

ENERGY FM ANNUAL COMPLIANCE REPORT

MARCH 2017

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2015/2016 ANNUAL COMPLIANCE REPORT: MORETELE COMMUNITY RADIO

LICENCE PERIOD: 22 OCTOBER 2013 - 21 OCTOBER 2018

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 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 Moretele Community Radio'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 Licence Area, Community Participation, Programming, Promise of Performance, South African Music Regulations and Regulations Regarding Standard Terms and Conditions for Class Licences.

2. BACKGROUND

Moretele Community Radio holds a Class Sound Broadcasting Service Licence providing a service to Temba and 52 villages that extend about 72 km in radius from Temba in the North West Province as set out in the Licensee's radio frequency spectrum licence⁵. According to the South African Advertising Research Foundation (SAARF), the listenership figures for the last quarter of the period under review is 41 000⁶.

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

⁵ See Appendix A

⁶ <http://www.saarf.co.za/>

3. COMPLIANCE ASSESSMENT

3.1 Control Structure

Clause 1 of the schedule of the service licence stipulates that:

"The Licence is issued to:

1.1 Named of Entity: Moretele Community Radio;

1.2 Name of Station: Moretele Community Radio;

1.3 Control of the Licensee: Control of the station shall vest in the Board of a Non Profit Organisation known as Moretele Community Radio".

The Licensee's details have not changed and therefore is in compliance with clause 1 of the schedule of the service licence.

3.2 Licence Area

Clause 3 of the schedule of the service licence stipulates that Moretele Community Radio's licence area is as follows:

"The Licensee shall provide services to Temba and 52 villages that extend about 72 km in radius from Temba in the North West Province as set out in the Licensee's radio frequency spectrum licence".

The Licensee provides a broadcasting service to the areas of Temba and the surrounding villages. Moretele Community Radio has had challenges in the past of not being able to cover all their licensed areas due to some interference from Pretoria FM. They have however in the period under review, been able to submit a consolidated application with a proposed solution together with Radio Pretoria to the Authority's Engineering Division for consideration.

The Authority cannot conclusively deduce that the Licensee has, during the period in review not complied with clause 2 of the schedule of the service licence due to challenges beyond the Licensee's control.

3.3 Community

Clause 4.2 of the schedule to the service licence stipulates 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 focusing on programming and programme policies of the station;

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;

The Licensee submitted two sets of minutes of meetings with the attendance register of the Listeners Forum held on 03 November 2013 and 08 December 2013 to discuss programme related issues amongst other issues⁷.

The Licensee submitted that they held three meetings with the listeners' committee on the following dates, 18 July 2015, 15 August 2015 and 21 November 2015 respectively. The first meeting's main point of discussion was in relation to the extension of the footprint to reach other communities within the coverage area and feedback on certain issues that needs to be covered in the programming and extension of others shows. The second meeting focused on the upcoming Annual General Meeting (AGM) with the last meeting still focused on areas outside of the scope of the listener's committee mandate.

The Licensee has a listeners' committee but the structure does not always focus their discussions on the mandate of the programming committee.

The Licensee was found to be in compliance with clauses 4.2 of the schedule of the service licence.

⁷ See Appendix B

Clause 4.2.3 of the schedule to the service stipulates as follows:

The Licensee shall hold an Annual General Meeting (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 submits that it held its Annual General Meeting for the year under review on 30 July 2016⁸. The AGM minutes submitted do not reflect a financial report being presented and feedback on the compliance with its licence terms and conditions. There was a presentation about the station moving location, and that they would be sent the application forms in order to submit a notice for a new address.

The Licensee was found to be in compliance with clauses 4.2.3 of the schedule of the service licence, even though the financial report and feedback on licence terms and conditions were not discussed.

3.4 Programming

3.4.1 News and Information Obligations

Clause 5.1.1 of the schedule to the service licence stipulates that:

⁸ See Appendix C

"The Licensee shall broadcast a total of sixty-five (65) minutes of news per day, which shall include community announcements. This shall include news produced by the station".

Moretele Community Radio broadcasts news bulletins weekdays from 07h00 until 18h00 for an average of 4 minutes which equates to an average of 48 minutes with 6 news bulletins on Saturdays and Sundays. The news bulletins are read in Setswana and in IsiNdebele which was confirmed during the monitoring process. Although crediting the sources of news other than its own sources of news is not a licence obligation, it is important to mention that the licensee does not credit news sources. Further, the Licensee caters for community announcement in different programmes but not in the news bulletins.

The following are some of the news stories covered for the period under review:

1. *The Wits Student Representative Council (SRC) proposal to rename Senate House to Solomon Mahlangu House was approved. The unanimous decision was made yesterday by the University's committee which also coincided with the thirty seven years anniversary of Solomon Mahlangu's murder by the apartheid government;*
2. *South Africa's former finance minister Trevor Manuel has called on President Jacob Zuma to resign. He made the remarks in an interview with Soweto TV. Manuel was asked to comment on several issues including the call for President Jacob Zuma to step down following a Constitutional Court judgment last week which found that he had failed to uphold the constitution."*
3. *Police had to use teargas and rubber bullets to disperse the crowd after an overnight protest on Friday at Kekana gardens. The situation is still volatile and the police are still monitoring the situation. Some roads are still blocked with burning tyres and rubble where taxis and motorist have been advised to use alternative routes."*

The Licensee has for the period under review, failed to comply with clause 5.1.1 of the schedule to its licence.

3.4.2 South African Music Content

"Clause 5.1.2 stipulates that the Licensee should play 40% of South African music content".

The Licensee broadcasts more than 60% of South African music which was confirmed during the monitoring process. They have a chart show slot on the Saturday midday programme between 12h00 and 13h00 called "Top 5 Unsigned" including interviews which plays up and coming artists and profiles their music.

The Licensee was found to be in compliance with its South African music content obligations.

3.4.3 Talk vs Music

Clause 5.1.3 of the schedule to the service licence stipulates that:

The Licensee shall broadcast 60% talk and 40% music"

The Licensee's programme schedule is dominated by talk rather than music in accordance with their format split. Moretele Community Radio broadcasts programmes such as current affairs programmes broadcast on weekdays between 18h00 and 19h00 followed by an open line with listeners' interaction -dominated by talk from 19h00 until 21h00 supplemented by music. The morning and afternoon drive time shows are the ones dominated by music supplemented by talk. In its monitoring exercise, the Authority confirmed that the Licensee adheres to the above format.

The Licensee was found to be in compliance with clause 5.1.3 of the schedule of the service licence.

3.4.4 Language (s) of broadcast

Clause 5.1.4 of the schedule to the service licence stipulates that the languages of broadcast are as follows:

5.1.4.1 Setswana – 62%

5.1.4.2 English – 32%

5.1.4.3 IsiNdebele – 5% and

5.1.4.4 Xitsonga – 1%

The Licensee's main language of broadcast is Setswana on weekdays, with English language spoken mostly on weekend shows. Furthermore, the radio station's presenters are multilingual and interchangeably use the different languages stipulated in their service licence. It should be noted however that English is second in terms of percentage breakdown but is not that widely used in the programmes broadcast by the Licensee.

The Licensee does not fully comply with clause 5.1.4 of the schedule of the service licence.

3.4.5 Promise of Performance

Clause 8.1 of the schedule of the service licence stipulates that:

"60% of the Licensee's talk programming content shall be aimed at the promotion of literacy, education, community upliftment and informational programming. This will include education such as skills development and health issues".

There are programmes such as "Young Mind Connect" broadcast on Saturdays between 09h00 and 12h00 which cater for literacy and education. Furthermore, they have motivational speakers on different programmes and invite guests to talk on different issues including health and community upliftment.

The Licensee was found to be in compliance with clauses 8.1 of the schedule of the service licence.

Clause 8.2 of the schedule to the service licence stipulates that:

"The Licensee shall establish and maintain a coordinating body consisting of representatives from different areas of its community to source programming and to promote education, health and culture".

The Licensee did not make any submission with regards to any structures as contemplated above. Consequently, **the Licensee has, during the period in review, failed to comply with clauses 8.2 of the schedule to the service licence.**

5. REGULATIONS

5.1 South African Music Content Regulations

Regulations 3.3 of the South African Music Content as published on 31 January 2006 stipulate 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".

The Licensee has the same percentage of South African Music content percentage on their licence as the South African Music Content regulations and broadcast more than 60 % of local music content.

Moretele Community Radio broadcasts music that caters for music that caters for society at large which include gospel music from Sfiso, Jabu Hlongwane and Vuyo Mokoena, house music from DJ Shimza and Dj Vetkuk vs Mahoota; Hip hop artists such as HHP and Skwatta Kamp; Afro Pop artists such as Nathi; Kwaito artists such as Mandoza and Arthur and other musicians from other genres. They also interview local artist such as Nelly and Hip Hop group Majankrapa and played their new music.

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

5.2 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences

The Authority is satisfied that during the period under review the Licensee did not contravene the regulation in respect of the Standard Terms and Conditions Regulations for Class Licences.

6. CONCLUSION

The Licensee has, during the period under review, complied with some licence obligations and has failed to comply with others as highlighted in the report. The Authority has had a brief meeting with the Licensee subsequent to the CCC hearings in respect of the elections Regulations (which information falls outside of the year in review). However, the Authority will consult with the Licensee with regards to the issues of non-compliance in order to assist the Licensee to attain full compliance. There is also an ongoing concern of the amount of religious programming broadcast by the radio station which could be perceived as serving a community of communal interest which is an alleged deviation from the licence provision. This too will be discussed with the Licensee.

7. TERMS OF REFERNCES

- 7.1 Appendix A: Moretele Community Radio Service Licence;
- 7.2 Appendix B: Moretele Community Programming Committee Minutes;
- 7.3 Appendix C: Moretele Community Radio AGM minutes;

ENERGY FM: 2015/2016 ANNUAL COMPLIANCE REPORT

LICENCE PERIOD: 27 October 2013 to 26 October 2018

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution⁹, the ICASA Act¹⁰, the Electronic Communications Act¹¹ (ECA) and the Broadcasting Act¹² to regulate broadcasting

⁹ The Constitution of the Republic of South Africa, No 108 of 1996

¹⁰ Act No. 13 of 2000, as amended

¹¹ Act No. 36 of 2005

¹² Act No. 4 of 1999

activities in South Africa in the public interest. One of the main tasks of the Authority, is to ensure compliance by broadcasters with the terms and conditions of their licence and any relevant legislation and regulations.

The purpose of the report is to give an account of Energy FM's compliance with the terms and conditions as set out in its license for the financial year ending July 2016. Aspects of compliance that are measured comprise of Licence Area, Community Participation, Programming, Promise of Performance, Local Content Regulations, Regulations Regarding Standard Terms and Conditions.

2. BACKGROUND

Energy FM's is a class sound broadcasting service licensee broadcasting to Polokwane Local Municipality in the Limpopo Province. The radio station's mandate is to provide a broadcasting service to the geographic community in its broadcasting area. According to the South African Advertising Research Foundation (SAARF), the listenership figures for the last quarter of the period under review is 18 000¹³.

3. COMPLIANCE ASSESSMENT

3.1 Licensee Details

Clause 1 of the schedule of the service licence stipulates that:

"The Licence is issued to:

1.1 Name of Entity: Polokwane Unite Community Media Trust.

1.2 Name of the station: Energy FM

¹³ <http://www.saarf.co.za/>

1.3 *Control of the Licensee: Control shall vest in the Board of Trustees of a Trust known as Polokwane Unite Community Media Trust*¹⁴.

The Licensee's details have not changed and therefore is in compliance with clause 1 of the schedule of the service licence.

3.2 Licence Area

Clause 3 of the schedule of the service licence stipulates that Energy FM's licence area is as follows:

The Licensee shall provide services to Polokwane Local Municipality in the Limpopo Province as set out in the Licensee's radio frequency spectrum licence".

The Licensee provides a broadcasting service to Polokwane and surrounding communities including Lebowakgomo, Seshego, and Mankweng amongst others within the Limpopo Province.

The Licensee complies with the clause 3 of the schedule of the service licence.

3.3 Community

Clause 4.2 of the schedule to the service licence stipulates 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) general meetings annually with its community focusing on programming and programme related matters for the selection and provision of programmes;*

¹⁴ See appendix A

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";

The radio station submitted attendance registers accompanied by community members' survey from the different structures that are beneficiaries of the Licensee. The survey forms relate to the feedback from members on the different programmes on the radio station, which indicate what topics or programmes listeners want to hear or listen to. The surveys were from Re a Kgoni Mankweng, Age in Action and Seshego VEP for different dates starting on 09 June until 17 June 2016. The Licensee does engage its community with regards to programming but further engagements with regards to formalising the meetings will be held with the Licensee.

The Licensee was found to be in compliance with clauses 4.2 of the schedule of the service licence.

Clause 4.2.3 of the schedule to the service stipulates as follows:

The Licensee shall hold an Annual General Meeting (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 submitted minutes of a board meeting held for the period under review where matters pertaining to preparation for the first year celebration and gala dinner were discussed. Although the gala dinner was to be attended by members of the radio station and the beneficiaries, the main issues as outlined in the service licence pertaining to feedback to the community with regards to operational matters, compliance with operational and financial performance were

not part of the programme of the day, and therefore does not constitute an Annual General Meeting in compliance with the service licence conditions.

The Licensee has, for the period in review, failed to comply with clause 4.2.3 of the schedule of the service licence.

3.4 Programming

3.4.1 News and Information Obligations

Clause 5.1.1 of the schedule to the service licence stipulates that:

"The Licensee shall broadcast news to a total of 84 minutes per week, of which 50% shall be local, 30% shall be national and 20% shall be international".

The monitoring exercise conducted for the period under review indicated that Energy FM broadcasts 10 news bulletins from 06h00 until 18h00 weekdays, with four news bulletins on Saturdays and Sundays. The news bulletins are read using the broadcast languages for an average of 3 minutes per bulletins with an overall total surpassing hundred minutes per week. The majority of the stories are of local interest followed by national and international news stories.

The following are some of the news stories covered for the period under review:

1. *"A Limpopo Doctor accused of raping a teenager at the Lebowakgomo Hospital said that he will not plead guilty as the case against him was weak. The Doctor who was arrested last week was released on R1000 bail at the Thaba Muopi Magistrate Court during the week after police told the court of the delay in the complainant report to rape to Authority had weakened the state case";*
2. *"Khothe ya Madzhisitarata ya Vuwani I khou da u vha I khothe ya Madzhisitarata ya Thohoyandou Iwa tshifhinga nyana. Hezwi ndi nga murahu ha musu ho vha na mugwalabo vhuponi ha Vuwani dzivhegeni dzo fhiraho"; and*

3. *"It has emerged that Britain has also warned of possible terror attacks in South Africa. Reuters is quoting a government statement that there is a high threat of terrorism and attacks that could be indiscriminate."*

The Licensee was found to be in compliance with the News and Information obligations.

3.4.2 South African Music Content

"Clause 5.1.2 stipulates that the Licensee should play 45% of South African music content".

Energy FM submits that they broadcast an average of fifty percent of local music with artists such as Aka, Micasa, Mgarimbe, Major League, TKzee, and Kuli Chana amongst others.

The Licensee was found to be in compliance with its South African music content obligations.

3.4.3 Talk vs Music

Clause 5.1.3 of the schedule to the service licence stipulates that:

"65% talk and 35% music".

Energy FM maintains a balance between music and talk in accordance with their format obligation. They have programmes such as the *"Sports Live"* weekdays from 18h00 until 19h00 which is a talk sports programme for different sporting codes with listeners' interaction and *"Energy Conversation"* from 19h00 until 21h00 which is a current affairs and informal knowledge building programme.

The Licensee was found to be in compliance with clause 5.1.3 of the schedule of the service licence

3.4.4 Language (s) of broadcast

Clause 5.1.4 of the schedule to the service licence stipulates that the languages of broadcast are as follows:

- (a) 60% English
- (b) 20% Sepedi
- (c) 10% Tshivenda; and
- (d) 10% Xitsonga

The radio station's presenters are multilingual and are able to intersperse with or interchange with most of the languages as stipulated in the language mostly during the phone in programmes. It should be noted however that Xitsonga language is not receiving the same amount of usage as that of Tshivenda language with the same percentage breakdown.

The Licensee was found be in compliance with its language obligations.

3.5 Promise of Performance

Clause 8.1 of the service licence stipulates that:

"The Licensee shall establish a bursary fund for students within the community intending to go to any high school within that community and any University in South Africa."

The radio station submitted that they have assisted a student from Solomondale who did not have enough funds to further her studies after matric. The request came through the sms line and the radio station got in touch with one of the business people in the area to assist and the bursary was given on air to the recipient by the local businessman.

Clause 8.2 of the service licence stipulates that:

"The Licensee will establish Elderly Leisure Trips fund and an Annual Community Empowerment Workshop Fund for members of the community"

The Licensee submitted a newspaper article dated 30 September 2015. In this newspaper article, there was a specific item about the radio station treating 50 senior citizens to a daylong leisure trip to Kruger National Park. The trip was reported to take them from Polokwane through Phalaborwa, Giyani, and Malamulele until the game park for a four-hour game drive and then back to Polokwane. The article further outlines some of the donations that the radio station has facilitated for its beneficiaries for the year under review¹⁵.

The Licensee was found to be in compliance with its promise of performance.

4. REGULATIONS

4.1 South African Music Content Regulations

Regulations 3.3 of the South African Music Content as published on 31 January 2006 stipulate 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”.

Energy FM interviewed artists such as Sello Chokwe and Mzee and Rafiki on Friday morning breakfast slot called celebrity guests and preview their new music which contributes to their music obligations. Some of the artists that were monitored include Mafikizolo, Lira, Thandiswa, Kwesta with a total of more than fifty percent (50%) of local music being monitored.

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

¹⁵ See Appendix C

4.2 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences

The Authority is satisfied that during the period under review the Licensee did not contravene the regulation in respect of the Standard Terms and Conditions Regulations for Class Licences.

5. CONCLUSION

Energy FM complied with some of its licence terms and conditions and regulations. The two main issue relates to not hosting of the Annual General Meeting for the year under review and assisting them with formalising the structures for community participation pertaining to programming committees.

6. TERMS OF REFERNCES

- 6.1 Appendix A: Energy FM service licence;
- 6.2 Appendix B: Energy FM Programming committee meetings and Survey
- 6.3 Appendix C: Energy FM Promise of Performance Submission