Report to ICASA, Reporting period: 1 April 2020 – 31 March 2021.

<sup>8</sup> Appendix C: Skills and Development Report.

### **3.7 Submission of Audited Financial statements to the Authority**

Clause 9 of the schedule to the licence stipulates that:

*"The Licensee shall provide the Authority with the audited annual financial statements of the licensed service within four (4) months of the end of the licensee's financial year, provided that the licensee may on good cause apply to the Authority for extension".*

The Licensee submitted its Audited Financial Statements for the 2020/2021 financial year within the stipulated timeframe.

**The Licensee complies with clause 8 of its licence**

## **4. REGULATIONS**

### **4.1 South African Music Content Regulations**

Regulation 3 (1) of the South African Music Content<sup>9</sup> as published on 23 March 2016 stipulates 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 music and that South African music is spread evenly throughout the performance period."*

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 conducted by the Authority confirmed that XK FM broadcasts at least 70% of South African music.

**The Licensee complies with regulation 3.1 of the South African Music Content Regulations.**

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<sup>9</sup> South African Music Content Regulations

## **4.2 Regulations regarding Standard Terms and Conditions for individual licences**

Regulation 11 (3) of the standard terms and conditions<sup>10</sup> stipulates that:

*"A station must clearly identify itself at intervals of not more than thirty (30) minutes."*

During the period under review, the Authority is satisfied that the Licensee did not contravene the Standard Terms and Conditions for Individual Licences, read with The ICT COVID-19 National Disaster Regulations.

**The Licensee complies with the regulations on standard terms and conditions for individual Licensees.**

## **4.3 Universal Service and Access Fund Regulations**

Regulation 3 of the USAF Regulations<sup>11</sup> 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 Authority received a Section 18A certificate as confirmation of payment from the MDDA and the Licensee submitted proof of payment<sup>12</sup> to the Authority.

**The Licensee complies with the regulations in respect of Universal Service and Access Fund.**

## **4.4 COMPLAINTS**

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<sup>10</sup> Regulations regarding the Standard Terms and Conditions for Individual Licensee's

<sup>11</sup> Universal Service and Access Fund Regulations

<sup>12</sup> Proof of SABC's contribution to the USAF

Form 12A: Complaints Report of the Compliance Procedure Manual Regulations read with the Code of Conduct for Broadcasters, requires that broadcasters complete the form bi-annually in accordance with the Licensees' Financial Year. The ICT COVID-19 National Disaster Regulations, regulation 4 sub-regulation 1 provides that the Licensees are exempt from the responsibility to resolve complaints received within the time frames prescribed by the Authority in its Regulations.

Sub-regulation 2 provides that notwithstanding the provisions of sub-regulation (1), licensees must ensure that all complaints they receive, are resolved within twenty (20) working days from the date of receipt thereof.

There were no complaints received by the licensee during the period under review. Further, no complaints were escalated to the Authority.

## **5. CONCLUSION**

During the period under review, the Licensee complied with its licence terms and conditions and related regulations that govern public broadcasters.

## **6. TERMS OF REFERENCE**

Attachment 1 : XK FM's Broadcasting Service Licence

Attachment 2 : XK FM's Frequency Spectrum Licence

Attachment 3 : Extract from the Licensee's Editorial Policy

Attachment 4 : Training & Skills Development Report

Attachment 5 : The ICT COVID-19 National Disaster Regulations, 2020

Attachment 6 : Standard terms and conditions for individual licensees, 2010 as amended

Attachment 7 : Universal Service and Access Fund Regulations, 2011

Attachment 8 : Proof of SABC's Contribution to USAF

**END**