



# **NKANDLA FM ANNUAL COMPLIANCE REPORT**

**MARCH 2023**

# **2021/2022 ANNUAL COMPLIANCE REPORT**

## **NKANDLA COMMUNITY RADIO STATION BROADCASTING AS NKANDLA FM**

**Licence Period: 06 November 2017 to 05 November 2022**

### **1. PREFACE**

The Independent Communications Authority of South Africa ("Authority") has a statutory mandate in terms of the Constitution<sup>1</sup>, the Independent Communications Authority of South Africa Act (ICASA Act<sup>2</sup>), the Electronic Communications Act<sup>3</sup> and the Broadcasting Act<sup>4</sup> to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority is to monitor compliance by broadcasters with the terms and conditions of their licences, the three Acts and any relevant legislation and Regulations.

The purpose of this report is to give an account of the performance of Nkandla Community Radio Station ("Nkandla FM"/"Licensee"), for the 2021/2022 financial year. Aspects of compliance that are measured comprise the geographic coverage, community participation, programming obligations, language(s) of broadcast, broadcast content format, Compliance Procedures Manual Regulations, South African Music Content Regulations and Regulations regarding Standard Terms and Conditions for Class Broadcasting Services.

### **2. BACKGROUND**

Nkandla FM holds a Class Community Sound Broadcasting Service ("C-CSBS") licence and a Radio Frequency Spectrum ("RFS") licence (collectively referred to as "licences") for the provision of services to Uthungulu District Municipality and surrounding areas in the KwaZulu-Natal Province.

### **3. COMPLIANCE ASSESSMENT**

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<sup>1</sup> The Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996).

<sup>2</sup> ICASA Act, 2000 (Act No. 13 of 2000), as amended.

<sup>3</sup> Electronic Communications Act, 2005 (Act No. 36 of 2005).

<sup>4</sup> Broadcasting Act, 1999 (Act No. 4 of 1999).

### 3.1 Control Structure

Clause 1 of the schedule to the service licence states that:

*"The Licence is issued to:*

- 1.1 Name of Company/Entity: Nkandla Community Radio Station.*
- 1.2 Name of the Station: Nkandla FM.*
- 1.3 Control of the Licensee: Control shall vest in the Board of Directors of Nkandla Community Radio Station".*

There were no changes reported by the Licensee to its control structure during the period under review. The entity is still Nkandla Community Radio Station. The name of the Licensee's radio station is Nkandla FM. The control of the Licensee is still in the hands of Nkandla Community Radio Station.

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

### 3.2 Licence Period

Clause 2 of the schedule to the service licence states that:

- "2.1. The effective date of the licence is 06 November 2017*
- 2.2. The Licence shall expire on 05 November 2022".*

The Licensee was renewed and issued a new licence on, 25 May 2022 which will expire on 05 May 2029.

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

### 3.3 Licence Area

Clause 3 of the schedule to the service licence stipulates that:

*"The Licensee shall provide services to Uthungulu District Municipality and surrounding areas as set out in the Licensee's radio frequency spectrum licence".*

The licensed area remains as is prescribed and specified in the RFS licence.

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

### 3.4 Community

Clause 4.1 of the schedule to the service licence states that:

*"The Licensee shall provide services to a geographic community residing within a geographic coverage area specified herein namely: Uthungulu District Municipality".*

The Licensee confirms that its services are offered to the community that resides within the Uthungulu District Municipal area.

**The Licensee complies with clause 4.1 of the schedule to its service licence.**

Clause 4.2 of the schedule to the service licence provides 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 programe-related matters for the selection and provision of programmes.*

*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 did not provide the Authority with a record of programming meetings held with the community for the period under review.

**The Licensee did not comply with sub-clauses 4.2.1 and 4.2.2 of the schedule to its service licence.**

The clause on the Annual General Meetings (AGMs), in the service licence stipulates that:

*4.2.3 The Licensee shall hold Annual General Meetings (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 reported that it held an elective AGM on 22 September 2021, to provide feedback on the station's performance to the community of Uthungulu District Municipality. However, the Licensee furnished the Authority with AGM minutes yet did not submit the attendance register as confirmation of attendance.

Further, on an engagement on 19 August 2022, the Licensee was informed of the requirements to hold an AGM and not once every five (5) years and was required to hold a reporting AGM before the end of 2022.

**The Licensee is partially compliant with sub-clause 4.2.3 and its sub-clauses of the schedule to the service licence.**

### **3.5 Programming**

Clause 5.1 of the schedule to the service licence states that:

*"The Licensee shall provide programming as follows:*

#### **5.1.1 Local News and Information:**

*The Licensee shall broadcast a total of 135 minutes of news per week, of which 91 minutes shall be local news, 33 minutes shall be national news and 11 minutes shall be international news.*

Nkandla FM broadcasts twelve (12) news bulletins between 08h00 and 19h00 on weekdays and broadcasts no news bulletins on weekends. Each news bulletin is between 5 minutes and 6 minutes long.

The Authority's monitoring exercise confirmed that the Licensee broadcasts over three hundred (300) minutes of news per week on weekdays.

Below are snippets of certain news items that were monitored:

- *"Undunankulu wesifundazwe sakwa Zulu Natal, u Sihle Zikalala uzonikela ngezindlu futhi anikele umbiko wenqubekela phambili mayelena no Mdletshe Rural Housing Project ngesabelo mali engaphezulu kuka 340 million wama randi ngemva kwezintsuku nje ethule inkulumo i SOPA",*

- *"Indaba zokuthi i Councillor lishaye ilungu lomphakathi zishiye i ANC ibambe ongezantsi. I ANC ithi ke sonke lesisikhathi lomfelandawonye ngekhe ubenemiphumela efanelekile", and*
- *"Ikomiti leze Mfundo elishaya ezomthetho kwa Zulu Natal lukwamkele ukuqokwa kuka mnumzana N Ngcobo njengentloko yalomnyango. Usihlalo wekomiti u Sifiso Sonjica uthe ke bayazazi izintselele ezibhekene nalomnyango okubalwa kuzo izinga eliphezulu lezikhali, isabelo mali kanye nezindaba eziphathelele nengqalasisinda".*

**The Licensee complies with sub-clause 5.1.1 of the schedule to its service licence.**

**5.1.2 Local Content:** *The Licensee shall broadcast South African music content of 80%.*

The Authority's monitoring exercise determined that the Licensee broadcasts between 80% and 87% South African music content during the performance period.

Some of the South African artists identified are: Nqobile Ngidi "Jesu uyingaba Yami", Jumbo "Wena Nkosi Uyazi", Malaika "Nguwe", Zahara "Phendula", Catholic Hymn "Ngingo wakho Jesu wam", Emza C. "Alcohol", Ncandweni Christ Ambassadors "Ukhonzaphi?" and many more.

**The Licensee complies with sub-clause 5.1.2 of the schedule to its service licence**

**5.1.4 Language(s) of broadcast:**

*5.1.4.1 isiZulu – 95%; and*

*5.1.4.2 English – 5%".*

The Licensee broadcasts mainly in isiZulu. All the news bulletins are read in isiZulu. The engagement between presenters and guests, voice notes, messages and call-ins are predominantly in isiZulu.

**The Licensee complies with sub-clause 5.1.4 of the schedule to its service licence.**

Clause 5.2 of the schedule to the service licence stipulates that:

*"The Licensee shall keep a log of programmes broadcast which must be submitted on a monthly basis to the Authority. A pro-forma of the log to be kept will be supplied by the Authority".*

The Licensee went on air for the first time in 2020, was workshopped on 11 February 2021 and was forwarded the monthly logs to submit to the Authority. Nkandla FM has never submitted monthly logs except for the March 2022 submission.

Further, the Licensee has been forwarded the monthly logs and reminded to submit them by the 7<sup>th</sup> of every month during the engagement on 19 August 2022 and still continues not to submit the monthly logs.

**The Licensee does not comply with clause 5.2 of the schedule to its service licence.**

#### **4. REGULATIONS**

##### **4.1 ICASA Compliance Procedure Manual Regulations, 2011**

The Licensee is required, in terms of the ICASA Compliance Procedure Manual Regulations as published in *Government Gazette* No. 34863 dated, 15 December 2011 to submit a Form 12A which reports on all complaints received during the financial year under review.

For the year under review, the Licensee submitted the complaints report as required and there were no complaints received.

**The Licensee complies with the ICASA Compliance Procedure Manual Regulations.**

##### **4.2 ICASA South African Music Content Regulations, 2016**

Regulation 3(3) of the ICASA South African Music Content Regulations as published in the *Government Gazette* No. 39844 dated 23 March 2016 provides that:

*"A holder of a Community Sound Broadcasting service licence must ensure that after eighteen months (18) from the date gazetting of these regulations, a*

*minimum of 60% increasing by 10% annually to reach 80% 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 performance period”.*

The Authority’s monitoring exercise confirmed that the Licensee broadcasts between 80% and 87% of South African music. **See paragraph 3.5 (sub-clause 5.1.2) above.**

**The Licensee’s complies with the ICASA South African Music Content Regulations.**

#### **4.3 Regulations regarding Standard Terms and Conditions for Class Broadcasting Services<sup>5</sup>**

During the period under review, there is no record that the Licensee did not adhere to the Regulations on Standard Terms and Conditions for Class Licensees.

**The Licensee complies with the Standard Terms and Conditions for Class Broadcasting Services.**

### **5. CONCLUSION**

For the 2021/2022 financial year, the Licensee generally complied with most provisions of its C-CSBS licence terms and conditions and applicable Regulations. The areas of non-compliance will be brought to the attention of the Licensee - its obligation to hold community programming meetings and inform the Authority, its obligation to report fully to the Authority and consistently submit monthly logs as required by the licence terms and conditions. The Authority will continue to monitor the compliance of the Licensee during the next financial year.

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<sup>5</sup> Standard Terms and Conditions for Class Broadcasting & Electronic Communications Network Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010, as amended.

## **6. TERMS OF REFERENCE**

- 6.1 Appendix A: Nkandla Community Radio Station C-CSBS and RFS licences;
- 6.2 Appendix B: Nkandla Community Radio Station Complaints report;
- 6.3 Appendix C: ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011. (re: submission of Form 12A: ECN/S and BS Complaints Reporting);
- 6.4 Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016; and
- 6.5 Appendix E: Standard Terms and Conditions for Class Broadcasting & Electronic Communications Network Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010.

**END**