

2011/2012 ANNUAL COMPLIANCE REPORT

94.5 KFM

Licence Period : 18 December 2008 - 17 December 2018

1. PREFACE

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution¹, the ICASA Act² and the Electronic Communications Act³ ("EC Act") to regulate broadcasting activities in South Africa in the public interest. The Authority is tasked with ensuring compliance by broadcasters with the ICASA Act, the EC Act, the terms and conditions of their Licence, any relevant legislation and regulations.

The following report is intended to give account of 94.5 KFM's performance for the financial period ended June 2012. Aspects of compliance that are measured comprise of Geographic Coverage, Format, Local Content Obligations, General Programming Obligations, Training and Skills Development Obligations, Community Related Obligations, South African Music Content, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations and General Licence Fees Regulations.

2. BACKGROUND

In December 2008, the Authority issued Primedia (hereinafter referred to as "the Licensee") with an Individual Commercial Sound Broadcasting Service licence and a radio frequency spectrum licence in terms of the EC Act of 2005. The Licensee broadcasts as 94.5 KFM and broadcasts a programming format of a mix of music and information including community affairs, in an adult contemporary manner to the Greater part of Western Cape and Southern Cape.

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

² ICASA Act No 13, 2000 as amended.

³ Electronic Communications Act No 36, 2005.

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

Clause 2 of the schedule to the licence stipulates that KFM's geographic coverage area is:

"Greater part of the Western Cape and Southern Cape, as defined in the coverage map attached to the Licensee's radio frequency licence" (See Appendix A).

According to the service licence, the radio station covers the greater part of Western Cape and Southern Cape. The Licensee submits that its coverage area is as defined in the licence.

94.5 KFM complies with clause 2 of the licence.

3.2 Broadcast Language(s)

Clause 3 of the schedule to the licence stipulates that the languages of broadcast are:

"Afrikaans and English."

The Licensee maintains that its service is provided in English and Afrikaans. This was confirmed during the Authority's monitoring of 94.5 KFM's programming profile.

94.5 KFM complies with clause 3 of the Schedule to its licence.

3.3 Format

Clause 4 of the schedule to the licence stipulates that:

"The Licensee shall have a programming format of talk and music in an adult contemporary format, providing a mix of music and information (including coverage of community affairs)".

94.5 KFM submits that the radio station continues to broadcast adult contemporary music with a mix of music and information. The radio station's programme log sheet attests to the radio station's submissions (*See Appendix B*). The format was confirmed by the Authority during its monitoring exercise.

94.5 KFM complies with clause 4 of the Schedule to its licence.

3.4 Local content obligations

Clause 5 of the schedule to the licence stipulates that:

"The Licensee shall ensure at least thirty percent (30%) local content in its music output".

94.5 KFM submits that the radio station has, during the period under review, ensured that it complies with the minimum requirement of 30% local content.

The Authority's monitoring exercise confirmed that the Licensee broadcasts approximately 30% South African music. The following artists were identified:

Lebo Mathosa, Elvis Blue, Loyiso Bala, Loyd Cele, JR, Lira, Unathi Nkayi, Mirriam Makeba, Crazy Whiteboy, Freshly Ground, Zahara, Denim, The Soil, DJ Sbu, Toya Delazy, A.K.A, Liquid Deep, Micasa, Theo Kgosi and Drieman Skaap.

94.5 KFM complies with clause 5 of the Schedule to its licence.

3.5 General Programming Obligations

Clause 6.1 of the schedule to the licence stipulates that:

"The Licensee shall broadcast news for five minutes every hour per day".

The Licensee submits that the radio station broadcasts one hundred and thirty four (134) minutes of news daily. Furthermore, 94.5 KFM reports that the radio station's news content is made up of weather updates, sport news, traffic updates and public service announcement news (*See Appendix C*).

The Authority's monitoring exercise confirmed that the Licensee broadcasts thirteen (13) news bulletins between 06h00 and 19h00 on weekdays. The news bulletins last for approximately five (5) minutes. However, the news is not broadcast every hour as per the requirement above. No news bulletins were identified during weekdays at the following times: 05h00, 20h00, 21h00 and 22h00.

Furthermore, only six (6) news bulletins were identified on each day of the weekend between 07h00 and 13 hours.

The Licensee has, during the period under review, failed to comply with clause 6.1 of the Licence.

Clause 6.2 of the Schedule to its licence stipulates that:

"The Licensee shall include news from the African continent and the related coverage area".

The Authority's monitoring confirmed that the radio station's content includes news from the African content and coverage area and those of national interest.

The following news stories were identified:

- *"Hawks Officer, Ismerald Bailey, will formally apply for bail on Wednesday. She appeared in court today on corruption charges as she is accused of organising the sale of police uniforms and unlicensed ammunition";*

- *"A group of protesters have appealed to the Government not to deport needy African foreigners. Some demonstrators marched to Parliament today demanding Government change its foreign policy";*
- *"The SA Communist Party says it's concerned about tax on President Jacob Zuma and the behaviour of some ANC members.*
- *Suspended ANC Youth League President, Julius Malema, apparently joined in songs that ridiculed Zuma at the ANC Limpopo conference over the weekend and labelling him the Shower Man"; and*
- *The South Korean News Agency says that North Korea has conducted a short range missile test shortly after announcing the death of leader Kim Jong Il, today. The world is watching wearily for signs of instability in the nation pursuing nuclear weapons".*

The Licensee complies with clause 6.2 of the Schedule to its licence.

3.6 Training and Skills Development

Clause 7 of the Schedule to its licence stipulates that:

"The Licensee shall spend one percent (1%) of its annual salary payroll over its licence period on staff training and development, particularly on staff from historically disadvantaged groups".

During the period under review, the Licensee reports to have spent an amount of nineteen million, five hundred and forty four thousand, two hundred and ninety seven rand and sixty nine cents (R19,544,297.69) on salary payroll. One percent of this amount is one hundred and ninety five thousand, four hundred and forty two rand and ninety seven cents (R195, 442.97).

However, the Licensee reports to have spent, in past fiscal year, an amount of five hundred and forty one thousand, eight hundred and twenty seven rand

(R541 827.00) on training of its historically disadvantaged staff. Seventy five percent (75%) of this amount which is four hundred and seven thousand, eight hundred and twenty four rand and sixty cents (R407 824.60), was spent on training of Black personnel.

The following table reflects the demographics of the Licensee's trained personnel in the year ended June 2012:

PERIOD OF TRAINING	INDIVIDUALS TRAINED (No.)	FEMALES	BLACK
July 2011 to June 2012	97 People	58 equalling 58.8% of the overall trained personnel.	61 equalling 63% of the overall trained personnel.

As can be seen from the above table, a bulk of the amount spent on training was used to train historically disadvantaged individuals.

The Licensee complied with clause 7 of its licence.

3.7 Community-related Obligations

Clause 8.1 of the Schedule to its licence stipulates that:

"The Licensee shall offer community sound broadcasters the following training:

8.1.1 programme presenting and production, news, sales, marketing and sound engineering through mentoring and on-the-job training that is, having such staff "shadow" 94.5 Kfm's presenters, producers, news reporters, sales representatives, marketing staff and sound engineers while at work.

8.1.2 in-house training by way of internships to cover sales marketing, traffic, news, and broadcasting production and presentation".

During the year under review, 94.5 KFM reports to have reports to have hosted a workshop in a joint venture with a sister station, 567 Cape Talk which offered educational training on three aspects of advancing radio broadcasting. The workshop covered:

- Digital and Social Media;
- Transforming Meetings; and
- News and latest strategies and best practices.

And the following community radio stations amongst others are reported to have attended this workshop, which was hosted on 25 May 2012:

- Radio Tygerberg;
- Radio 786;
- Cape Community Radio (CCFM);
- Fine Music Radio;
- Cape Peninsula University of Technology Radio (CPUT Radio Bellville);
- Cape Peninsula University of Technology Radio (CPUT Radio Cape Town);
- Radio Zibonele;
- Voice Of The Cape; and
- University of Cape Town Radio (UCT Radio).

The Licensee complies with clauses 8.1.1 and 8.1.2 of its licence.

Clause 8.2 of the Schedule to the licence stipulates that:

"The Licensee shall:

8.2.1 raise at least R250 000 (two hundred and fifty thousand Rand) in cash and goods annually, and

8.2.2 provide airtime worth R250 000 (two hundred and fifty Rand) annually, towards supporting community organisations such as those benefiting:

- (a) *People infected or affected by HIV and Aids;*
- (b) *The terminally ill and/or the elderly;*
- (c) *Schools;*
- (d) *Women;*
- (e) *Children; and/or*
- (f) *Animal welfare; and/or*
- (g) *Natural / environmental disasters such as fires and floods."*

During the year under review, the Licensee reports to have raised cash and goods to the value of one million six hundred and forty three thousand, five hundred and ninety eight rand and ninety six cents (R1, 643,598.96) in support of the initiatives and benefiting groups (*See Appendix D for further details*).

In addition, according the radio station's Corporate Social Investment Report which was submitted to a BBBEE verification agency, Honeycomb, the radio station spent an amount of nine million five hundred and fifty two thousand, one hundred and seventy nine rand and forty three cents (R9,552,179.48) on community initiatives. This amount included airtime given for these initiatives (*See Appendix E*).

The Licensee complies with clause 8.2.1 and 8.2.2 of the licence.

3.8 Ownership and Control

Clause 9.1 of the schedule to the licence stipulates that:

"The Licensee shall ensure that at least fifty percent (50%) of its board of directors are persons from historically disadvantaged group".

During the period under review, the Licensee reports to have had eight (8) directors and six (6) of them were Black people, which translates to seventy five percent (75%) of the persons from historically disadvantaged backgrounds.

The Licensee complies with clause 9.1 of Schedule to its licence.

Clause 9.2 of the Schedule to the licence stipulates that:

"The Licensee shall ensure that the majority of all senior management and staff are persons from historically disadvantaged groups".

The Licensee reports that during the period under review it had ten (10) individuals holding senior management positions and sixty percent (60%) of the said group is from historically disadvantaged backgrounds.

Furthermore, the Licensee employs ninety two (92) individuals out of which fifty seven percent (57%) is female employees and sixty four percent (64%) is Black persons.

The Licensee complies with clause 9.2 of the schedule to the licence.

4. REGULATIONS

4.1 Standard Terms and Conditions

During the year under review, the Authority did not identify any non-compliance by the Licensee with the standard terms and conditions for individual licences.

4.2 South African Music Content

Regulation 3.2 of the Regulations on South African Music Content as published on 31 January 2006 stipulates that:

"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that a minimum of 25% 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 Authority confirmed that the Licensee broadcasts approximately 30% South African music. The following artists were identified: Loyiso Bala, Loyd Cele, JR, Lira, Unathi Nkayi, Freshly Ground, Zahara, The Soil, DJ Sbu, Toya Delazy, A.K.A, Liquid Deep, Micasa, Theo Kgosinkwe and Drieman Skaap.

The Licensee complies with regulation 3.2 of the South African Music Content Regulations.

4.3 Universal Service and Access Fund

Regulation 3 (1) of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund as published in the Government Gazette, no 31499 stipulates that:

"Every holder of a licence granted in terms of Chapter 3 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of the annual turnover, derived from the licensee's licence activity, to the Fund (the Fund)".

Further, Regulation 3 (3) stipulates that:

"A broadcasting service licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution against its prescribed annual contribution to the Fund".

The Licensee made a payment of one million, seven hundred and ninety two thousand, and seventy three rand, and nine cents (R1 792, 079.09) towards the Universal Service and Access Fund. This payment was received on 01 October 2012. Proof of payment was duly submitted to the Authority on even date (See Appendix F).

The Licensee has complied with regulation 3(1) and 3(3) of the USAF Regulations.

4.4 General Licence Fees

Regulation 3(1) of the General Licence Fees Regulations 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 of the Annual Licences Fees regulations provides for Individual Commercial Broadcasting Service Licensees to pay an annual licence fee of 1.5% of gross profit to the Authority.

Regulations 4 (b) and (c) of Schedule 3 stipulates that:

"(b) in respect of payment, such 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 paid two million, two hundred and ninety nine thousand, six hundred and forty nine rand and forty two cents (R2, 299, 649.42) towards the annual general licence fee payment. Proof of payment of licence fees was submitted to the Authority on 26 September 2012, which is within the six months after its financial year end (See Appendix G).

The Licensee has complied with the Licence Fees Regulations.

5. CONCLUSION

94.5 KFM has complied with most of its licence terms and conditions and applicable regulations. However, the Licensee has failed to comply with clause 6.1 of its licence. This matter will be discussed with the Licensee.

6. APPENDICES

Appendix A: KFM Licence Terms and Conditions

Appendix B: KFM' General Log Sheet (One month sample)

Appendix C: News content broken down

Appendix D: KFM's Cash and Goods raised report

Appendix E: KFM's CSI Report

Appendix F: Proof of Payment (USAF)

Appendix G: Proof of Payment (License Fee)