



HEART FM ANNUAL COMPLIANCE REPORT

MARCH 2017

2015/2016 ANNUAL COMPLIANCE REPORT

RADIO HEART BROADCASTING AS HEART 104.9 FM

LICENCE PERIOD: 17 December 2008 – 16 December 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. The Authority is tasked with ensuring compliance by broadcasters with the ICASA Act, the ECA and the Broadcasting Act as well as specific terms and conditions of their licence and any relevant legislation and regulations.

The report is intended to give account of Heart 104.9 FM Radio's performance for the 2015/2016 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Languages, Format, Local Content Obligations, General Programming Obligations, Training and Skills Development Obligations, Ownership and Control Obligations and the Regulations on South African Music Content, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations and General Licence Fees Regulations as well as Compliance Procedure Manual Regulation (CPMR).

2. BACKGROUND

Heart 104.9 FM is an Individual Sound Broadcast Service Licensee broadcasting in the Greater Cape Town Metropolitan area and immediate surrounds, including Stellenbosch, Paarl, Malmesbury and Wellington, the Southern Peninsula and the Helderberg Basin in the Western Cape. The

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

² ICASA Act No 13, 2000 as amended

³ Electronic Communications Act No 36, 2005

⁴ Broadcasting Act no 4 of 1999

radio station's broadcasts from the studios situated at 3rd Floor, Satbel Centre, 2 De Smit Street, Green Point, Cape Town.

Heart 104.9 FM Radio provides a programming format of a mix of music and information.

Table 1: Audience analysis:

<i>RAMS Diary</i>	2014/6	2015/3	2015/4
7-Day Cume Audience			
Heart 104.9 FM	598	549	635
94.5 KFM	975	785	810
Good Hope FM	650	574	616
Smile	58	70	100
0000-2400 Mon-Sun Average Quarter Hour			
Heart 104.9 FM	41	33	46
94.5 KFM	48	36	43
Good Hope FM	28	24	29
Smile	4	5	8

Table 1 above shows that Heart FM has been able to maintain its audience although there was a slight decline in the 2015/3 Rams diary. In actual fact this decline cut across all established commercial radio station's in the same period. For example, 94.5KM's listenership decline by 190 and Good Hope's declined by 75. However, there was noticeable growth in the 2015/4 Rams diary for all 3 competitors. However, it is important to note that there is no evidence in the Authority's possession indicating that the drop in listenership resulted in a drastic drop in revenue generated.

3. OWNERSHIP AND CONTROL

Clause 1 of the licence stipulates that the licence is issued to:

"Name of Company/Entity: Radio Heart 104 (Pty) Ltd".⁵

The Licensee is Radio Heart 104 (Pty) Ltd as stipulated in its licence.

⁵ Appendix A: Broadcasting Service licence

The Licensee complies with clause 1.1 of the schedule to the licence.

Clause 1.2 stipulates as follows:

"Shareholders: Makana Radio Communication (Pty) Ltd (100%)".

The Licensee is 100% owned and controlled by Makana Radio Communications (Proprietary) Limited.

The Licensee complies with clause 1.2 of its licence.

Clause 1.3 of the licence stipulates as follows:

"Ownership held by persons from historically disadvantaged groups:

Tsiya Radio	59.96%
Victory Parade Trading 55 Pty Ltd	20.02%
Kagiso Media Ltd	20.02%

The Licensee complies with clause 1.3 above.

4. COMPLIANCE ASSESSMENT

4.1. Geographic Coverage Area

Clause 2 of the Schedule to the licence stipulates that:

"The coverage area is Cape Town, Cape Town Fringe, Overberg and West Coast areas as defined in the coverage map attached to the Licensee's radio frequency spectrum licence".⁶

According to the Frequency Spectrum licence, Heart 104.9 FM covers the following areas: Cape Town and Cape Town Fringe that is Houtbay, Fishhoek, Bellville, Tygerberg, Bloubergstrand, Die Swartland, Boland, Landeberg and also includes the following towns such as Atlantis, Darling, Paarl, Malmesbury, Wellington, Somerset West, Stellenbosch and Grabouw.

⁶ Appendix B: Broadcasting Service and Frequency Spectrum licence

The Licensee has confirmed that it offers a service to the areas specified in the frequency spectrum licence and therefore is in compliance with clause 2 above.

4.2. Broadcast Language

Clause 3 of the licence stipulates that Heart 104.9 FM's language of broadcast is as follows:

"Principal language: English".

The monitoring exercise confirmed that Heart 104.9 FM broadcasts in English.

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

4.3. Format

Clause 4 of the licence stipulates that:

"The format of the station is an Adult Contemporary Jazz format".

The Licensee submits that it provides a service in an Adult Contemporary Jazz format.

The Authority's monitoring confirmed that the Licensee broadcasts in an Adult Contemporary Jazz format which includes Smooth Jazz, Soul, R&B and Adult Contemporary Pop.

During the period under review, artists featured included: *Sam Smith, Jordan Sparks, Jamali, Whitney Houston, Jimmy Nevis, Justin Bieber, One Direction, Robin Thicke, Micasa, Chris Brown, Maroon 5, Mary J. Blige, Mozart, George Benson, Mariah Carey, Shout, Euphonik, Mafikizolo, Tevin Campbell, Regina Belle, Kenny G, Freshlyground, Marvin Gaye, Berry White, Lionel Richie, Michael Jackson, Donell Jones, Eric Bennett, Cher, All 4 One, Ne yo, John Legend, Angie Stone and Adele.*

Table 2: Listener Demographics

<i>RAMS Diary</i>	<i>2014/6</i>	<i>2015/4</i>
Total	598	635
Men	304	306
Women	294	330
15-24	148	150
25-34	159	167
35-49	188	183
50+	104	135
Coloureds	485	458
Whites	44	104
Blacks	65	65

As seen from the above, listener demographics table, the Licensee remains coloured centric at 485 and 458 respectively compared to its steady increase in white listenership. As at the time of this report, the listener demographics depicted a stable but minuscule number of black listeners.

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

4.4. General Programming Obligations

Clause 5.1 of the licence states that:

"The Licensee shall broadcast news on a regular basis for a minimum of thirty (30) minutes each day between 06h00 and 23h00".

The monitoring exercise confirmed that the Licensee broadcasts news bulletins every hour on the hour from 06h00 to 18h00 and headlines every half hour to 18h30. Thirteen (13) news bulletins were identified and the duration of which was three (3) to six (6) minutes per bulletin. In total, forty (40) minutes of news per day was monitored.

Among the news stories covered were the following excerpts from certain broadcasts, as follows:

- *"Commuters should brace themselves for a tough morning after two trains were set alight over the weekend. Five (5) platforms have seen closed after a suspected arson attack on Saturday. The trains were set alight at Cape Town Station platform 1&2. Metrorail spokesperson says 60 minutes delays should be expected.";*
- *"The ANC in the Western Cape says it will only discuss the Constitutional Court judgement on Nkandla in their next P.E.C meeting to discuss voter registration. The past weekend was the last voter registration drive for the upcoming municipal elections in August.";*
- *"Four (4) people have been arrested for the murder of a seventeen (17) year old boy in Makhuzha, Khayelitsha. It is believed the seventeen (17) year old was beaten to death for allegedly being involved in a burglary of a shop in the area. After an investigation by the police, the shop owner and three (3) other suspects were arrested. The four to appear in court."; and*
- *"Cape Town bosses say they can only do so much in the fight against gang violence. The City says it only controls less than 3% of the policing resources in the metro. The City deployed its stabilization Unit to Manenberg in a bid to try and quell deadly gang violence. Manenberg safety forum indicated that at least twenty (20) people have been gunned down in recent weeks, however, that figure still has to be confirmed."*

The Licensee complies with clause 5.1 of the Schedule to its licence.

Clause 5.2 of the 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 Licensee maintains that whenever it reports on news that it has obtained from other sources other than its own journalists, such sources are disclosed during the relevant news bulletin.

The Authority's monitoring confirmed that the Licensee discloses its news sources, whenever it reports on news that has not been obtained by its own journalists. Sources include among others, news websites, tip offs and South African Press Association (SAPA).

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

Clause 5.3 of the Schedule to the licence which stipulates that:

"The Licensee shall broadcast news for an average of six (6) minutes every hour between 06h00 and 09h00 on all weekday mornings".

The Authority's monitoring assessed that the Licensee broadcasts six (6) minutes of news hourly in the mornings as per the licence. The main bulletin is at the top of the hour and it lasts for five (5) minutes whereas the headlines are at the bottom of the hour and it lasts for (1) minute.

The Licensee has also introduced three (3) signature bulletins which last for six (6) minutes. The signature bulletins are featured at 07h00, 12h00 and 18h00. The bulletins are intended to give listeners comprehensive information on the main news stories of the day locally, nationally and internationally.

The Licensee complies with clause 5.3 above.

Clause 5.4 of the licence stipulates that:

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

As indicated in clause 5.1 above, the Licensee broadcasts news from the African continent.

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

Clause 5.5 of the licence stipulates that:

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

The Authority's monitoring confirmed that the Licensee's programming has a distinct Western Cape feel which addresses the needs and character of its audience. The radio stations line up is reflective of the target audience needs.

Apart from regular news programming, traffic and sport, all of which have due regard to the character of its audience, socio-economic topics, entertainment news are broadcast. Further, there are a number of other programmes that are informative and educational and are targeted at the specific audiences in the coverage area.

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

4.5 Training and Skills Development

Clause 6.1 of the licence stipulates that:

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

The Licensee submits that it continues to provide its employees with opportunities to enhance their skills, competencies and personal development training to previously disadvantaged staff. During the period under review, the Licensee invested in a Talent Management Programme, CRM training, MBA leadership programme and leadership and safety.

The Licensee complies with clause 6.1 of its licence.

Clause 6.2 of the Schedule to the licence stipulates that:

"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) annually over the Licence period".

The Licensee has reported that it has spent R162 780 on training and development, for the period under review.

The requirement of R1 116 000.00 is measured annually over the Licensee's licence period, which is a period of ten (10) years. To date the Licensee has spent over R1 054 853.60 on training and skills development. Since the requirement is measured over the Licensee's licence period, a conclusion on compliance can only be drawn at the end of the Licensee's licence period.

Clause 6.3 of the licence stipulates that:

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

The Licensee submits that it continues to appoint women as on air presenters and provide internship programmes for further development.

During the period under review, the Licensee is found to be in compliance with the clause 6.3 of the licence.

Clause 6.4 of the licence stipulates that:

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

The Licensee has reported that it appoints interns on a regular basis as part of its commitment to develop learners and equip them with the necessary skills required within their field of studies. Further, the Licensee submits that internship programmes are for a period of three (3) to twelve (12) months. For the period under review the Licensee submits that it appointed four (4) coloured females and two (2) coloured males.

The Licensee complies with clause 6.4 of the licence.

5. REGULATIONS

5.1. South African Local Content Music Regulations

Regulation 3.2 of the Regulations on South African Music Content, as published on 31 January 2006, stipulates that:

*"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that a minimum of 25% 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"*⁷.

Monitoring confirmed that at least 26% of the Licensee's music content is South African music.

The following artists were identified: *Mozart, Jimmy Nevis, Under the Influence, Denim, Crazy White Boy, HHP, Chad Saaiman, Mi Casa, Danny K, DJ Kent, DJ Jazzy D, DJ Keith, Jamali, Liquid deep, Loyiso, Winnie Khumalo, TKZee Family, Freshly ground, GB Collective, Claire Phillips, Jarred, RJ Benjamin, Mafikizolo, Zwai Bala, Zahara, Fistaz Maxwell, Lloyd Bala, Khaya Mthethwa, Vusi Nova, Marc Alex, Jae, Garth Taylor, Thabo Mdluli, Bongo Maffin, Peanut Gallery, Donald, and Giggs Superstar amongst others.*

The Licensee complied with the Regulations on South African Music Content for the period monitored.

5.2. Standard Terms and Conditions

No areas of non-compliance with the standard terms and conditions for individual licences were identified during the period under review.⁸

5.3 Universal Service and Access Fund Regulations

Regulation 3 (1) of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF), as published in the Government Gazette, No. 31499 of April 2009, stipulates that:

"Every holder of a Licence granted in terms of Chapter 3 or converted in terms of chapter 15 of the Act, must pay an annual contribution of 0.2%

⁷ Appendix C: South African Music Regulations

⁸ Appendix D: Regulations Regarding Standard Terms and Conditions for Individual Licences

of the annual turnover, derived from the licensee's licence activity, to the Fund (the Fund)".

Further, Regulation 3 (3) stipulates 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."⁹

The Licensee made payment of R125 496. 53 on 26 August 2016 to the Media Development and Diversity Agency (MDDA) and duly submitted proof of payment the Authority.

The Licensee has complied with the USAF Regulations

5.4 General Licence Fees

Regulation 3(1) of the General Licence Fees Regulations stipulates 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 BS licences".

Schedule 2 of the Annual Licences Fees regulations provides for Individual Commercial Broadcasting Service Licensees to pay an annual licence fee of 1.5% of gross profit to the Authority.

Regulations 4 (b) and (c) of Schedule 3 stipulates that:

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

(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 a payment of R125 496. 52 to the Authority on 29 August 2016.

⁹ Appendix E: Universal Service and Access Fund Regulations

¹⁰ Appendix F: General Licence Fees Regulations

The Licensee has complied with the General licence fee regulations above.

5.5. Code on People with Disabilities

Clause 3.1 (a) of the Code on People with Disabilities as published in the Government Gazette, no 30441, 7 November 2007, states that:

"Broadcasting service licensees must ensure that their services are made available and are accessible to people with disabilities".¹¹

Clause 3.1 (b) stipulates that:

"Options for making broadcasting services more accessible may include the following:

- i. Improve and/or increase subtitles and sign language;*
- ii. Expand knowledge on various adjustments such as induction loops, Minicom/text phones and alternatives computer software;*
- iii. Access to programme support such as fact sheet;*
- iv. Website to offer a range of formats (such as electronic versions, Braille and audiotape);*
- v. Use of spoken languages where economic indicators, weather details, telephone numbers and addresses or details of goods and services are shown on-screen; and*
- vi. Use of non-scheduled services such as access via Personal Video Digital Recorders (PVR's) and TV anytime".*

Clause 3.1 (c) states that:

"Broadcasting service licensees must monitor the effectiveness of their service through surveys as well as contact with organisations of and for people with disability and stakeholders".

¹¹ Appendix G: Code on People with Disabilities

The Licensee engaged with the promotion of disability rights awareness and established links with organisations for people with disabilities to generate story ideas and to identify potential contributions.

Producers are encouraged to establish relationships with organisations for people with disabilities to use for content when the need arises.

The Licensee has demonstrated that it complies with the Code on People with Disabilities.

5.6 Information in accordance with Compliance Procedure Manual Regulation (CPMR)¹²

The Licensee was required to submit the information to the Authority in the following manner:

- a) *Form 1, 2 & 7C: These forms are annual submissions and are to be submitted each year by end of June;*
- b) *Form 6B and 12A: These forms are bi –annual submissions and are to be submitted second week of October and second week of April each year;*
- c) *Form 9A & 9B: These are quarterly reports pertaining to general programing logs, they are to be submitted at the end of each quarter i.e. at the end of May, August, November and February of each financial year; and*
- d) *At least two weeks of programme recordings should be submitted on a quarterly basis.*

The Licensee has submitted the above Forms in accordance with the (CPMR).

¹² Compliance Procedure Manual Regulations, 2011 published in government gazette no 34863, dated 15 December 2011.

5.7 Compliance Procedure Manual – Form 12A

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A¹³ which reports on all complaints received in the course of each financial year.

For the period under review, the Licensee did not received complaints against Heart FM.

6. CONCLUSION

The Licensee has generally complied with its licence terms and conditions and relevant Regulations.

7. TERMS OF REFERENCE

7.1 Appendix A: Individual Broadcasting Service licence

¹³ Appendix E: SABC Form 12A