



KAYA FM

ANNUAL COMPLIANCE

REPORT

MARCH 2025

2023/24 ANNUAL COMPLIANCE REPORT

Kaya FM (PTY) LTD BROADCASTING AS KAYA FM

LICENCE PERIOD: 17 December 2018 – 16 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. 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 the compliance status of Kaya FM with the terms and conditions of its licence for the 2023/2024 financial year. Areas of compliance in the service licence that are measured comprise of the Coverage Area, Broadcast Language (s), Format, Local Content Obligations, General Programming Obligations, Training and Skills Development, Community - related Obligations, Ownership and Control Obligations.

2. BACKGROUND

The Authority issued a renewed commercial broadcasting licence on 04 June 2019 to Kaya FM (Pty) Ltd valid for ten (10) years from the effective date until 15 December 2028. The Licensee provides sound commercial broadcasting services in the Gauteng province.

¹ Act No. 13 of 2000, as amended.

² Act No. 36 of 2005.

³ Act No. 4 of 1999.

3. COMPLIANCE ASSESSMENT

3.1. Geographic Coverage Area

Clause 3 of the schedule for Kaya FM's service licence stipulates that:

"The coverage area is Johannesburg, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence".

The coverage area is as per the coverage map on the frequency spectrum licence.

The signal distribution is provided for by Sentech.

The Licensee complies with its geographic coverage area.

3.2 Broadcast Language

Clause 4 of the schedule to Kaya FM's service licence stipulates that the language of broadcast shall be:

"Principal language: English".

Kaya FM's principal language of broadcast is English, but listeners and presenters through their engagement do use or mix the principal language with other South Africa official languages.

The Licensee complies with its language of broadcast.

3.3 Format

Clause 5.1 of the schedule to Kaya FM's service licence stipulates that:

"The Licensee shall have programming format as follows:

Clause 5.1.1 An African-focused adult contemporary/jazz music;

Clause 5.1.2 Sixty percent (60%) music and forty percent (40%) talk".

The mid-morning to midday programme has a blend of talk and music. The morning and afternoon drive-time programmes as well as the weekend programming, those are music-driven. The programming on Sundays focuses on adult contemporary sound, Jazz and music from the African continent and diaspora

Kaya's programming format on weekdays i.e. Mondays to Thursdays from 18H00 until 22H00 is completely talk-driven which is Kaya Bizz business and financial content focus and Point of View which is mainly a current affairs programming format.

The Licensee complies with its format.

Clause 5.2 of the schedule to Kaya FM's service licence stipulates that:

"The Licensee shall not change more than fifteen percent (15%) of its format between 05h00 and 23h00".

Kaya FM has not notified the Authority of changes to their format and that means, there were no format changes for the period under review.

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

3.4 General Programming Obligations

Clause 6.1 of the schedule to Kaya FM's service licence stipulates that:

"The Licensee shall, during each day, broadcast news on a regular basis for a minimum of thirty (30) minutes each day during the South African performance period (05h00 and 23h00)".

Kaya FM broadcasts news starting at 06h00 until 18h00 during weekdays, with weekend news from 06H00 until 12H00. The news broadcasts are an average of four minutes for an average total of fifty-nine minutes on weekdays and thirty-two minutes over the weekends.

The news items heard during the period under review, among others, were the following:

- *"The Independent Electoral Commission says a record 27.79 million people are registered to vote in the 29 May elections. This is the highest number of voters since the dawn of democracy.*
- *Lawyers for disgraced Dr Nandipha Magudumana are demanding a copy of the soon to be released Multichoice documentary titled "Tracking Thabo Bester". Magudumana who is accused of assisting her rape and murderer boyfriend Thabo Bester, wants to see the doccie before its airs.*

- *The Social Development Department has urged members of the public to comment on the extension of the COVID-19 Social Relief of Distress (SRD) grant regulations. The grant was introduced in May 2022 during the COVID-19 pandemic.*

The Licensee complies with its news obligation.

Clause 6.2 of the schedule to Kaya FM's service licence stipulates that:

"Each news bulletin shall contain news related to the African continent".

The Authority's monitoring exercise revealed that the Licensee's broadcast news related to the African continent and identified the following:

- *"Presidential candidate Bassirou Diomaye Faye's supporters have taken to the streets of capital Dakar in celebration after early election results from yesterday's vote indicated the opposition contender was in the lead".*

The Licensee complies with clause 6.2 of the schedule of its service licence.

Clause 6.3 of the schedule to Kaya FM's service licence stipulates that:

"The source(s) of all news material (other than news sourced from the Licensee) shall be disclosed during the news broadcast".

The Licensee complies with clause 6.3 of the Schedule of its service licence.

3.5 Training and Skills Development Obligation

Clause 7 of the schedule of Kaya FM service licence stipulates that:

"The Licensee shall spend at least R 300 000 (three hundred thousand Rand) annually to human resource development".

The Licensee submits that it has spent three hundred and seventy-three thousand rands (R373 000) for training and development for the year under review.

The Licensee complies with its training and skills development.

3.6 Community-related Obligations

Clause 8 of the schedule to Kaya FM's service licence stipulates that:

"The Licensee shall spend R500 000 (five hundred thousand Rand) of airtime per annum to promote corporate social responsibility initiatives such as awareness of HIV/AIDS, cancer, poverty alleviation, job creation and any other social objective".

The Licensee submits that they have allocated airtime to promote social responsibility programmes for campaigns for organisations such as Tomorrow Trust, Headway Gauteng and Lambano Sanctuary amongst others to a total value of two million eight hundred and seventy-five thousand rands⁴.

The Licensee complies with its community-related obligations.

3.7 Control

Clause 9 of the schedule for Kaya FM's service licence stipulates that:

"Persons from historically disadvantaged groups shall maintain operational control through management, executive, remuneration and audit committees. The Licensee must ensure that staff is involved in a profit-sharing scheme."

The Licensee's submits its directorship consists of six (6) members including three (3) alternative directors with two (2) of the main three (3) directors classified under historically disadvantaged groups. There are representatives of HDG personnel in the remunerations and audit committee. Kaya FM reports that for the year under review, profit-sharing schemes are in place to be paid out to staff members.

The Licensee complies with clause 9 of the schedule to its service licence.

⁴ Appendix C

4. REGULATIONS

4.1 Code of Conduct for Broadcasters

The Licensee is a member of the National Association of Broadcasters (NAB) and complaints in relation to the Code of Conduct for Broadcasters are administered by the Broadcasting Complaints Commission of South Africa (BCCSA).

4.2 South African Music Content Regulations

Regulation 3 (2) of the ICASA South African Music Contents Regulations published on 23 March 2016 stipulates that:

"Every holder of a commercial sound broadcasting licence must ensure that after eighteen (18) months from the date of 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 reasonably evenly throughout the said period".

The Licensee's local music content submission reflects an average of thirty-five percent (36%) for overall local music output, but they can increase local content output by including interviews with artists such as Shoba and Phumeza, Thando Zide, Tutu Puoane, McCoy Mrubata which is added through the format factor point system. Some of the South African songs featured included *Spirit of Praise – Elshadai Adonai, Mafikizolo – Ndi Hamba Nawe, Joe Nina – Sbali, L'vovo Derrango – Bayang'sukela* amongst others.

The Licensee complies with the South African Music Content Regulation.

4.3 Standard Terms and Conditions

The Authority could not find any instances of non-compliance by the Licensee with the Regulations regarding Standard Terms and Conditions for Individual Licences during the year under review.

4.4 Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund

Regulation 3 of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF), published in Government Gazette, No. 34010 of 10 February 2011, stipulates that:

(1) "Every holder of a licence granted in terms of Chapters 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".

(2) "A BS licensee who has paid an annual contribution to the MDDA must set off that contribution against its USAF Contribution, provided that the MDDA contribution and the USAF contribution against which it is set off are for the same financial year".

The Licensee made payments to the MDDA fund and submitted proof thereof.

The Licensee complies with the USAF Regulations.

4.6 General Licence Fees Regulations

Regulation 3 (1) of the General Licence Fees Regulations published on Government Gazette No. 36323 of 28 March of 2013 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 provides for Licensees to pay an annual licence fee in accordance with their licensed revenue and to be calculated using the set formula.

Regulation 7(a) (b)(c) of Schedule 3 provides that Annual Licence Fees:

- a) "Are due annually based on the licensee's financial year;*
- b) 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".*

The Licensee made payments for their annual licence fees and submitted proof thereof.

The Licensee complies with the General Licence Fees Regulations.

5. CONCLUSION

The Licensee has complied with the relevant Regulations and its licence terms and conditions for the year under review.

6. TERMS OF REFERENCE

Appendix A: Kaya FM's broadcasting service licence

Appendix B: Form 9 submission

Appendix C: Compliance Submission

END