



iGAGASI FM ANNUAL COMPLIANCE REPORT

MARCH 2022

2020/2021 ANNUAL COMPLIANCE REPORT

RADIO iGAGASI 99.5 (PTY) LTD BROADCASTING AS iGAGASI 99.5

Licence Period: 17 December 2018 – 16 December 2028

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 monitor compliance by broadcasters with the terms and conditions of their licences, the three Acts and any other relevant legislation and Regulations.

The purpose of the report is to give an account of Radio iGagasi 99.5 (Pty) Ltd (“iGagasi 99.5”/ “the Licensee”)’s compliance for the 2020/2021 financial year. Aspects of compliance that are measured comprise of the geographic coverage, language(s) of broadcast, broadcast content format, training and skills development equity, staff development and employment equity plan, general programming obligations, ownership by individuals from historically disadvantaged groups, Regulations regarding Standard Terms and Conditions for Individual Broadcasting Services, General Licence Fees Regulations, Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund and South African Music Content Regulations.

2. BACKGROUND

iGagasi 99.5 holds an Individual Commercial Sound Broadcasting Service (“I-CSBS”) licence and a Radio Frequency Spectrum (“RFS”) licence (collectively referred to as “licences”), to provide broadcasting services to the Durban Metropolitan, Ulundi, Glencore, Port Shepstone and Greytown in the Province of

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

² ICASA Act, 2000 (Act No. 13 of 2000), as amended

³ Electronic Communications Act, 2005 (Act No. 36 of 2005)

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

KwaZulu-Natal. The Authority issued iGagasi 99.5 with its renewed licences on 17 December 2018.

3. COMPLIANCE ASSESSMENT

3.1. Ownership and Control

Clause 1.1 of the service licence provides that:

"Name of Company/Entity: Radio iGagasi 99.5 (Pty) Ltd".

The Licensee is Radio iGagasi 99.5 (Pty) Ltd as stipulated in its licences.

The Licensee complies with clause 1.1 of its service licence.

Clause 1.2 of the service licence provides that:

"Shareholders: Makana Radio Communications (Pty) Ltd (100%)".

The Licensee, in its annual submission, reflected its shareholder name as MRC Media (Pty) Ltd. There is no record of the notification, advising the Authority of its shareholder name change. The Compliance Department has engaged the Licensee and its legal representatives regarding the name change and has resolved to refer the matter to the Complaints and Compliance Committee (CCC) for adjudication.

Compliance with clause 1.2 will be determined by the CCC outcome.

Clause 1.3 of the service licence provides for:

"Ownership held by persons from historically disadvantaged groups:

<i>(a) Tsiya Radio (Pty) Ltd</i>	<i>41.48%</i>
<i>(b) Kagiso Media Investments (Pty) Ltd ("LWI")</i>	<i>14.39%</i>
<i>(c) Victory Parade Trading 55 (Pty) Ltd</i>	<i>8.69%</i>

The Licensee's shareholding structure regarding historically disadvantaged group equity ownership, has not changed and remains at 65%.

The Licensee complies with clause 1.3 of its service licence.

3.2. Geographic Coverage Area

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

"Durban Metropolitan, Port Shepstone, Ulundi, Glencore and Greytown as per the technical specifications attached to the Licensee's radio frequency spectrum licence".

The Licensee confirms that the geographic coverage area remains as it is defined and specified in its licences⁵.

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

3.3. Broadcast Language(s)

Clause 4 of the schedule to the service licence states that:

"Principal languages

4.1 English - 50%; and

4.2 isiZulu – 50%."

The monitoring exercise confirmed that the Licensee broadcasts interchangeably in English and isiZulu. For example, presenters converse in both English and isiZulu; news, weather, traffic and sport are read in both English and isiZulu and the Licensee identifies itself in both languages of broadcast. Further, comments and messages posted by listeners on the Licensee's social media platforms and are read out during broadcasts are a mix of isiZulu and English.

The Licensee complies with clause 4 of the schedule to its service licence.

3.4. Format

Clause 5 of the schedule to the service licence provides for:

"The Licensee shall have a programming format of music in an adult contemporary jazz format".

⁵ Appendix B: ICASA Compliance Report Mar 20 – Feb 21

The monitoring exercise confirmed that the Licensee offers an adult contemporary jazz playlist ("popular music") that includes, Rhythm and Blues with Rock influences, Soul, Pop, Gospel and Easy Listening.

The following artists were featured: Zodwa "Kwagqitywa", Mthunzi Namba "Ngiyimbonga", Smokie Norful "No One Else", Chris Brown ft Young Thug "Go Crazy", Beyonce ft Jay Z "Drunk in Love", Bruno Mars "24K Magic" and many more.

The Licensee complies with clause 5 of the schedule to its service licence.

4. GENERAL PROGRAMMING OBLIGATIONS

Clause 6.1 of the schedule to the service licence stipulates that:

"The Licensee shall broadcast a minimum of thirty (30) minutes of news per day between 05h00 and 23h00".

Clause 6.2 of the schedule to the service licence states that:

"Should the Licensee source news material from a source other than itself the source(s) thereof shall be disclosed during the news broadcast".

Clause 6.3 of the schedule to the service licence provides that:

"The Licensee shall broadcast news for an average of six (6) minutes every hour between 06h00 and 09h00 on all weekday mornings. News shall be broadcast in English and isiZulu".

Clause 6.4 of the schedule to the service licence stipulates that:

"In compiling news and information programmes, the Licensee shall reflect on news from the Continent".

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".

Further, 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 clauses 6.1 – 6.4 of the schedule to its service licence during the National State of Disaster.

5. TRAINING AND SKILLS DEVELOPMENT OBLIGATIONS

Clause 7.1 of the schedule to the service licence stipulates that:

"The Licensee shall put particular emphasis on training and development of staff from historically disadvantaged groups".

Clause 7.2 of the schedule to the service licence provides that:

"The Licensee shall establish an employee training programme and shall spend a minimum of R500 000 (five hundred thousand Rand) over the licence period thereon".

Clause 7.3 of the schedule to the service licence stipulates that:

"The Licensee shall actively pursue the appointment of more women on-air presenters".

Clause 7.4 of the schedule to the service licence provides for:

"The Licensee to regularly receive and train interns and students from tertiary institutions across South Africa".

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 exempted from complying with clauses 7.1 – 7.4 of the schedule to its service licence during the period under review.

6. REGULATIONS

6.1. ICASA South African Music Content Regulations, 2016

Regulation 3(2) of the ICASA South African Music Content Regulations, as published in *Government Gazette* No. 39844 dated, 23 March 2016, stipulates that:

"A holder of a commercial sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting these Regulations, a minimum of 35% of the musical works broadcast in the performance period, consists of South African music and that such South African music is spread evenly throughout the performance period".

The Authority's monitoring exercise confirmed that on any given day, the Licensee's playlist includes an average of 56% South African music. The music genres range from House, Classic Soul, Afro Pop, Gospel, Kwaito and Rhythm and Blues. The South African music played by the Licensee include, amongst others, Nomcebo Zikode *"Injabulo"*, Mthunzi ft Simmy *"Selimathunzi"*, Sbahle *"Emlanjeni"*, Cici ft Mafikizolo *"Hamba Naye"*, Sithelo – Thula ft Mpumi and Drama Drizzy *"Umoya wami"* and many more.

The Licensee complies with the ICASA South African Music Content Regulations.

6.2. Regulations on Standard Terms and Conditions for Individual Broadcasting Services, 2010⁶ as amended.

Clause 1.2 of the Licensee's Individual Commercial Sound Broadcasting Service ("I-CSBS") licence reflects the shareholders of Radio iGagasi 99.5 (Pty) Ltd as Makana Radio Communications (Pty) Ltd. However, the Licensee's annual compliance submission reflected the shareholders of the Licensee as MRC Media (Pty) Ltd.

The Compliance Department has referred the Licensee to the CCC regarding the above. **See 3.1 above.**

6.3. 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, provides that:

"Every holder of the licence granted in terms of Chapter 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of the 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 has paid its USAF contribution directly to the MDDA as required by Regulations 3(1) and 3(2) of the Universal Service and Access Fund Regulations.

⁶ Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010 as amended.

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.

6.4. ICASA General Licence Fees Regulations, 2012⁷

Schedule 2 of the General Licence Fees Regulations provides for Individual Commercial Broadcasting Service Licensees, to pay annually to the Authority a licence fee of between 0.15% to 0.35% of its licensed revenue (revenue from its licensed services).

Schedule 3(2) of the General Licence Fees Regulations provides that:

"All licence holders must submit within six (6) months of their financial year end:

- a) audited Annual Financial Statements, or;*
- b) financial statements signed by the accounting officer of the Licensee where the Licensee is not legally obliged to provide audited financial statements"*

Schedule 3(6) of the General Licence Fees Regulations provides that:

"All payments in respect of Annual Licence Fees are due annually"

The Licensee has submitted its audited Annual Financial Statements and has paid the required annual licence fees.

The Licensee complies with the ICASA General Licence Fees Regulations.

6.5. ICASA Compliance Procedure Manual Regulations, 2011

The Licensee is required in terms of the Compliance Procedure Manual Regulations as published in the *Government Gazette* No. 34863 dated, 15 December 2011 to submit a Form 12A which reports on all complaints received during the financial year under review.

⁷ General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013.

According to the Licensee's submission, they received two (2) complaints. On 04 December 2020, the Licensee received a complaint regarding inappropriate content and the complaint was resolved within a period of five (5) weeks. On 01 February 2021, the Licensee received a complaint regarding inappropriate language and that complaint was resolved in five (5) days.

The Licensee complies with the ICASA Compliance Procedure Manual Regulations

7. CONCLUSION

For the 2020/2021 financial year, the Licensee is compliant with most of its I-CSBS licence terms and conditions and applicable Regulations.

However, the Licensee appears to have changed its shareholder without submission of the required notice to the Authority and compliance with the Regulations in that regard. Compliance department has resolved to refer the matter to the CCC.

8. TERMS OF REFERENCE

- 8.1.** Appendix A: Radio iGagasi 99.5 (Pty) Ltd I-CSBS licence and RFS licence.
- 8.2.** Appendix B: ICASA Compliance Report Mar 20 – Feb 21.
- 8.3.** Appendix C: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016.
- 8.4.** Appendix D: Regulations on Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010, as amended.
- 8.5.** Appendix E: USAF Regulations 2011, published in *Government Gazette* No. 34010 dated, 10 February 2011.
- 8.6.** Appendix F: ICASA General License Fees Regulations 2012, published in *Government Gazette* No. 36323 dated, 28 March 2013 as amended. (Amendment published in *Government Gazette* No. 37521 dated, 02 April 2014).
- 8.7.** Appendix G: ICASA Compliance Procedure Manual Regulations 2011, published in *Government Gazette* No. 34863 dated, 15 December 2011.

- 8.8.** 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.