

2011/2012 ANNUAL COMPLIANCE REPORT

ALGOA FM

LICENCE PERIOD : 17 December 2008 – 16 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 terms and conditions of their License, the Electronic Communications Act (“EC Act”), the ICASA Act and any relevant legislation.

The following report is intended to give account of Algoa FM’s performance from 01 April 2011 to 31 March 2012, which is in line with the Licensee’s financial year. Aspects of compliance that are measured comprise of Format, Local Content Obligations, General Programming Obligations, Training and Skills Development Obligations, Finances, compliance with South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions, Universal Service Fund Obligations, Licence Fee Regulations and the Regulation on Municipal Elections Broadcast.

2. BACKGROUND

In 17 December 2008, the Authority issued Umoya Communications (Pty) Ltd (hereinafter referred to as “the Licensee”) with a commercial sound broadcasting service licence and a radio frequency spectrum licence in terms of the EC Act. The Licensee broadcasts as Algoa FM and the licence is valid for ten (10) years and expires on 16 December 2018.

¹ The Constitution of the Republic No. 108, 1996

² ICASA Act No. 13 , 2000 as amended

³ Electronic Communications Act No. 36, 2005

Algoa FM is a regional commercial sound broadcasting radio station that was licensed to provide a service in the Greater Eastern Cape Area, including the Metropolises of Nelson Mandela Bay and the Buffalo City, for example Port Elizabeth and East London.

Algoa FM offers a programming format of talk and music in an adult contemporary format, providing a mix of music and information.

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

Clause 2 of Algoa FM's service licence states that the Licensee's geographic coverage area is:

"The Greater Port Elizabeth, East London, Border environs, Knysna, George and Mossel Bay as defined in the coverage map attached to the Licensee's radio frequency spectrum licence."

According to the frequency spectrum licence, Algoa FM reaches the following areas: Aliwaal North, Andrieskraal, Bedford, Cradock, East London, George, Graaf-Reinet, Grahamstown, Hankey, Kareedouw, King Williams Town, Knysna, Noupoort, Parsons Hill, Patensie, Paul Sauer Dam, Plettenberg Bay, Port Elizabeth, Queenstown and Suurberg (*See Appendix A*).

During the period under review, Algoa FM applied for an extension of the radio station's coverage footprint which was granted by the Authority. The Licensee's coverage footprint now includes George, Knysna and Mossel Bay as listed above.

3.2 Broadcast Language

Clause 3 of the licence states that Algoa FM's main language of broadcast is:
"Principal Language: English".

Algoa FM submits that the radio station's principal language of broadcast remains "English".

The monitoring exercise carried out by the Authority for the period under review confirmed that "English" remains the radio station's dominant language of broadcast. IsiXhosa and Afrikaans languages were identified. These were on a very small scale.

Algoa FM complies with clause 3 of its licence.

3.3 Format

Clause 4.1 of the licence states that:

"The Licensee shall have a programming format of talk and music in an adult contemporary format, providing a mix of music and information."

Algoa FM submits that its programming format has always remained a mix of music and talk, in an adult contemporary manner.

The abovementioned format was verified by the Authority during monitoring of the radio station's programming profile. The radio station's selection of music is dominated by old time classics, music that mostly adults identify with.

Algoa FM's music list features, among others, the following artists: Frank Sinatra, Michael Jackson, Isaac Hayes, Neil Diamond, Stevie Wonder, Dolly Parton, The Temptations, Brenda Fassie, Jabu Khanyile and Shania Twain. (See *General Log Sheet attached as appendix B*).

Algoa FM complies with clause 4.1 of its licence.

Clause 4.2 of Algoa FM's service license states that:

"Music shall constitute eighty percent (80%) of the average 24 hour day".

The Licensee submits that its average twenty four (24) hour broadcast day contains eighty percent (80%) mix of music.

The Authority's monitoring exercise confirmed the submission made by the Licensee. The Licensee plays approximately fifty (50) minutes of music in an average hour and this translates to eighty percent (80%) mix of music of the average 24 hour day. (*See Algoa FM's programming log sheets attached as appendix C for further details*).

Algoa FM complies with clause 4.2 of its licence.

3.4 Local Content Obligations

Clause 5 of the license states that:

"The Licensee shall promote Eastern Cape Artists and musicians by broadcasting their music and conducting live interviews."

According to the reports submitted to the Authority, Algoa FM states that compliance with this clause is subject to the radio station receiving requests for on air exposure from local artists.

Algoa FM's efforts for complying with this clause are evident on the Licensee's website where they invite Eastern Cape based artists to submit their demos.

Algoa FM's "Friday Music Club Show" is also another vehicle that the Licensee uses to lure up and coming locally based artists to submit demos for airplay. The Authority's monitoring identified Stuart Reece Band's "Call the Doctor" and "Love Song" as enjoying airplay on Algoa FM's music play list.

The Stuart Reece band is based in Port Elizabeth and was established in November 2011. The on air interview with the band members revealed that the album is due to be released in February 2012.

Algoa FM also submits that it has, during the period under review, featured the following Eastern Cape Artists on their play list:

NAME OF ARTIST	NAME OF SONG
Binx	La la love
Gino Lee	Stories of Love
Denzil Africa	Woman
Southern Gypsy Queens	Angel's Wings

Algoa FM has, during the period under review, complied with clause 5 of the licence.

3.5 General Programming Obligations

Clause 6.1 states that:

"The Licensee shall broadcast news on a regular basis for a minimum of thirty (30) minutes each day between 05h00 and 23h00."

Algoa FM submits that it broadcasts news every hour on the hour between 06h00 and 18h00 and six news updates during the day.

The Authority's monitoring exercise revealed that the radio station broadcasts thirteen (13) full news bulletins and six (6) news update bulletins during week days. In total, the Licensee broadcast an average of 45 minutes of news per day from Monday to Friday.

However, from the submitted programme schedule and the monitoring conducted, it was noted that Algoa FM broadcasts five (5) main news bulletins on each day of the weekend i.e. Saturday and Sunday. The bulletins were calculated to carry an average of twenty (20) minutes of news per day over the weekends. On Sunday, 25 December 2011 there was an exception with only two (2) news bulletins broadcast for the whole day.

Although the radio station complies with the obligation of a minimum of thirty (30) minutes each day during weekdays, there is a shortfall during weekends.

This matter was raised by the Authority with Algoa FM in a letter dated 20 June 2012 (*See Appendix D*). In response, Algoa FM undertook to apply for a licence amendment in this regard. At the time of writing this report no formal amendment application had been received.

Clause 6.2 of Algoa FM's 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."

During the period under review, the Authority's monitoring exercise revealed that the radio station's dominant source of news is News 24. This information is made available during top of the hour news bulletins.

Algoa FM complied with clause 6.2 of its licence.

Clause 6.3 of the licence states that:

"The Licensee shall ensure that regional content of forty percent (40%) is included in news and current affairs programming."

Algoa FM's endeavour to maintain local news content in their news bulletin was identified during the monitoring exercise. Throughout the year under review, the radio station's regional news content was calculated to be an average of 39.4%; with a shortfall of 0.6% to the 40% required by the licence obligations.

However, Algoa FM's national news content was observed to carry information that is relevant to the Eastern Cape Region among other regions. The 0.6% shortfall is therefore made up for in Algoa FM's national news content.

Algoa FM complied with clause 6.3 of its licence.

3.6 Training and Skills Development Obligations

Clause 7.1 of the licence states that:

"The Licensee shall ensure that it actively recruits and increases women and Black people in its staff complement at all levels."

During the period under review, Algoa FM reported to have increased its staff complement by nine individuals. Of the nine appointments fifty five percent (55%) is black people and seventy seven percent (77%) is women. Below is the list of individuals appointed in the year under review:

1. Linda Mtumtum - Black, Female;
2. Yolisa Rwexwana - Black, Female;
3. Amy Keevy - White, Female;
4. Zona Mpendulo – Black, Female;
5. Jennilee Peremore – White, Female;
6. Nadia Pieterse – White, Female;
7. Mio Khondleka – Black, Female;
8. Hemk Tait – White, Male; and
9. Collin Mattheus – Black Male.

Algoa FM has demonstrated compliance with clause 7.1 of the licence.

Clause 7.2 of the licence states that:

"The Licensee shall dedicate R250 000 per annum to human resources training and development with particular emphasis on staff from historically disadvantaged groups."

During the year under review, Algoa FM reports to have spent an amount of three hundred and fifty nine thousand rand, nine hundred and fifty nine rand and ninety one cents (R359 959.91) on training and development of the radio station staff. The Authority's calculations added up a total of 59.18% as having been used on training of historically disadvantaged groups.

Algoa FM has complied with clause 7.2 of its licence.

3.7 Community Related Obligation

Clause 8.1 of the licence states that:

"The Licensee shall raise at least R2 000 000 (two million rand) for registered charities over the licence period."

In the year under review, Algoa FM submits to have raised a total of three million, four hundred and seventy five thousand, six hundred and forty four rand (R3, 475, 644) for registered charities. This amount was raised through the Licensee's initiatives and partnerships with various organisations (working for charity) which include:

1. The Kick in Their Shoes project
2. Algoa FM Charity Golf Day
3. Iron Kids
4. Winter Wooly Week
5. Spar Ladies Race
6. The Incubator Project
7. Business Against Crime Golf Day

The Licensee is in its third year of broadcast and has already raised six million, two hundred and eighty nine thousand three hundred and fifty two rand (R6, 289, 352.00) since 2008.

Algoa FM complied with clause 8.1 of the licence.

Clause 8.2 of the licence states that:

"The Licensee shall, at least bi-annually, hold a listener's forum comprising at least 10 people with no affiliations to the Licensee, to ensure that the

broadcasting needs of the Licensee's target audience are being met. The listeners' forums shall be held in Port Elizabeth and East London."

During the year under review, Algoa FM failed to convene the listener's forum as prescribed by clause 8.2 of the Licence document. In their submission, the radio station undertook to convene same in May 2012. As indicated earlier, the report is for the period 01 April 2011 to 31 March 2012.

3.8 Transmitter Split

Clause 9 of the Algoa FM's broadcast service licence states that:

"The Licensee is authorised to operate a transmitter split service known as the border drive which may not broadcast for more than four (4) hours in any 24 hour period".

Algoa FM's transmitter split was identified between 15h00 and 19h00 and is known as the Border Drive. This programme is broadcast from the Licensee's studios which are based in East London.

Algoa FM complies with clause 9 of its licence.

3.9 Ownership and Control

Clause 10.1 of the licence states that:

"The Licensee shall ensure that control of the station rests with people from the Eastern Cape and that at least fifty percent (50%) of its board of directors are based in the Eastern Cape".

Seventy five percent (75%) of the members seated on the Board of Directors of the radio station are based and are originally from the Eastern Cape. The twenty five percent (25%) that resides outside the Eastern Cape are all non-executive board members.

Algoa FM has complied with clause 10.1 of its licence.

Clause 10.2 of the licence states that:

"The Licensee shall ensure that at least thirty percent (30%) of its management staff comprise of women and Black people".

Algoa FM's latest report submits that 37.1% of the Licensee's management staff is constituted of women and Black people.

Algoa FM has complied with clause 10.2 of its licence.

Clause 10.3 of the licence states that:

"The Licensee shall identify black and female employees with management potential and ensure that they receive additional training to equip them for future management position at the station".

The radio station's latest report indicates that currently there are no black or female trainees for future management positions. This is due to the resignation of their junior management program candidate, Suren Packery, who was black and female, in June 2011. This means therefore that, in the year under review, Algoa FM had a black female trainee for future management positions until Suren Packery's resignation.

Algoa FM reasonably complied with clause 10.3.

4. REGULATIONS

4.1 Standard Terms and Conditions

Regulation 11 (3) of the on Standard Terms and Condition states that:

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

Algoa FM's "jingles" which are used to identify the radio station, were identified during monitoring. In almost every ten (10) minutes, the radio station identifies itself.

It is the Authority's view that Algoa FM did not contravene any regulation in respect of the Standard Terms and Conditions Regulations for Individual Licences.

The Licensee complies with the abovementioned regulations.

4.2 South African Music Content Regulations

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

"Every holder of a commercial sound broadcasting license to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 25% of the musical works broadcast in the performance period consist of South African music and that such music is spread reasonably evenly throughout the said period" (See Appendix F).

Algoa FM plays approximately 40% South African music. The following artists are local artists that were identified to be enjoying air-play on Algoa FM's programme schedule: Lloyd, Loyiso Bala, Micasa, Louis Carver, Ernie Smith, Karen Zoid, Lira, Judith Sephuma, Wendy Mseleku, Letta Mbulu, Crazy White Boy and many others.

Algoa FM complies with regulation 3.2 of the South African Music Content Regulations.

4.3 Universal Service and Access Fund

Regulation 3(1) states 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" (See appendix G).

Regulation 3(2) states that:

"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".

For the period under review, Algoa FM made the payment of one hundred and fifty four thousand, eight hundred and seventy three rand, sixteen cents (R154, 873.16) to the Media Development and Diversity Agency ("MDDA"), in line with the above mentioned regulations (See Appendix H).

This payment was effected on Wednesday 12 September 2012 via electronic transfer.

Algoa FM complied with regulation 3(2) of the Universal Service and Access Fund Regulations.

4.4 General Licence Fees Regulations

Regulation 3 (1) of the General License Fees Regulations published in the Government Gazette No. 32084 on 01 April 2009 provides as follows:

"Individual Commercial Broadcasting Service Licensees to pay an annual licence fee of 1.5% of gross profit to the Authority".

Schedule 3 (4) (b) (C) state 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" (See Appendix I).

During the period under review, Algoa FM made a payment of five hundred and seventy eight thousand, seven hundred and ninety eight rand (R578, 795.00) towards licence fee obligations. This payment was made on Friday 21 September 2012 and proof of payment is attached as *Appendix J*.

Algoa FM complied with schedule 2 and regulation 3(1) of the General Licence Fee Regulations.

4.5 Regulation on Municipal Elections Broadcast.

Regulation 6(1) on the Regulations on Elections Broadcast states that:

"PA [Political Advertisement] must only be broadcast during the election period and no later than forty eight (48) hours before polling commences".

"On 17 May 2011 one Gladwyn Lindemann lodged a complaint against Algoa FM for broadcasting a PA on 16 May 2011 at 17h21, being a period within the 48 hours prior to polling, which is prohibited in terms of section 58(6) of the Electronic Communications Act and Regulation 6(1) of the Regulations.

The complaint was referred to Algoa FM for their response. Algoa has apologised to the Authority, advising that the advertisement was made in error. Algoa FM further expressed the need to address the CCC regarding regulation 6 (7). The matter was referred to the Complaints and Compliance Committee and subsequently a ruling was handed down and fine imposed on Algoa FM. Furthermore Algoa FM was ordered to broadcast a formal apology" [Extract from ICASA's 2011 Municipal Elections Broadcast Monitoring Report 2011].

The Authority's monitoring exercise observed the formal apology flighted by Algoa FM in this regard on Tuesday 13 September 2011 at 10h48.

5 CONCLUSION

In the year under review, Algoa FM sufficiently complied with its licence terms and conditions. The Licensee did not comply with the Regulations governing municipal elections and the matter was referred to the CCC. Algoa FM was subsequently fined ten thousand rand (R10 000.00) and was ordered to broadcast an apology in this regard. The fine was duly paid and apology broadcast.

Regarding the radio station's non-compliance with the obligation on "news per day", the Licensee indicated that it will be in discussions with the Authority paving a way for a licence amendment.

6 APPENDICES

- Appendix A : Algoa FM Broadcasting Service and Frequency Spectrum Licences
- Appendix B : Algoa FM's General Log Sheet
- Appendix C : Algoa FM's Programming Log Sheet
- Appendix D : Letter to Algoa FM regarding non-compliance
- Appendix E : Standard Terms and Conditions Regulations
- Appendix F : South African Music Content Regulations
- Appendix G : USAF Regulations
- Appendix H : Proof of payment to MDDA (USAF)
- Appendix I : General Licence Fee Regulations
- Appendix J : Proof of payment Annual Licence Fees