



EK FM ANNUAL COMPLIANCE REPORT

MARCH 2017

2015/2016 ANNUAL COMPLIANCE REPORT

EK FM

Licence Period: 23 November 2010 to 22 December 2015

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 ensure compliance by broadcasting service Licensees with the terms and conditions of their licence and any relevant legislation and/or regulations.

This report is intended to give an account of eK FM's compliance with the terms and conditions, as set out in its licence, for the 2015/2016 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Community Participation, Programming, Format, News and Information, Local Content Obligations, Language(s), South African Music Regulations, Regulations Regarding Standard Terms and Conditions.

2. BACKGROUND

In November 2010, a Broadcasting Service Licence was issued to ekasi Konnexion for the operation of eK FM. The licensed service was to serve the community of Duduza, Kwa-Thema, Brakpan, and Nigel in the Ekurhuleni Metropolitan Municipality areas as set out in the Licensee's radio frequency spectrum licence.

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

² Act No. 13 of 2000, as amended

³ Act No. 36 of 2005

⁴ Act No. 4 of 1999

3. COMPLIANCE ASSESSMENT

3.1 Licensee

Clause 1 of the schedule of the licence provides that:

"The Licence⁵ is issued to:

1.1 Name of Company/Entity: eKasi Konexion Community Radio Station

1.2 Control of the Licensee: Control shall vest in the Board of Directors of a non-profit organisation known as eKasi Konexion Community."

In the year under review, the Authority received no notifications from the Licensee indicating a change in any of the above stated obligations. According to the submissions required from the Licensee, the Authority concludes that the Licensee retains its company name. Regarding the control of the Licensee; in August 2015, a new Board of Directors was elected for eK FM and the following are the Board members of eK FM as at 22 August 2015:

NAME OF BOARD MEMBER	POSITION ELECTED TO	STATUS OF DIRECTORSHIP
1. Mr Doctor Mdluli	Chairperson of the Board	Accepted Election
2. Ms Fikile Maureen Mtsweni	Deputy Chairperson of the Board	Accepted Election
3. Ms Girly Nkosi	Secretary of the Board	Accepted Election
4. Mr Sonny Madingoane	Deputy Secretary of the Board	Accepted Election

⁵ Appendix A: eK FM's Broadcasting Service Licence

5. Mr Siphumelele Mabena	Treasurer	Accepted Election
6. Mr Tebogo Moqhobai	Additional Member	Accepted Election
7. Mr Fana Selabe	Additional Member	Accepted Election
8. Mr Lucas Bokgoshi	Additional Member	Accepted Election
9. Ms Eva Phahlane	Additional Member	Accepted Election
10. Ms Melta Plaaties	Additional Member	Accepted Election

The term of office of the above members expired in August 2016. An up and coming Annual General Meeting is expected to put in place a new BoD for eKFM. **The Licensee was found to be in compliance with clauses 1.1 and 1.2 of the schedule to the licence.**

3.3 Geographic Coverage Area

Clause 2 of the schedule to eK FM's Broadcasting Service Licence provides that the Licensee's Geographic Coverage Area shall be: *"Duduza, Kwa-Thema, Brakpan, and Nigel in the Ekurhuleni Metropolitan Municipality areas as set out in the Licensee's radio frequency spectrum licence"*.

eK FM's coverage area remains as prescribed in the licence document and the Licensee reports of reaching all areas in its coverage footprint. Furthermore, in

the year under review, the Authority received no reports or complaints indicating that the radio station has overstepped its footprint.

The Licensee was found to be in compliance with clause 2 of the schedule to the licence.

3.4 Community

Clause 3 of eK FM's schedule to the licence provides as follows:

3.1 "The Licensee shall provide services to a community of interest residing within the geographic coverage area specified herein.

eK FM submits that it provides service to the community of interest specified in its Frequency Spectrum Licence. No reports were received indicating that the Licensee is failing to give service to its licensed footprint.

The Licensee was found to be in compliance with clause 3.1 of the schedule to the licence.

Clause 3.2 of the schedule to the licence stipulates that:

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

3.2.1 The Licensee shall hold at least two (2) meetings annually with its community focusing on programming and programming-related matters for the selection and provision of programmes;

2015/2016 was the year in which the Licensee was trying to put its house in order; this, following 3 years of problems and dysfunctionality from the controlling structure. eK FM admitted its first members in 2015 at the instruction of the Authority and this was in preparation for the Licensee's first Annual General Meeting. eK FM did not hold any programming focused meeting with its community in the year that is currently under review.

In the year under review, the Licensee failed to comply with clause 3.2.1 of the schedule to its licence.

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

eK FM did not convene any programming focused meetings with its community in the year ended 2016 and therefore the Authority did not receive any proof in that regard.

The Licensee failed to comply with clause 3.2.2 of the schedule to the licence.

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

3.2.3.1 To provide feedback on the Licensee's compliance with licence conditions,

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

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

On Sunday 02 August 2015, eK FM convened their first Annual General Meeting (AGM) and it was intended for the purposes of electing a new Board of Directors for the entity. The Authority was part of this AGM on an observer basis and a comprehensive report⁶ was subsequently filed by the Authority on Tuesday 11 August 2015.

The Licensee was found to be in compliance with clause 3.2.3 of its licence.

3.5 Programming

Clause 4.1 of the schedule to the licence provides that the Licensee shall provide programming as follows:

Clause 4.1.1 Format: 60% talk and 40% music

⁶ Post AGM report eK FM August 2015

The monitoring exercise – carried out on at least 2 weeks of eK FM's Programming Profile – found that the Licensee's programming format is dominated by talk. eK FM's format carries at least 60% talk while at least 40% is dedicated to music.

Clause 4.1.2 News and Information:

"The Licensee shall broadcast fourteen (14) news bulletins of five (5) minutes per day during weekdays, of which 60% shall be local news, 15% shall be national news, 20% shall be regional news and 5% shall be international news.

eK FM's programming log sheets indicate that the Licensee broadcasts at least 59 minutes of news per week day. The Licensee's news bulletins are at least 4 minutes each. Already the Licensee's submissions demonstrate non-compliance with clause 4.1.2 of the licence. Furthermore, the Authority's monitoring exercise revealed that eK FM schedules at least 12 news bulletins between 07h00 and 18h00 per weekday.

The bulk of eK FM's news bulletins are regional news rather than local news. National news and international news also form part of the Licensee's news bulletins.

The following News extracts were found during monitoring:

1. *"The Minister of Basic Education, Angie Motshega, will, today receive the report from the task team which was appointed to investigate a Jobs for Cash Scam by the teacher's Union. The Task Team was appointed earlier last year after media reports on SADTU Members selling Principal and Deputy Principal posts at schools for upward of R30 000 each. The spokesperson for the department of Basic Education, Elijah Mhlanga, said that Motshega will try to close the holes in the system that give rise to such scams. He further added that the investigation took a year, instead of the six months as an indication of how serious the situation is";*
2. *"Sentencing in the case of 2 men convicted of the murder of, Emmanuel Sithole, has been postponed to January the 29th in the Johannesburg*

Magistrates Court. Sithole was stabbed to death after being robbed in Alexander. Nthinta Bengu and Sifundi Zimzela were found guilty of the murder of this Zimbabwean shop owner last month; while the third accused – a minor – was found guilty of theft. The State says that the presentencing reports of the 2 murder convicts are not yet ready so sentencing can only proceed next month. The Court heard that the accused took cigarettes from the street vendor without paying for them before stabbing Sithole to death. The incident was captured on camera by a photo journalist. Meanwhile the minor accused in the case is expected back in court next week to apply for bail”;

3. *“Amaphoyisa abhekelele ukuphepha komphakathi eGauteng asexwayise izakhamizi ukuba ke zijabule kodwa ke zibuye nganeno zicabangele abanye abantu uma ke sekunqamuka unyaka namhlanje ebusuku. Labo ke abazobe beqhumisa ookrikhethi banikezwe ke imvume yamahoraamathathu ukuba benze loko, bangaqala ngehora leshumi bayeke ke ntsimbi yokuqala ngomhla wokuqala kuJanuwari ka2016. Abantu ke bake baphinda baxwayiswa ukuba ke banganikezi iingane ezincane ookhrikhethi, futhi ke uma eqhunywisa angaqhumeli maduze kunye nezilwane okanye ke izindlu. Okulumela amaphoyisa aseGoli, uEdna Mamonyane, unxusa ke izakhamizi ukuba ke zihloniphane [cross over to the voice of Edna Mamonyane”;* and
4. *“Amaphoyisa aseGauteng ayenqaba ukuqinisekisa imibiko yakamuva ethi ke izintsalela zesidumbu esitholakele ePhiri eSoweto ngaphambilini kulenyanga hezika Palesa Modiba, owaye engumfundo wase Nyuvesi yaseJohannesburg. Intlangano ke yabezindaba iENCA shicilele umbiko othi usapho sele luqinisekisile ukuthi ke isidumbu esitholake ngemuva kwendlu yasePhiri yesendodakazi yabo. uModiba nobe eneminyaka ke engamashumi amabini ubudala, wanyamalala eminyakeni emithathu eyedlule, kanti ke wagcina ukubonwa kulomuzi ekutholakale khona isidumbu. Okulumeka ke amaphoyisa aseGauteng, uMashati Selepe, uthi ke uphenyo ngale sisidumbu lusaqhubeka ukanti ke akukho abangakuqinisekisa nje ngoba belinde imiphumela”.*

eK FM has, during the period in review, failed to comply with clause 4.1.2 of the schedule of the licence.

Clause 4.1.3 Local Content: The Licensee shall broadcast a South African music content of 60%.

The programming log sheets⁷ submitted by eK FM indicate that the Licensee plays at least 57% South African music weekly. While the Licensee's measure of the local content output may present non-compliance, the Authority's findings showed that the Licensee actually comply with the obligation to play 60% South African music. The Authority's monitoring exercise found that eK FM plays at least 75% South African Music in its programming profile.

The following music artists were found to enjoy airplay on eK FM: Ringo Madlingozi, Zahara, TK Zee, Dr Malinga, Robbie Malinga, Nathi Mankayi, Revolution, African Roots, Mtee, Big Nuzz, Kabelo Mabalane, Prince KB, Bucie, Heavy K, Naaq Music, Black Motion, DJ Fisherman, Proffesor, Donald, DJ Melon and many others.

The Licensee was found to be in compliance with clause 4.1 of the Licence.

Clause 4.1.4 Language(s) of broadcast:

- a) 45% isiZulu
- b) 20% seSotho
- c) 18% English
- d) 10% isiXhosa
- e) 7% Sepedi

The Authority's monitoring exercise found that eK FM's programming profile features all languages of broadcast through various interactions in shows. However, the monitoring exercise could not pick up any news in the isiXhosa

⁷ eK FM Log Sheets

language. News in isiZulu, sePedi, seSotho and English were found during monitoring.

On the basis that the Licensee did not provide news in isiXhosa, **the Authority concludes that the Licensee failed to comply with clause 4.1.4 of the schedule to the licence.**

4. REGULATIONS

4.1 South African Music Content Regulations

Regulation 3.3 of the Regulations on South African Music Content as published on 31 January 2006 provides that:

"Every holder of a community sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 40% 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"⁸.

The Authority's findings showed that the Licensee complies with the obligation to play 60% South African music. The Authority's monitoring exercise found that eK FM plays at least 75% South African Music in its programming profile.

The following music artists were found to enjoy airplay on eK FM: The following music artists were found to enjoy airplay on eK FM: Ringo Madlingozi, Zahara, TK Zee, Dr Malinga, Robbie Malinga, Nathi Mankayi, Revolution, African Roots, Mtee, Big Nuzz, Kabelo Mabalane, Prince KB, Bucie, Heavy K, Naaq Music, Black Motion, DJ Fisherman, Proffesor, Donald, DJ Melon and many others.

The Licensee was found to be in compliance with the Regulations on South African Music Content.

⁸ Regulations on South African Music Content

4.2 Compliance Procedure Manual Regulations(CPMR)– Form 12A

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A which reports on all complaints received in the course of each financial year. In the year that is currently under review, eK FM submitted its Form 12A indicating that the Licensee received no complaints.

The Licensee's complaints promo was found during monitoring. This promo gives details on how listeners can lodge complaints about the service provided by eK FM.

The Licensee was found to be in compliance with the CPMR.

4.3 Code on People with Disabilities

Regulation 3.1 (a) of the Code for People with Disability of 2007 stipulates that:

"Broadcasting service Licensees must ensure that their services are made available and accessible to people with disability."

eK FM's programming was found to cater for people with disabilities. Furthermore, the radio station's premises are accessible to people with disabilities. **The Licensee was found to be in compliance with the above mentioned regulation.**

4.4 Regulations regarding Standard Terms and Conditions for Class Licensees

Regulation 2 (1) (d) of the Regulations Regarding Standard Terms and Conditions for Class Licensees⁹ provides two fundamental regulations that are constantly and continuously used to measure a Licensee's compliance. The two regulations are Regulation 2(1) and the sub clauses, along with Regulation 9 in its entirety.

In terms of the provisions made by Regulation 2(1) of the Regulations Regarding Standard Terms and Conditions for Class Licensees; eK FM has had no changes to its Licensee details and information in the year that is currently under review.

⁹ Regulations regarding the Standard Terms and Conditions

Furthermore, eK FM makes it a point that all information required of them is submitted as per given format and by the given deadline. In an event where the Licensee cannot meet the required deadline, they make it a point to ask for an extension to be allowed to submit.

eK FM was found to be in compliance with Regulations 2(1) and 9 of the Standard Terms and Conditions for Class Licensees.

5. CONCLUSION

The Licensee mostly failed to comply with its programming related obligations. The Authority will address these non-compliance matters with the Licensee in the coming financial year in order to provide further guidance on broadcasting compliance.

6. TERMS OF REFERENCE

Appendix A: eK FM's Broadcasting Service Licence

Appendix B: Post AGM report eK FM August 2015

Appendix C: eK FM Log Sheets