



HEART FM ANNUAL COMPLIANCE REPORT

MARCH 2024

2022/2023 ANNUAL COMPLIANCE REPORT

RADIO HEART 104.9 (PTY) LTD BROADCASTING AS HEART 104.9 FM

Licence Period: 18 December 2018 – 17 December 2028

1. PREFACE

The Independent Communications Authority of South Africa (Authority) has a statutory mandate in terms of the Constitution, the Independent Communications Authority of South Africa Act¹ (ICASA Act), the Electronic Communications Act² (ECA) and the Broadcasting Act³ to regulate broadcasting activities in South Africa, in the public interest. Among the responsibilities of the Authority is the task 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 Radio Heart 104.9 (Pty) Ltd compliance for the 2022/2023 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, languages, Format, Local Content Obligations, General programming Obligations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations, General Licence Fees Regulations.

2. BACKGROUND

Radio Heart 104.9 (Pty) Ltd, broadcasting as Heart 104.9 FM ("Heart 104.9 FM") is an Individual Commercial Sound Broadcasting Service Licensee providing a programming mix of music and information to the Cape Town, Cape Town Fringe, Overberg and West Coast areas in the Western Cape Province⁴.

3. COMPLIANCE ASSESSMENT

3.1 Licensee

Clause 1 of Heart 104.9 FM's licence provides that:

¹ Act No. 13 of 2000, as amended.

² Act No. 36 of 2005

³ Act No. 4 of 1999

⁴ Appendix A: Heart 104.9 FM's Broadcasting Service License.

- "1.1 *Name of Company/Entity: Radio Heart 104.9 (Pty) Ltd.*
- 1.2 *Shareholders: MRC Media (Pty) Ltd (100%)*
- 1.3 *Ownership held by persons from historically disadvantaged groups:*
- Tsiya Radio – 41.48%*
- Kagiso Media Investments (Proprietary) Limited – 14.39%*
- Victory Parade 55 (Proprietary) Limited – 8.96%"*

The Licensee did not submit any notification or amendment applications to effect changes to the information reflected under this clause.

The Licensee complies with clause 1 of its licence.

3.2 Name of Station

Clause 1 of the Schedule to the Licensee's licence provides:

"Name of Station: *Heart 104.9 FM"*

The Licensee did not submit any amendment application to effect a change under clause 1 of the Schedule to its licence. The monitoring exercise further found that the Licensee's name of the station did not change during the period under review.

The Licensee complies with clause 1 of the Schedule to its service licence.

3.3 Geographic Coverage Area

Clause 2 of the Schedule to the Licensee's licence provides that:

"Coverage Area: *Cape Town, Cape Town Fringe, Overberg and West Coast areas as defined on the coverage map attached to the Licensee's Frequency Spectrum Licence."*

The Licensee submitted that during the period under review, its coverage area remained as prescribed in the coverage map attached to its Frequency Spectrum Licence. The Authority further did not receive any complaints or reports indicating that the Licensee had gone beyond its prescribed coverage area.

The Licensee complies with clause 2 of the Schedule to its service licence.

3.4 Broadcast Language

Clause 3 of the Schedule to the Licensee's licence provides that:

"Broadcast Language: *Principal Language: English"*

The broadcast language of the Licensee was through the monitoring exercise confirmed to be English.

The Licensee complies with clause 3 of the Schedule to its service licence.

3.5 Format

Clause 4 of the Schedule to the Licensee's licence states that:

"The format of the station is an adult contemporary jazz format."

The format of the station was through the monitoring exercise confirmed to be of an adult contemporary jazz format.

The Licensee complies with clause 4 of the Schedule to its service licence.

3.6 General Programming Obligations

Clause 5.1 of the Schedule to the Licensee's licence states:

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

Some of the news items found during monitored for the period under review include:

- *"Western Cape detectives are still for those responsible for the murder of a teenager in Manneberg. A 17-year-old was killed while a 5-year-old boy was wounded in Tamps Avenue on Saturday. The police's Wesley Twiggs says the victims were caught in a crossfire during a drive by shooting. The victims were standing in the road when unknown suspects entered the road and started shooting. The 17-year-old boy was declared dead on the scene by medical personnel while the 5-year-old boy was taken to a nearby medical facility."*
- *"In the Winelands, police are probing the circumstances surrounding the death of a Stellenbosch football club player. Oshwin Andries was allegedly stabbed in Klapmuts last weekend and was treated for those stab wounds in a hospital in Paarl. He was the reportedly discharged shortly afterwards. But on Saturday he was again rushed to hospital and sadly died on his way there. It's not yet clear if Andries died due to complications from the stabbing."*
- *"Education MEC David Maynier says they will not allow Khayelitsha taxi operators to disrupt school activities this morning. It's understood that these drivers will picket demanding learner transport contracts. Last week some*

scholar transport service providers were apparently intimidated by operators affiliated to the taxi association CODETA.

- *However, the association has distanced itself from these incidents. Last year, more than a thousand pupils were affected by a similar incident in Khayelitsha and Maynier says this sort of behaviour is unacceptable.*

The monitoring exercise found that during weekdays an average of forty-five (45) minutes of news is broadcast per day. On weekends that average is reduced to only eighteen (18) minutes per day.

The non-compliance in relation to this clause was outlined to the licensee in a meeting between the Licensee and the Licensee's Compliance Officer held on 05 July 2023. The meeting focused on the Authority's definition of news and compared to the Licensee's understanding thereof. The meeting culminated in the Licensee advising that news on weekends is challenging and that it may pursue an application for amendment of this licence obligation, should it not be able to increase its news output over the weekend. The Licensee requested indulgence until the start of the new financial year to implement the necessary remedial action.

The Licensee does not comply with clause 5.1 of the Schedule of its service licence.

Clause 5.2 of the Schedule of the Licensee's licence states:

"Should the Licensee source news material from a source other than itself, the source(s) thereof shall be disclosed during the news broadcast."

The monitoring exercise confirmed that when the Licensee sources news from external sources, such source is disclosed during the news broadcast. Some of the external news sources used by the Licensee include press releases, other radio stations, Newsflash, and online news services.

The Licensee complies with clause 5.2 of the Schedule of its service licence.

Clause 5.3 of the Schedule to the Licensee's licence reads as follows:

"The Licensee shall broadcast news for an average of six minutes every hour between 06h00 – 09h00 on all weekdays mornings."

The Licensee was found to be non-compliant with clause 5.3 in the previous Annual Compliance Report.

Following the non-compliance finding, the Compliance Officer and Licensee held a meeting on 05 July 2023. The meeting provided clarity regarding the Licensee's understanding of the definition of news and the obligation as reflected in this clause. The Licensee committed to increasing its news output to ensure compliance and requested indulgence until the start of the new financial year to implement the necessary remedial measures.

The Licensee does not comply with clause 5.3 of the Schedule to its service licence.

Clause 5.4 of the Schedule to the Licensee's licence reads:

"In compiling news, the Licensee shall include news from the African continent."

The monitoring exercise confirmed that the Licensee when compiling its news gives due regard to news from the African continent. Some of the news headlines from the African continent that was covered include:

- Cyclone Freddie that hit parts of Mozambique;
- Nigeria's election;
- Ethnic violence in Ethiopia; and
- Uganda Ebola outbreak.

The Licensee complies with clause 5.4 of the Schedule to its service licence.

Clause 5.5 of the Schedule's to the Licensee's licence states:

"In compiling information programmes, the Licensee shall give due regard to the character of its audience."

The monitoring exercise confirmed that the Licensee gives due regard to the character of its audience in compiling information programmes that are relevant to the audience with an emphasis on the values such as caring, upliftment, entertaining.

The Licensee complies with clause 5.5 of the Schedule to its service licence.

3.6 Training and Skills Development

Clause 6.1 of the Schedule to Heart 104.9 FM's licence reads:

"The Licensee shall put particular emphasis on the training and development of staff from historically disadvantaged groups."

The Licensee has a staff complement of thirty-seven (37). Of the thirty-nine (39), only four (4) are white, the rest are staff from historically disadvantaged groups. The Licensee states that it continues to drive investment into the training and development of staff from historically disadvantaged groups.

The Licensee complies with clause 6.1 of the Schedule to its licence.

Clause 6.2 of the Schedule to Heart 104.9 FM's licence states:

"The Licensee shall establish an employee training programme and shall spend a minimum of one million, one hundred and sixteen thousand rand (R1 116 000.00) over the licence period."

The Licensee for the period under review invested R136 000, for various training and development initiatives. This is over and above the R1 577 252,00 spent in 2019/20, R1 135 736,00 spent in 2020/21 and R431 061,00 spent in 2021/22. The total spend thus far is R3 280 049,00. The Licensee therefore has already exceeded its obligation to spend one million, one hundred and sixteen thousand rands (R1 116 000.00) over the licence period, which is ten (10) years.

The Licensee complies with clause 6.2 of the Schedule to its licence.

Clause 6.3 of the Schedule to Heart 104.9 FM's licence reads:

"The Licensee shall actively pursue the appointment of more women on-air presenters."

The Licensee's on-air talent remained stable during the period under review and no changes to its on-air talent occurred during the period under review. The Licensee's women on-air presenters include Ayanda Dlamini, Lynwen Roman, Kim-Lee Schuller, Tara Lee, Jaime Lee and Suga.

The Licensee's on-air talent remained stable for the period under review and as such no compliance finding can be made in relation to clause 6.3 of the Schedule to the Licensee's licence.

Clause 6.4 of the Schedule to Heart 104.9 FM's licence states:

"The Licensee shall regularly receive and train interns and students from tertiary institutions across South Africa."

During the period under review, the Licensee did not receive and train interns and students from tertiary institutions across South Africa. However, when monitoring the Licensee over the licence period, the Licensee has shown that it regularly received and trained interns and students. Further, the obligation contained in this clause does not require that the Licensee needs to receive and train interns and students on an annual basis.

The Licensee complies with clause 6.4 of the Schedule to its licence.

4. REGULATIONS

4.1 Compliance Procedure Manual Regulations – Form 12A

The Licensee is required, in terms of the Compliance Procedure Manual Regulations⁵, to submit a Form 12A which reports on all complaints received during each financial year.

The Licensee submitted the required Form 12A during the period under review.

The Licensee complies with the Compliance Procedure Manual Regulations, as stated above.

4.2 Regulations regarding Standard Terms and Conditions for Individual Licensees

⁵ ICASA Compliance Procedure Manual Regulations, 2011 as published in Government Gazette No. 34863 dated, 15 December 2011.

The Authority is satisfied that during the period under review, the Licensee did not contravene any regulation in respect of the Standard Terms and Conditions for Individual Licensees⁶.

The Licensee complies with the Standard Terms and Conditions for Individual Broadcasting Service Licensees.

4.3 ICASA Regulations on South African Music Content

Regulation 2 of the ICASA South African Music Content Regulations, as published on 23 March 2016 provides that:

*"A holder of a commercial sound broadcasting service licence must ensure that after eighteen (18) months of the gazetting of these regulations, a minimum of 35% of the musical works broadcast in the performance period, consist of South African music and that such South African music is spread evenly throughout the performance period"*⁷.

The monitoring exercise found that on average the Licensee broadcast thirty-five (35) percent of South African music content. South African music is spread evenly throughout the performance period. Further, the Licensee places particular emphasis on South African music and South African artists during *"The Take Over with Lunga Singama"* which is broadcast weekdays between 18h00 and 22h00.

Some of the South African music that the:

Jarrad Ricketts "Mama I Made It"; Miguel Preguerio "Hola"; Terence Rhoda ft. Keeno Lee "Things We Do"; The Pedestrians "Honest"; Ameen Harron ft Ameer & Kris Kidd "Mamita Dura".

Some of the interviews that the Licensee held with South Africa artists, during the period under review include:

Keeno Lee; The Pedestrians; Lee Cole; Lady Litsa; Vuvu Khumalo; Yanga Sobetwa; Alistair Izobell; Goodluck.

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

⁶ Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in Government Gazette No. 33294 dated, 14 June 2010, as amended.

⁷ ICASA South African Music Content Regulations, 2016 as published in Government Gazette No. 39844 dated, 23 March 2016.

4.4 Universal Service and Access Fund

Regulation 3 (1) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund, 2011⁸ state that:

"Every holder of a licence granted in terms of Chapter 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of its Annual Turnover to the fund (USAF)."

Further, Regulation 3 (3) states that:

"A Broadcasting Service Licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution against its prescribed annual contribution to the fund."

The Licensee made the required payment on 23 April 2023 and submitted the proof thereof to the Authority.

The Licensee complies with the USAF Regulations.

4.5 General Licence Fees

Regulation 3 (1) of the General Licence Fees Regulations⁹ state that:

"The annual licence fees prescribed in these regulations and as set out in schedule 2 apply to holders of individual and class ECS licences, individual and class ECNS licences and individual commercial Broadcasting Service licences."

Schedule 2 of the General Licence Fees regulations provide for Individual Commercial Broadcasting Services Licensees to pay an annual licence fee of 1.5% of gross profit to the Authority.

Regulation 4(b) and (c) of Schedule 3 state that:

"(b) In respect of payment, such are due and payable within 6 months from end of the Licensee's financial year;

⁸ USAF Regulations, 2011 as published in Government Gazette No. 34010 dated, 10 February 2011.

⁹ General Licence Fees Regulations, 2012 as published in Government Gazette No. 36323 dated, 28 March 2013, as amended.

*(c) May only be paid by way of an electronic transfer or via direct deposit into the Authority's bank account."*¹⁰

The Licensee made its general licence fees payment on 15 August 2023 and submitted the proof thereof to the Authority.

The Licensee complies with the General Licence Fees Regulations.

5. CONCLUSION

The monitoring exercise undertaken during the period under review found that the Licensee has complied with most of its obligations. However, it was found that the Licensee did not comply with its obligation to broadcast news for a minimum of thirty (30) minutes each day as well as for an average of six minutes every hour between 06h00 and 09h00 on all weekday mornings as reflected in clause 5.1 and 5.3 of the Licensee's licence. The Licensee requested indulgence until the start of the new financial year to implement the remedial measures to be compliant with the respective clauses. The Compliance Department will continue monitoring the above clauses and make a finding on the Licensee's compliance in the new financial year. Failure to remedy the non-compliance will result in a referral to the Authority's Complaints and Compliance Committee ("CCC").

6. TERMS OF REFERENCE

- 6.1 Appendix A: Heart 104.9's Licence
- 6.2 Appendix B: Heart 104.9's Report
- 6.3 Appendix C: Regulations Regarding Standard Terms and Conditions for Individual Licensees
- 6.4 Appendix D: South African Music Regulations
- 6.5 Appendix E: USAF Regulations
- 6.6 Appendix F: General Licence Fees Regulations

End

¹⁰ *Ibid.*