



NONGOMA FM ANNUAL COMPLIANCE REPORT

MARCH 2017

2015/2016 ANNUAL COMPLIANCE REPORT

STAFRICA VOLUNTARY ASSOCIATION BROADCASTING AS NONGOMA FM

LICENCE PERIOD: 10 JUNE 2014 TO 09 JUNE 2019

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. 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 following report is intended to give account of Nongoma FM's performance for the 2015/2016 financial year. Aspects of compliance that are measured comprise of the Geographic Coverage, Community, Programming Obligations, Complaints, Regulations on the Code on People with Disabilities, South African Music Content Regulations and Regulations Regarding Standard Terms and Conditions.

2. BACKGROUND

Nongoma FM is a Class Sound Broadcasting Service Licensee. The radio station's mandate is to provide a sound broadcasting service to the geographic community of Nongoma Local Municipal area in the KwaZulu Natal Province as set out in the Licensee's frequency spectrum licence.

3. COMPLIANCE ASSESSMENT

3.1 Control Structure

Clause 1 of the licence stipulates that:

"The Licence is issued to:

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.

1.1 *Name of Company/Entity: Stafrica Voluntary Association.*

1.2 *Control of the Licensee: Control shall vest in the Board of Directors of a non-profit organisation known as Stafrica Voluntary Association".⁵*

The name of the entity is Stafrica Voluntary Association. The control of the Licensee is still the Board of Directors of the organisation known as Stafrica Voluntary Association ⁶.

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

The Licensee was found to be compliant with clauses 1.1 to 1.2 of the schedule to its licence.

Clause 5.1 of Nongoma FM's Constitution stipulates that:

*"The Management Committee will be made up of less than six (6) members"*⁷

The Licensee's Board of Directors consists of following members:

Mr Fana Vilakazi – Chairperson;
Mr Ziphozonke Mdletshe – Secretary;
Mr Ndumiso Ntshangase – Deputy Secretary;
Mr Nduduzo Shandu– Board Member; and
Mr Mduduzi Mathe – Board Member.

The Licensee was found to be compliant with clause 5.1 of its constitution.

3.2 Licence Period

Clause 2 of the schedule to the licence stipulates that:

"This licence is valid for a period of five (5) years from the signature date".

The Licensee's licence is still valid and will expire on 23 June 2019.

⁵ Appendix A: Nongoma FM's Broadcasting Service Licence.

⁶ Appendix C: Compliance Status of Nongoma FM with Licence Conditions.

⁷ Appendix B: Nongoma FM's Constitution, Minutes of the Annual General Meeting, Board and Management minutes of the meetings.

The Licensee was found to be compliant with clause 2 of the schedule to its licence.

3.3 Geographic Coverage Area

Clause 3 of the schedule to the licence provides that:

"The Licensee shall provide services to the Nongoma Local Municipal area in KwaZulu-Natal Province as set out in the Licensee's radio frequency spectrum licence".

Nongoma FM confirms that it covers Nongoma Local Municipal area in the KwaZulu Natal Province as set out in its radio frequency spectrum licence.

The Licensee was found to be compliant with clause 3 of the schedule to its licence.

3.4 Community

Clause 4.1 of the schedule to the licence stipulates that:

"The Licensee shall provide services to a geographic community residing within the geographic coverage area specified herein".

The Licensee confirms that the radio station is broadcasting for the geographic community of Nongoma and the surroundings.

The Licensee was found to be compliant with clause 4.1 of the schedule to 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) general meetings annually with its community focusing on programming and programming policies of the station.

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.

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 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".

Nongoma FM submitted minutes of the general meeting held on 20 May 2016⁸. The focus of the general meeting was on programming, technical, financial, Board term and amendment of the constitution.

Nongoma FM conducts Annual General Meetings as stipulated in its constitution, and provides feedback on compliance with its licence conditions to those attending the meeting. The Licensee states that it is complying fully with clause 4.2.3 of its licence terms and conditions as well as clause 11.1.1 of its founding documentation. However, the Licensee did not submit proof of the second general meeting with the community as required by clauses 4.2.1 and 4.2.2 of its licence conditions.

The Licensee was found to be compliant with clause 4.2.3 and its sub-clauses of the schedule to its licence but non-compliant with clause 4.2.1 and 4.2.2.

3.5 Programming

Clause 5.1.1 of the schedule to the licence stipulates the Licensee's format as follows:

"The Licensee shall broadcast a total of 169 minutes of news per day, of which 75 minutes shall be local news, 69 minutes of national news and 25 minutes of international news".

⁸ Appendix B: Nongoma FM's Constitution; Minutes of General Meetings; Board and Management minutes of the meetings.

The Licensee states that it broadcasts a total of seventy (70) minutes of news per day. However, the radio station did not provide a percentage breakdown regarding national and international news.

The monitoring exercise revealed that Nongoma FM broadcasts national and international news as required by clause 5.1.2 of the schedule to the licence. Further, the monitoring confirmed that Nongoma FM broadcasts 13 news bulletins from 06h00 to 18h00 and 13 news headlines after each half an hour. The duration of Nongoma FM's news bulletins is 5 minutes. The radio station does not broadcast news bulletins on Weekends.

Among the news stories covered for the period under review were excerpts from certain broadcasts, as follows:

- "Kweqe iziboshwa ezingu 14 ebezilinde ukuthethwa kwamacala esitokisini saseModimoeng";
- "Owesilisa waseMaphutho kuthiwa usagcwele amathafa kulandela izinsolo zokugwaza ishende likankosikazi wakhe elisola ngokumthathela unkosikazi wakhe ngesikhathi besahlukene";
- "Kubikwa ukuthi usagcwele izinkalo owesilisa waseMlazi eningizimu neTheku, kulandela izinsolo zokuzama ukubulala indodakazi yentombi yakhe";
- "Umnyango wezokuthuthukiswa komphakathi KwaZulu Natal uphezu kophenyo kulandela izinsolo zokukwaphanisa okumbandakanya izindodla zezimali yesibonelelo sezingane ezingenabo abazali"; and
- "Kugingqike iloli ebithwele utshwala ku N2 eduze naseManzimtoti ngoMsombuluko kwachitheka bonke utshwala";

The Licensee was found to be non-compliant with clause 5.1.1 of the schedule to its licence conditions.

Clause 5.1.2 of the schedule to the licence stipulates that:

"The Licensee shall broadcast 45% of South African music content".

The Licensee confirms that it broadcasts 45% South African music. The monitoring exercise revealed that Nongoma FM broadcast music programmes. For example, **Morning Divine** is a morning show broadcast on week days between 5h00 and 7h00 am focusing on religion and motivation. Gospel music is played during the show. **Abasha nezabo** is a breakfast show broadcast on weekdays between 7h00 and 10h00. House and Kwaito music are played during the show. **Isigqi sasekhaya** is the programme broadcast on week days from 10h00 to 12h00. Different music genres which include both local and international music is played during the show. The programme provides listeners with various information and health related advices. For example, one of the programmes monitored advised listeners about TB and other chest/ lung diseases. The studio guest was a traditional healer with experience in healing. He advised listeners to avoid keeping cats and dogs as they are not good to people with TB or chest disease. He advised people to follow correct route if they want to be healed. He stated that although traditional healers are able to heal other diseases, but it is important for people to consult medical doctors or visit the hospital. Further, **Midday Chillas** is the programme broadcast on week days from 12h00 to 15h00. South African music and international music are played during the show. During the show listeners are given an opportunity to interact with presenters on air.

Drive Connection is the informative programme broadcast on week days from 15h00 to 18h00. South African music and international music are played during the show. During the show listeners are given an opportunity to interact with presenters on air sharing different experiences.

Love devotion is the love programme which focuses on encouraging listeners to love one another. Music with love messages is played during the show.

Local artists featured during the period in review included: UDLubheke; Ondabuzekwayo; Masokanovalo; Big Nuz; Izingane zenhlonipho; Bethusile; Mpume; Rex Rabanye; DJ Sbu; Hlengiwe Mhlaba; Thina Zungu; Deborah Freza; Sifiso Ncwane; Zakwe; Black Coffee; Ariana Gande and The Weekend and many more.

The Licensee was found to be compliant with clause 5.1.2 of the schedule to its licence conditions.

Clause 5.1.3 of the schedule to the licence stipulates that:

"The Licensee shall broadcast 55% Talk and 45% Music".

The radio station broadcasts its current affairs programmes from Mondays to Thursdays between 18h00 and 19h30. The following current affairs programme was monitored:

- Selintaba zibomvu;

The Licensee was found to be compliant with clause 5.1.3 of the schedule to its licence.

Clause 5.1.4 of the schedule to the licence stipulates that Language(s) of broadcast are as follows:

- "(a) 70% isiZulu, and*
- (b) 30% English,"*

The Licensee states that it broadcasts in isiZulu and English. According to the radio station the language split is 90% isiZulu and 10% English.

The monitoring exercise confirmed that Nongoma FM broadcasts with two languages, but does not comply with the percentage split as stipulated in its licence conditions.

The Licensee was found to be non-compliant with clause 5.1.4 of the schedule to its licence conditions.

Clause 5.2 of the schedule to the licence states 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".

Nongoma FM does keep a log of programmes broadcast and submit to the Authority as required by clause 5.2 of the schedule to its licence.

The Licensee was found to be compliant with clause 5.2 of the schedule to its licence conditions.

4. REGULATIONS

4.1 Complaints Received

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A⁹ which reports on all complaints received during the financial year under review. The Licensee reported that it did not receive complaints during the period under review.

4.2 Regulations on the Code on People with Disabilities

Regulation 3.1(a) of Regulations on a Code on People with Disabilities states that:

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

The Licensee reported that it has programmes aimed at assisting organisation for people with disabilities. For example, the radio station provides Non-Government Organisations (NGOs) with free airtime to make announcements and to communicate with people with disabilities. Further, the radio station provides community members with disabilities with access to the radio station. For example, they are able to visit the studio in order to get experience of broadcasting environment. The Licensee provides people with disabilities with employment and training opportunities at the radio station.

The Licensee was found to be compliant with Regulation 3.1(a) of Regulations on a Code on People with Disabilities.

Regulation 3.1(c) of Regulations on a Code on People with Disabilities 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".

⁹ SABC Form 12A

The Licensee reported that it conducted telephonic surveys which were never documented. However, Nongoma FM made an undertaking to produce a written survey in future.

The Licensee was found to be compliant with Regulation 3.1(c) of Regulations on a Code on People with Disabilities

4.3 South African Music Content Regulations

Regulation 3.3 of the Regulations on South African Music Content as published on 31 January 2006 stipulates that:

"Every holder of a community sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 40% 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".¹⁰

The monitoring exercise revealed that the radio station plays South African music as required by the regulations. The programmes such as Morning Divine, Abasha nezabo, Isigqi sasekhaya, Midday Chillax, Drive Connection make it easy for the Licensee to comply with Regulation 3.3 of the Regulations on South African Music Content because they feature above 70% South African music on each programme.

The Licensee was found to be compliant with Regulation 3.3 of the Regulations on South African Music Content.

4.4 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences

Regulation 9 (1) (a) of the standard terms and conditions for class licences stipulates as follows:

"The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide information, so as to enable it to:

¹⁰ Appendix C: South African Music Content Regulations.

Monitor and enforce... compliance with licence conditions and other requirements of the Act and related legislation".¹¹

During the year under review, the Authority did not identify non-compliance with Regulation 9 (1) (a) of the standard terms and conditions for class licences

The Licensee was found to be compliant with Regulation 9 (1) (a) of the standard Terms and Conditions for Class Licences.

5 CONCLUSION

The Licensee has complied with most of the provisions of its licence conditions and applicable regulations. However, the Licensee does not comply with clauses 4.2.1, 4.2.2, 5.1.1 and 5.1.4 of the schedule to its licence conditions. At the time of writing this report, arrangements to have a meeting with the licensee were already under way.

6 APPENDICES

- 6.1 Appendix A: Nongoma FM's broadcasting service
- 6.2 Appendix B: Nongoma FM Constitution; Minutes of General Meeting; Board and Management minutes of the meetings
- 6.3 Appendix C: Compliance Status of Nongoma FM with Licence Conditions.
- 6.4 Appendix D: Nongoma FM's Programming Schedule
- 6.5 Appendix E: South African Music Content Regulations
- 6.6 Appendix F: Regulations Regarding Standard Terms and Conditions for Class Licensees

¹¹ Appendix E: Regulations Regarding Standard Terms and Conditions for Class Licensees.