

Provide details of undertakings (if any) and other matters which, in the applicant's view, the Authority may need to take into consideration:

1. Gospel/Spiritual-related Talk Undertakings

1.1 Vuma thinks it important to point out that one of the amendments being applied for is not a reduction in a previously-existing obligation but is, in fact, a new undertaking that it believes will contribute to programming and content diversity in KZN.

1.2 Vuma has requested a new obligation as clause 4(c) of its licence, namely:

Of the talk broadcast, a minimum of 15 hours a week shall be gospel/spiritual-related.

1.3 Vuma is pleased to be making this undertaking to Icasa because it will be the only commercial sound broadcasting licensee that will have a measurable gospel/spiritual-related talk format obligation.

1.4 Vuma believes that this will contribute significantly to content/programming diversity on the commercial airwaves of KZN as no other commercial station, or indeed public radio station, will be offering 15 hours of weekly gospel/spiritual talk content.

1.5 In making this undertaking, Vuma is also demonstrating its on-going commitment to the gospel format which is of such historical significance to the station while ensuring that it remains able to compete with its commercial (and public) competitors who have no measurable licence conditions with respect to gospel, or indeed any other religious, content format.

2. Gospel Music Undertakings

2.1 Vuma understands that the station has, since its inception, been identified as a gospel station.

2.2 Vuma wishes to assure Icasa that this unique association is not one it wishes to disassociate itself from. However, it requires the flexibility to be able to supplement its playlist with a mix of other genres in order to provide the right kind of music content to complement its talk programming offerings subject to gospel music being the most played and, hence, predominant genre.

2.3 Also, Vuma reiterates that Icasa's original formulation of the Clause 4 licence condition is contradictory and difficult for implement. For example:

- 2.3.1 the station cannot have a format that is both “exclusively” (meaning “solely” or “entirely”) AND a format that is “predominantly” (meaning “mainly”) gospel, as these terms are contradictory. If the station is to play only gospel then it cannot play mainly gospel; and
- 2.3.2 the distinction between “gospel” and “inspirational” - terms used in clause 4 of the licence - is not clear.

This has led to numerous findings of licence non-compliance when the station is of the view that it is not guilty of any non-compliance as it has ensured that it has maintained its gospel-focus by ensuring that its single largest genre, that is, the predominant genre, of music making up its playlist, is gospel.

- 2.4 In order to avoid repeated and contested findings of non-compliance, Vuma is of the view that the gospel-related content obligations and undertakings provided for in the amendment application will bring much needed clarity for both itself as the licensee but also for Icasa as regulator, and particularly for Vuma’s compliance officer(s).
- 2.5 Consequently, Vuma is undertaking to ensure that the single largest genre, the predominant genre, featured on Vuma’s playlist is gospel. This will retain the gospel-focus of the programming content which is unique in KZN as well as in South Africa more broadly.

3. 40% Local Content Undertakings

- 3.1 While Vuma obviously recognises that its existing clause 5 of its licence requires 50% of music played on the station to be South African music, it nevertheless is of the view that the applied for reduction to 40% local content still represents a significant commitment to playing local music.
- 3.2 This is so because the SA Music Regs impose local content obligations of only 35% of music played on commercial and public commercial sound broadcasting service licensees.
- 3.3 Vuma’s commercial and public commercial competitors in KZN have no such additional obligations and are not required to play any more than 35% South African music during the broadcast period.
- 3.4 The original undertaking to play 50% local content, has over time, through amongst other things a changed broadcasting environment, proved not to be commercially viable. It currently plays at least 40% local content and will be able to continue meeting this target while being able to compete in the marketplace.
- 3.5 Vuma trusts that Icasa will recognise Vuma’s commitment to local content through its willingness to play a higher percentage of local content than any of its commercial and public commercial competitors.

4. Additional Considerations: The Long-Term Impact of the Covid-19 Pandemic

- 4.1 Icasa is well aware of the impacts of Covid-19 on the media, including on broadcasters.
- 4.2 Numerous print media titles have closed permanently or else been forced online.
- 4.3 Thousands of journalists and media workers, including those in the broadcast sector, have lost their jobs or have been forced to take significant pay cuts in the past four months. Further retrenchments remain a real possibility within the current environment.
- 4.4 Advertising revenue is down, substantially, as the economy reels under the restrictions of the Lockdown Regulations necessitated by the need to save lives in the face of the surge in Covid-19 cases.
- 4.5 Icasa has, of course, already responded by giving broadcasters regulatory relief in a number of ways, including, reducing reporting obligations, reducing the prohibitions on programme syndication and by reducing the performance period, as has been provided for under its ICT Covid-19 National Disaster Regulations published in Notice 238, Government Gazette 43207 dated 6 April 2020, as amended.
- 4.6 Nevertheless, Icasa will recognise that all broadcasters are facing severe commercial headwinds as they battle to save their businesses and their staff's jobs in the face of Covid-19. In this context, Icasa ought, in our respectful view, to give serious consideration to the difficult commercial realities facing broadcasters which are not going to be short-term, no matter how quickly a vaccine for Covid-19 may be developed which is not guaranteed. In such a climate, we think it incumbent upon Icasa to regulate in a manner that protects the financial viability and sustainability of the commercial broadcasting sector, including by way of approving reasonable requests and applications for greater flexibility with regard to format and related programming licence conditions by individual broadcasters such as Vuma. After all, Icasa, no doubt always licenses with success in mind and has every interest in its licensees succeeding, remaining commercially viable and remaining on air.