



# **DIHLABENG FM ANNUAL COMPLIANCE REPORT**

**MARCH 2024**

# **2022/2023 ANNUAL COMPLIANCE REPORT**

## **SOARING WAVES T/A DIHLABENG FM**

**LICENCE PERIOD: 13 March 2021 to 12 March 2026**

### **1. PREFACE**

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution, the ICASA Act<sup>1</sup>, the Electronic Communications Act (ECA)<sup>2</sup> and the Broadcasting Act<sup>3</sup> 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 licence, and any relevant legislation and regulations.

The purpose of this report is to give an account of Dihlabeng FM's compliance with terms and conditions as set out in its licence for the 2022/2023 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Community participation, and Programming Obligations.

Furthermore, the report will measure compliance with regulations that include South African Music Content, Compliance Procedure Manual Regulations and Standard Terms and Conditions.

### **2. BACKGROUND**

Soaring Waves holds a Class Sound broadcasting service licence and trades as Dihlabeng FM. The radio station's mandate is to provide a sound broadcasting service to the community of Dihlabeng Local Municipality in the Free State province, as set out in the Licensee's radio frequency spectrum licence.

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Control Structure**

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<sup>1</sup> Independent Communications Authority of South Africa Act, Act No. 13 of 2000, as amended

<sup>2</sup> Electronic Communications Act No. 36 of 2005

<sup>3</sup> Broadcasting Act No. 4 of 1999

Clause 1 of the licence states that:

*"The Licence is issued to:*

*1.1 Name of Company/Entity: Soaring Waves.*

*1.2 Name of the Station: Dihlabeng FM.*

*1.3 Control of the licensee: Control shall vest in the Board of Directors of Soaring Waves."*

There were no changes reported by the Licensee to its control structure during the period under review.

**The Licensee complies with clauses 1.1 to 1.3 of the licence.**

### **3.2 Licence Period**

Clause 2 of the licence states that:

*"2.1. The effective date of the licence: 10 October 2020.*

*2.2. The licence shall expire on 09 October 2025."*

The Licence is still valid.

**The Licensee complies with clause 2 of the licence.**

### **3.3 Geographic Coverage Area**

Clause 3 of the licence stipulates that:

*"The Licensee shall provide services to Dihlabeng Local Municipality area in the Eastern Cape Province as set out in the Licensee's radio frequency spectrum."*

The Licensee provides services in the Free State province as set out in its radio frequency spectrum. However, in the licence it is erroneously stated that it provides service in the Eastern Cape Province. This error has been brought to the attention of the Service Broadcasting Unit.

**The Licensee complies with clause 3 of the licence.**

### **3.4 Community**

Clause 4.1 of the licence states that:

*"The licensee shall provide services to a geographic community residing within the geographic coverage area specified herein".*

Dihlabeng FM provides sound broadcasting services to the geographic community residing within its coverage area of Dihlabeng Local Municipality in the Free State province, as specified in its licence.

**The Licensee complies with clause 4.1 of the licence.**

Clause 4.2 of the licence provides that:

*"The Licensee shall provide for the participation of community members in the affairs of the station in the following ways:*

*4.2.1 The Licensee shall hold at least two (2) meetings annually with its community on programming and programme-related matters for the selection and provision of programmes.*

*4.2.2 The Licensee shall furnish the Authority with proof of such meetings as well as the attendance thereof by members of the community; and*

The Licensee did not hold programming meetings during the period under review. It indicated that it was because its membership expired during the Covid-19 restrictions and so did the term of the board. The new board will oversee the re-establishment of programming committees and the commencement of programming meetings. No proof that any programming meetings had taken place at the time of compiling this report.

**The Licensee does not comply with sub-clauses 4.2.1 and 4.2.2 of the schedule to the licence.**

*4.2.3 The Licensee shall hold Annual General Meetings (AGM) for the following purposes:*

*4.2.3.1 To provide feedback on the Licensee's compliance with licence conditions;*

*4.2.3.2 To provide feedback on the Licensee's operational and financial performance; and*

*4.2.3.3 To elect members of the controlling structure e.g. Board of Directors, Trustees etc. subject to the Licensee's founding documents."*

The Licensee held an elective Annual General Meeting on 05 March 2023, where a new board of directors was elected.

**The Licensee complies with sub-clause 4.2.3 of the schedule to its licence.**

### **3.5 Programming**

Clause 5.1 of the licence provides that:

"The Licensee shall provide programming as follows:

*5.1.1 Local News and information: The Licensee shall broadcast news to a total of fifty (50) minutes per day, of which 40% shall be local, 40% shall be national and 20% shall be international news.*

The monitoring exercise found that the Licensee broadcasts news bulletins hourly between 08h00 and 17h00 daily on weekdays. Approximately fifty (50) minutes of news is broadcast, in Sesotho only. The news covers mainly national news and approximately 10% local news. International news is not broadcast.

It could not be confirmed if the Licensee broadcasts any news on weekends as the recordings that were provided only covered some programmes over the weekends and not the entire performance period.

There were news items that were identified during the monitoring exercise which were reported in the languages as per the below.

- *"Moetapele wa mokgatlo wa Build One South Africa, BOSA ka bokgutshwanyane Mmusi Maimane, o re mmuso o lokela ho jara boikarabelo mabapi le lefu la ngwanana ya dilemo tse tharo wa Johannesburg, ya timetseng ka lebaka la ho tima ha motjhini o fepelang oxygen ka lebaka ho kgaoha ha phephelo ya motlakase tikolohong eo. Maimane mafelong a beke o hlahletse nyewe ya polao e se ka maikemisetso kgahlanong le Letona la Motlakase mmoho le Letona la Dikgwebo tsa Mmuso mabapi le tsamaiso e mamphemphe.*

- *O re sena se kabe se ile sa qojwa. Maimane o re mmuso o lokela ho etsa bonnete ba ho re mohato wa ho kgaolwa ha phepelo ya motlakase o fihla pheletsong.*
- *Tonakgolo ya Setso ya setjhaba sa MaZulu Chief Mangosuthu Buthelezi o lebelletswe ho ba le kopano le ditho tsa lelapa la boreneng ba MaZulu ho la Ulundi letsatsing la kajeno. Kopano ena e lebelletswe ho ka sekaseka ditlaleho tsa dikamano tse putlameng pakeng tsa Buthelezi mmoho le Morena wa MaZulu Misuzulu kaZwelithini. Bekeng e fetileng Buthelezi o kopane le baetapele ba fapaneng ba setso moo teng a arolelaneng mehopolo ya hae mabapi le kgonahalo ya ho beha mejafatshe jwalo ka tonakgolo. Hara diphepetso tse ding Buthelezi o bontshitse matshwenyeho a hae ka phatlalatso e ntjha ya Boto ya Ingonyama Trust, moo teng modulasetulo e leng Nkosi Thanduyise Mzimela. Ka ho le leng, ka mora ditaba tsa Buthelezi, Morena Misuzulu kaZwelithini o bontshitse ha ba se ba sa bone ka leihlo le le leng le Buthelezi haholoholo ntlheng e amanang le boto ya Ingonyama Trust.*
- *Mohlanka was mosadi wa lepolesa o thuntswe seteisheneng sa sepolesa Free State. Mosadi ya dilemo di mashome a mararo a nang le metso e mehlano e leng Konstabile ho la Theunissen, Free State o lemetse ka mora ho thunngwa seteisheneng sa sepolesa tsatsing la Laboraro thapama. Mmuelli wa Seponesa, Stephen Thakeng, o boletse ha banna ba bararo ba neng ba hlometse ka dithunya mme ba ikwahetse difahleho ka dikupahete bai le ba itshohlometsa ka ha re ho seteishene sa sepolesa sa Masilo ka bo hora tsa mesong ha metsotso e meraro e furaletse hora ya pele."*

**The Licensee does not comply with its news obligation as per clause 5.1.1 of the Schedule to its licence.**

*Clause 5.1.2 of the licence states that:*

*"South African Music Content: 80%"*

The Authority's monitoring exercise confirmed that the radio station broadcasts approximately 80% of South African music content.

**The Licensee complies with clause 5.1.2 of its licence.**

*Clause 5.1.3 of the licence provides that the format is as follows:*

*"60% talk and 40% Music"*

The monitoring exercise found revealed that Licensee's programming is approximately 60% talk and 40% music. The Licensee has programming that is dominated by talk content that includes a lot of listener interaction. The weekday programmes offer topics on matters that affect the community, including mental health issues, youth upliftment, parenting challenges, service delivery concerns general knowledge and quizzes, among others.

**The Licensee complies with clause 5.1.3 of the Schedule to its licence.**

*Clause 5.1.4 of the licence provides that:*

*"Language(s) of broadcast:*

*5.1.4.1 Sesotho – 40%;*

*5.1.4.2 English – 30%;*

*5.1.4.3 Afrikaans – 15%; and*

*5.1.4.4 isiZulu – 15%"*

The monitoring exercise found that the Licensee broadcasts mainly in Sesotho. The other languages, English and Afrikaans, are only heard during listener interaction. The Licensee does not offer any programming in the other languages of broadcast.

**The Licensee does not comply with clause 5.1.4 of the Schedule of its licence.**

Clause 5.2 of the licence provides that:

*"The Licensee shall keep a log of programmes broadcast which must be submitted on a monthly basis to the Authority. Pro-forma of the log to be kept will be supplied by the Authority."*

Dihlabeng FM did not submit programming logs on a monthly basis to the Authority during the period under review. Reminders were sent but the Licensee still did not submit.

**The Licensee does not comply with clause 5.2 of the Schedule to its licence.**

## **4 REGULATIONS**

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

Regulations 3 (3) of the Regulations on South African Music Content as published on 23 March 2016 provides that:

*"A holder of a community sound broadcasting service licence must ensure that after eighteen months of the gazetting of these regulations, a minimum of 60%, increased by 10% annually to reach 80% of the musical work in the performance period, consist of South African music and that such South African music is spread evenly throughout the performance period".*

The monitoring conducted by the Authority indicated that the Licensee plays a significant amount of South African music during the performance period. Below are some of the artists that were played:

*Kelly Khumalo, Rhythmic Elements, Master KG, DJ Bongz, Neisa Sa, Nomfundo Moh, Lady Spshesh & DJ TPZ, Big Zulu and more.*

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

### **5.2 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Services Licences**

The Licensee did not submit logs as required in Clause 10A (2) of the regulations on Amended Standard Terms and Conditions for Class Licences, 2016 published in *Government Gazette* No. 39872 dated 30 March 2016, which provides that:



*"A Licensee must keep the following records, in accordance with the template determined by the Authority and provided to the Licensee, relating to its broadcasting activities and provide same to the Authority on a quarterly basis:*

- (a) a log of all advertisements broadcast;*
- (b) a log of the percentage of air-time per hour allocated to advertisements;*
- (c) a log of all sponsorships received for programmes, news, game shows, welfare activities or similar programming together with details of payment, financial or otherwise, received for such sponsorship; and*
- (d) a log of programmes broadcast."*

**The Licensee does not comply with the Regulations regarding Standard Terms and Conditions for Class Broadcasting Licences.**

## **5 CONCLUSION**

The Licensee did not comply with most of its licence terms and conditions, the Compliance Procedure Manual Regulations and Standard Terms and Conditions for Class Licences Regulations.

The Licensing and Compliance Division will advise the Licensee of its non-compliance and endeavour to assist the Licensee to comply. However, should the Licensee not improve its performance, it will be advised of the Authority's intention to refer it to the Complaints and Compliance Committee (CCC), for non-compliance with its regulatory obligations.

## **6 TERMS OF REFERENCE**

Appendix A: Dihlabeng FM's Service Licence

Appendix B: Standard Terms and Conditions for Broadcasting Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010, as amended;

Appendix C: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016; and

Appendix D: ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

**End**