



# **NKQUBELA COMMUNITY RADIO ANNUAL COMPLIANCE REPORT**

**MARCH 2025**

# **2023/2024 ANNUAL COMPLIANCE REPORT**

## **NKQBELA COMMUNITY RADIO BROADCASTING AS KQ FM**

**LICENCE PERIOD: 27 OCTOBER 2023 TO 26 OCTOBER 2030**

### **1. PREFACE**

The Independent Communications Authority of South Africa (Authority) has a statutory mandate in terms of the Constitution, the Independent Communications Authority ICASA Act<sup>1</sup> ("ICASA Act"), the Electronic Communications Act<sup>2</sup> ("ECA") and the Broadcasting Act to regulate broadcasting activities in the public interest. The Authority has a mandate to ensure compliance by broadcasters with the terms and conditions of the licence, the ECA, the ICASA Act and any other relevant legislation and Regulations.

The purpose of the report is to give an account of Nkqubela Community Radio's compliance with the terms and conditions as set out in its licence for the 2023/2024 financial year. Aspects of compliance that will be measured comprise Geographic Coverage, Community Participation, Programming, Format, News and Information, Local Content Obligation, Language(s), South African Music Content Regulations and Regulations Regarding Standard Terms and Conditions.

### **2. BACKGROUND**

Nkqubela Community Radio is a class broadcasting service Licensee providing services to Nelson Mandela Bay Metropolitan Municipality in the Eastern Cape Province as set out in the Licensee's radio frequency spectrum licence. The radio station provides a programming format that is a mix of talk radio and music.

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<sup>1</sup> Act No 13 of 2000, as amended

<sup>2</sup> Act No 36 of 2005

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Control Structure**

Clause 1 of the schedule to the licence provides that:

*"The Licence is issued to:*

*1.1 Name of company/entity: Nkqubela Community Radio*

*1.2 Name of Station: KQ FM*

*1.3 Control of the Licensee: Control shall vest in the Board of Directors of a voluntary association known as Nkqubela Community Radio".*

There were no changes reported by the Licensee to its company name and control structure during the period under review.

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

#### **3.2 Licence Period**

Clause 2 of the schedule to the licence provides that:

*"2.1 The effective date of the licence is 27 October 2023; and*

*2.2 The licence shall expire on 26 October 2030."*

The licence is valid as it was renewed during the period under review.

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

#### **3.3 Licence Area**

Clause 3 of the schedule to the licence provides that Nkqubela Community Radio's coverage area is as follows:

*"The Licensee shall provide services to the Nelson Mandela Bay District Municipality in the Eastern Cape Province as set out in the Licensee's radio frequency spectrum licence".*

The Licensee confirms that it provides a service to the licensed area as set out in the Licensee's radio frequency spectrum licence.

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

### **3.4 Community**

Clause 4.1 of the schedule to the licence provides that:

*"The Licensee shall provide services to a labour (workers) community of interest residing within the geographic coverage area specified herein".*

The Licensee submits that it provides a sound broadcasting service as prescribed by the licence document. The monitoring exercise confirmed that the Licensee's programming is relevant to workers.

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

Clause 4.2 of the schedule to the 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) meetings annually with its community and include members from Gelvandale, Bethelsdorp, Despatch and Uitenhage on programming and programme-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 hold programming meetings during the period under review. It stated that it did not register membership during this period because of safety concerns due to the high crime rate and prevalence of extortion incidents in the area. There were concerns that any mention of money (membership fee) on air could attract unsavoury elements as has been the case in the area.

The radio station has since moved premises to a different, safer area and the Licensee submitted that it has started with steps to address this non-compliance.

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

Further, sub-clause 4.2.3 provides that:

*"The Licensee shall hold an Annual General Meeting 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 any Special Annual General Meeting as and when required by the Constitution; 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 submits that it did not hold an AGM during the period under review. This is due to the high crime rate in the area which sparked safety concerns for any type of gathering. It further stated that there were concerns about the prevalence of extortion incidents in the area and that any mention of money (membership fee) on air could attract such elements as has been the case in the area. The radio station has since moved premises to a different, safer area and the Licensee submitted that it has started with processes to address this non-compliance.

**The Licensee did not comply with sub-clause 4.2.3 of the schedule of its licence.**

### **3.5 Programming**

Clause 5.1 of the schedule to the licence provides that:

*"The Licensee shall provide programming as follows:*

*5.1.1 Local News and Information: The Licensee shall broadcast a total of fifty (50) minutes of news per day. This shall include news from the community produced by the station on issues affecting the identified community."*

The Authority's monitoring exercise confirmed that the Licensee broadcasts fifty (50) minutes of news per day. It covers local, regional and national news and it has isiXhosa and English bulletins. However, no news broadcasts were identified on issues affecting the identified community.

The following news items were identified:

- *"Kubanjwe abantu abathandathu kugqogqo lwabantu ababandakanyekayo kwisiza somgodini esingekho mthethweni eLeachy's Bay eMonti ngoLwesihlanu. Isithethi sikaMasipala wase Buffalo City, iBCM ngokufutshane, uSamkelo Ngwenya, uthi kutyholwa ukuba lomgodini ubusebenza ngephepha-mvume eliphelwe lixesha, ngoko ke uvuna iingqumba zentlabathi namatye ngongekho mthethweni. Ukanti aba baquka umlawuli womgodini weHJT Transport Mining and Civil kunye nabasenzi bakhe abahlanu. Ukanti uNgwenya uthi isiza sithe savalwa ngoko nangoko, kwaye abarhanelwa bavalelwe kwisikhululo samapolisa saseFleet Street, apho bajongene nezityholo zokwaphula icandelo 24F le National Environment Management ACT, iNEMA ngamafutshane.*
- *The 62-year-old Gqeberha tavern owner charged with the double murder of a father and his son will today launch a formal bid for bail. Norma Jacobs has been charged with the murders and kidnapping of 45-year-old Edwin De Vos and his 19-year-old son, Leonardo. She made a brief appearance in the Gqeberha Magistrate Court on Tuesday. The charges against her co-accused, Thembisile Selani, have since been dropped. At this stage, it has not been placed on record whether Selani will be used as a Section 204 witness. Jacobs is said to launch her bid for bail today after previously abandoning her bid for bail for fear of her safety. At the time of her arrest, she had received numerous threats from the community. The father and son were both mechanics. It is alleged that they had done repair work on the accused before their deaths in August last year.*

- *Iqumrhu eliphehla umbane kwilizwe loMzantsi Afrika uEskom, lithi uluntu malulindele ukuthotywa kwezinga lokuthathwa kombane nanamhlanje kulempelaveki. Ebutsheni balempelaveki ke, uEskom ubengeze isigqibo sokuthotyelwa ezantsi kwalondende kacimi-cimi olizinge liqaqamba kwelilizwe kwaye ukwayiyo nempedla nakubemi beli gabalala. Ngokwesibhengezo sangoLwesihlanu, sezizicwangciso zalempelaveki kuthiwe xhaa kucimi-cimi ukususela ngetsimbi yesihlanu kwade kwabetha intsimbi yesine malanga. Stage 2 walamile ngetsimbi yesine, bekulindeleke aqhube de kuse ngetsimbi yesihlanu. Esisantya sinye kulindeleke kuhanjwe ngaso nguEskom onengqonyela entsha, uDan Marokane.*

**The Licensee did not fully comply with its news obligation.**

*5.1.2 South African Music Content: 80%*

The Authority's monitoring exercise revealed that the Licensee complies with eighty percent (80%) of South African Music Content

**The Licensee complies with South African Music Content obligations.**

*5.1.3 Format: 70% Talk and 30% Music*

The Licensee provides programming that is a blend of talk and music. The monitoring exercise revealed that the radio station plays an equal split of music and talk. There are important topics that are discussed throughout the day. There was a discussion on the national minimum wage and a discussion on the dangers of obesity and diabetes. Most of the programmes have an equal amount of music and talk.

The Licensee broadcasts fifty percent (50%) talk and fifty percent (50%) music.

**The Licensee does not comply with its format.**

*5.1.4 Language(s) of broadcast:*

*5.1.4.1 isiXhosa – 70%; and*

*5.1.4.2 English – 30%*

The monitoring exercise revealed that the Licensee broadcasts both in isiXhosa and English, with isiXhosa being the primary language of broadcast. It also broadcasts most of its news bulletins in isiXhosa, with some bulletins being broadcast in English. The two languages are also used interchangeably in some programmes, especially during interviews and listener interaction.

**The Licensee complies with its languages of broadcast obligation.**

**The Licensee did not fully comply with clause 5.1 of the schedule of its licence.**

Clause 5.2 of the schedule to the licence provides 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 did not submit monthly programme logs to the Authority during the period under review. It was informed of this non-compliance and it promised to address it.

**The Licensee did not comply with clause 5.2 of the schedule of its licence.**

## **4. REGULATIONS**

### **4.1 Complaints**

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

The Licensee has not submitted a Form 12A (Complaints Report) as required by the Compliance Procedure Manual Regulations.

**The Licensee does not comply with the relevant clause of the Compliance Procedure Manual Regulations.**

## **4.2 ICASA Regulations on South African Music**

Regulation 3 (3) of the Regulations on South African Music Content as published on 23 March 2016 stipulates that:

*"A holder of a community sound broadcasting licence must ensure that after eighteen (18) months of the 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 said period".*

For the period under review, the obligation in accordance with the SA Music regulations above was for at least eighty percent (80%) of South African music content to be played by community sound broadcasting Licensees.

The Authority's monitoring exercise revealed that the radio station broadcasts eighty percent (80%) of South African music content. The Licensee plays different genres including Kwaito, Reggae, Gospel, House, Jazz and Afro-soul. The following are some of the artists that were played: *TKZee, Donald, Zakes Bantwini, Sydney, DJ SK, Mirriam Makeba, Lucky Dube, Stompie Mavi, Tyler, Malaika, Rethabile Khumalo* and many more.

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

## **4.3 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences**

The Licensee did not comply with the Standard Terms and Conditions for class licences as it did not submit all information required by the Authority.

## **5. CONCLUSION**

Nkqubela Community Radio is not compliant with some of its licence conditions and prescribed regulations, including the Compliance Procedure Manual Regulations.

The Licensee has been made aware of some of the non-compliance and has committed to addressing it. The Compliance Department will continue to monitor the Licensee's compliance, especially the matter of community participation.

However, should the Licensee not improve its performance, it will be advised of the Authority's intention to refer the non-compliance to the Complaints and Compliance Committee ("CCC"), for a hearing and adjudication.

## **6. TERMS OF REFERENCE**

Appendix A: Nkqubela Community Radio' Service & Spectrum Licences

Appendix B: Standard Terms and Conditions for Class Electronic Communications Network Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010, as amended.

Appendix C: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016.

Appendix D: ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.