



KAYA FM ANNUAL COMPLIANCE REPORT

MARCH 2023

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2021/2022 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 Constitution¹, the Independent Communications Authority of South Africa Act (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 report is to give an account of Kaya FM's compliance with the terms and conditions as set out in its licence for the 2021/2022 financial year. Aspects of compliance in the service licence that are measured comprise 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. The Licensee provides sound commercial broadcasting services in the Gauteng province.

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. Geographic Coverage Area

Clause 3 of the schedule to 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 by Sentech.

The Licensee complies with its geographic coverage area.

3.2 Broadcast Language (s)

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 African 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".

Kaya's programming format is music driven for most of the programmes on weekdays during the performance period. The talk content on most of the shows are through interaction with listeners and interviews on topical issues. They however have an exclusive talk content programme in the form of Kaya Bizz broadcast from 18H00 until 20h00 followed by Kaya FM talk until 22H00. Both programmes are broadcast Mondays

until Thursday and are of current affairs in nature and informal knowledge-building content and exclusive talk content. The weekend programming is also music driven by adult contemporary music on Saturday, and Sunday having a focus on jazz music as well as music from the African continent and diaspora.

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 no format changes were found during the monitoring exercise for the period under review.

The Licensee complies with clause 5.2 of the schedule to 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 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 and ending at 12H00 midday over the weekend, respectively. The news broadcasts are an average of four and a half (4.5) minutes for an average total of fifty-nine (59) minutes on weekdays and thirty-two (32) minutes over the weekends.

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

- *"Power utility Eskom has implemented Stage 2 load shedding which is likely to continue throughout the weekend. This week, the utility warned that its system was constrained and that power cuts could be implemented at short notice.*
- *Education Quality Assurance Council Umalusi says the issue of load shedding during exams will have far reaching implications on the sector. CEO Mafu Rakometsi says there needs to be a high-power delegation that needs to find solutions in dealing with the effect of power outages.*

- *Health Minister Joe Phaahla says no province has experienced a spike in Covid 19 infection following the elections. He says the country has not seen super spreader events related to the polls."*

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:

- *"Officials in Sudan are on high alert this morning following continued demonstration at the weekend. Three people were killed on Saturday when security forces fired shots and teargas to disperse protesters."*

The Licensee includes a news story from the African content on each of their bulletins.

The Licensee complies with clause 6.2 of the schedule to 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 discloses the source in news bulletin with a majority of their news self-generated.

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

3.5 Training and Skills Development Obligation

Clause 7 of the schedule of the 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 eight hundred and thirty-four thousand five hundred and seventy-seven (R834 577) for the year under review on training and development for its employees.

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 it has allocated airtime to promote social responsibility programmes for campaigns such as Back to School and Avon Breast Cancer Awareness to a total value over two million rands (R2 000 000)⁵.

The Licensee complies with its community-related obligations.

3.7 Control

Clause 9 of the schedule to 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 submits its directorship consisting of eight (8) members including alternate directors, six of the eight (8) being from historically disadvantaged groups, and its remuneration and finance committees are made up of two-thirds of historically disadvantaged groups. Kaya FM reports that for the year under review, profit-sharing scheme payments were made to its staff.

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

⁵ 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 (35%) for overall local music output which includes interviews with local artists which is added through the format factor point system. Some of the South African artists featured included *Dr Tumi, Magesh, Mobi Dixon, Mdu* amongst others and interviews and promotion of new music from artists such as Malcolm Jiyani.

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 paid their contribution to the Universal Service and Access 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 the prescribed payment and submitted proof thereof to the Authority.

The Licensee complies with the General Licence Fees Regulations.

5. CONCLUSION

The Licensee has complied with the relevant Regulations and its service license 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: Training and Development Report

Appendix D: Report on Community related obligations

END