



PE FM ANNUAL COMPLIANCE REPORT

MARCH 2017

2015/2016 ANNUAL COMPLIANCE REPORT

PE FM

LICENCE PERIOD: 17 NOVEMBER 2010 TO 16 NOVEMBER 2015

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 broadcasting service Licensees with the terms and conditions of their licence and any relevant legislation and/or regulations.

This report is intended to give an account of PE FM's compliance with the terms and conditions, as set out in its licence, for the 2015/2016 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Community Participation, Programming, Format, News and Information, Local Content Obligations, Language(s), South African Music Regulations and Regulations Regarding Standard Terms and Conditions.

2. BACKGROUND

PE FM was granted and issued a Class Broadcasting Service Licence as Northern FM in 2010. The obligations carried by the Licence for the Licensee was that it provides service to a Christian community of common interest residing within the Nelsom Mandela Bay Metropolitan Municipality in the Eastern Cape Province as outlined in the in the licensee's radio frequency spectrum licence.

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 Licensee

Clause 1 of the Schedule to the licence provides that:

"The Licence⁵ is issued to:

1.1 Name of Entity: PE FM

1.2 Name of the Station: PE FM

1.3 Control of the Licensee: Control shall vest in the Board of Directors of PE FM."

There were no notifications received from the Licensee indicating a change in any of the above stated obligations. The programme recordings monitored also confirmed that the Licensee's on air name is PE FM.

The Licensee was found to be in compliance with clauses 1.1, 1.2 and 1.3 of Schedule to the licence.

Clause 2 of the Schedule to the licence provides as follows:

"Licence Period:

2.1 The effective date of the Licence is 17 November 2010.

2.2 The Licence shall expire on 16 November 2015."

PE FM's Broadcasting Service Licence expired in November 2015. The Licensee submitted its renewal application in February 2016. At the time of writing this report, the Licensee was still awaiting feedback from the Authority in this regard.

3.2 Licence Area

Clause 3 of the Schedule to the licence states that:

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

⁵ Appendix A: PE FM's Broadcasting Service Licence

In the year that under review, the Authority received no reports or complaints indicating that the radio station has interfered in areas that are outside its coverage area.

The Licensee was found to be in compliance with clause 3 of the Schedule to the licence.

3.3 Community

Clause 4 of the Schedule to PE FM's licence provides as follows:

4.1 "The Licensee shall provide services to a Christian Community of common interest residing within the geographic coverage area specified herein".

The Licensee reports that it still provides service to the Christian community residing in the Nelson Mandela Bay Metropolitan Municipality in the Eastern Cape Province. No reports were received by the Authority indicating that the Licensee is not providing the service as contemplated in clause 4.1 of its licence.

The Licensee was found to be in compliance with clause 4.1 of the Schedule to the licence.

Clause 4.2 of the Schedule to the licence stipulates 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 on programming and programming-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;

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".

When requested⁶ to submit proof of the meetings as prescribed in clause 4.2 and the Sub clauses, the Licensee submitted minutes of meetings that were held in 2016 – latest meeting having been held in November 2016 which is outside the review period. No attendance registers were provided. Further, in a response⁷ to a complaint⁸ lodged with ICASA in November 2016, the Licensee conceded that it did not convene an Annual General Meeting (AGM) for the past 3 years and not 4 years as alleged by the anonymous complainant. The main reason was attributed to financial constraints. Based on the above factors, **the Licensee has during the period in review, failed to comply with clause 4.2 of the Schedule to the licence.**

3.4 Programming

Clause 5.1 of the Schedule to the licence provides that the Licensee shall provide programming as follows:

Clause 5.1.1 provides as follows:

"Local News and Information: The Licensee shall broadcast a total of 56 minutes of news per day, of which 40% shall be local, 30% national, 20% regional and 10% international news.

The monitoring exercise revealed that PE FM broadcasts 11 news bulletins between Mondays and Fridays, 10 news bulletins on Saturday and none on Sundays. The Licensee broadcasts at least 42 minutes of news each day between Mondays and Saturdays during the South African performance period. In addition, during the monitoring period, at least 9 minutes of news contained in a bulletin

⁶ Email sent to Licensee's asking for the submission of Proof of Compliance with Clause 4

⁷ Licensee's Response to a complaint submitted to Consumer Complaints Division

⁸ Complaint submitted to ICASA's Consumer Complaints Division

on an average day was local news. The bulk of the Licensee's news content was national news.

PE FM has, during the period in review, failed to comply with clause 5.1 of the Schedule to the licence.

Clause 5.1.2 stipulates as follows: "*South African Music Content: 80%*"

The Licensee's general log sheets⁹ indicate that PE FM consistently broadcasts at least 60% South African Music content in its programming. However, the Authority's monitoring exercise revealed that at least 7 out of 10 songs played by the Licensee are South African songs. No interviews, which are aimed at incentivising Licensees who struggle to meet their quotas (Format Factors) in terms of the South African Music Content Regulations, 2006 were identified during the period monitored – with South African artists. According to the Authority's monitoring exercise, PE FM plays at least 70% South African Music in its music.

The Licensee has, during the period under review, failed to comply with clause 5.1.2 of the Schedule to the licence.

Clause 5.1.3 provides as follows: "*Talk vs. Music: 60% Talk and 40% Music*".

The monitoring exercise of PE FM's programming profile revealed that the Licensee's programming format is dominated by talk. At least 63 % of the Licensee's content was found to be talk while 37 % was dedicated to music.

The Licensee was found to have complied with clause 5.1.3 of the Schedule to the licence.

Clause 5.1.4 dictates that the Licensee's Language(s) of broadcast are:

5.1.4.1 10% isiXhosa

5.1.4.2 40% English; and

5.1.4.3 50% Afrikaans.

The Authority's monitoring exercise revealed that the Licensee's programming is dominated by English and Afrikaans. No isiXhosa programming was identified.

⁹ PE FM's General Log Sheet (Sample)

There was a programme without a name which was hosted by an isiXhosa speaking presenter that was identified during the monitoring process. The presenter of the programme spoke English. It is the Authority's view that the Licensee ought to have employed the services of the host who is well conversant in isiXhosa language and to cater for the isiXhosa speaking community to comply with the 10% isiXhosa obligation of their licence. Employing the services of a host who uses the English medium defeats that purpose.

Further, only Afrikaans and English news bulletins were identified during monitoring. The following news extracts were identified:

"Gauteng Police have said that a woman apparently abandoned her baby next to a railway line, in Cullinan East of Pretoria, because she wanted to attend a party. The woman initially claimed that her baby was stolen, but she eventually confessed that she left her baby next to the railway line to go and attend the party. She was arrested yesterday morning and charged with child neglect. The baby has found a new home in a children's home in Pretoria. Police Spokesperson, Connie Mokganedi, says the suspect is due to appear in court sometime this week".;

"KwaZulu-Natal Police are still on the hunt for seven suspects wanted in connection with a brazing shoot out in Greytown and who are allegedly responsible for a spate of police killings and robberies. In the early hours of Saturday morning, the Police's National Intervention Unit, the Hawks, a K 9 Unit, Durban's Flying Squad, kwaMashu Police and officers from the KZN War-Room conducted an intelligence driven operation following an investigation into the 35 strong gang. During the operation, a shootout with the gang ensued and three men were killed. Police Spokesperson, Major Jay Naicker, says that they recovered 3 fire arms from the deceased which included 2 pistols and a revolver with their serial numbers filed off".; and

"The Hawks have arrested a 33-year-old man from KwaZakhele, in Port Elizabeth, after he was found in possession of Mandrax worth R1.4 Million. The suspect was arrested yesterday, following an extended period of scrutiny by the Hawks. Upon searching his vehicle in Motherwell, officers found 28 000 Mandrax Tablets, wrapped in two boxes which were hidden in a black sports bag. It is believed that the man is part of a bigger syndicate".

PE FM has, during the period under review, failed to comply with clause 5.1.4 of the Schedule to the licence.

According to clause 5.2,

"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."

During the period in review, PE FM submitted its log sheets to the Authority, however, submission thereof was not as prescribed in the licence. The Licensee often made submissions post the deadlines. The Authority continues to encourage timeous submission of these forms.

PE FM has, during the period under review complied with clause 5.2 of the Schedule to the licence.

3.5 Promise of Performance

The Licensee's promise of performance as recorded in clause 8.1 of the schedule to the Licence states as follows:

"The Licensee shall broadcast programmes related to children, youth, adults, the elderly and the disabled."

The monitoring exercise revealed that the Licensee's programming format is designed to cater for everybody except children. A definition given for children's programming in the South African Television Content Regulations states thus:

"Children's Programming means programming which is specifically produced for persons between the ages of 0 to 6 years and 7 to 12 years, which is educational, made from their point of view, and is broadcast at times of the day when the persons in this age group are available in substantial numbers to [listen]".

The monitoring exercise did not identify any programme produced in line with the above definition. On this basis, **the Licensee has, for the period under review, failed to comply with clause 8.1 of the Schedule to the licence.**

4. REGULATIONS

4.1 South African Music Content Regulations

Regulation 3.3 of the Regulations on South African Music Content as published on 31 January 2006 provides 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 Licensee's general log sheets indicate that PE FM consistently broadcasts at least 60% South African Music content in its programming. The Authority's findings confirmed that in fact the Licensee plays 70% South African Music.

The following gospel music artists enjoy airplay on PE FM: Jimmy Waters, Ntokozo Mbambo, Mthunzi Namba, Benjamin Dube, Hlengiwe Mhlaba, Kholeka, Khanyisa Nkantsu, Veliswa Skeyi, Workship House, Joyous Celebration, Hillsong Worship Group and many others.

PE FM has, during the period under review, complied with the South African Music Content Regulations.

4.2 Compliance Procedure Manual (CPRM) – Form 12A

The Licensee is required, in terms of the CPRM to submit a Form 12A which reports on all complaints received during each financial year. In the year that is currently under review, PE FM submitted its Form 12As indicating that the Licensee received no complaints. The monitoring exercise revealed that the Licensee's complaints promo provides details of how listeners can lodge complaints about the its service.

The Licensee complied with the Compliance Procedure Manual Regulation.

¹⁰ Regulations on South African Music Content

4.3 Code on People with Disabilities

Clause 3.1 (a) of the Code for People with Disability of 2007 stipulates that:

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

The monitoring exercise found that the Licensee's service does not discriminate against people with disabilities. Furthermore, a station visit to PE FM has confirmed that the Licensee's premises are accessible to people with disability.

The Licensee was found to be in compliance with the above-mentioned Regulation.

4.4 Regulations regarding Standard Terms and Conditions for Class Licensees

Regulation 2 (1) (d) of the Regulations Regarding Standard Terms and Conditions for Class Licensees¹¹ provide two fundamental regulations that are constantly and continuously used to measure a Licensee's compliance. The two regulations are Regulation 2(1) and the sub clauses, along with Regulation 9 in its entirety.

In terms of the provisions made by Regulation 2(1) of the Regulations Regarding Standard Terms and Conditions for Class Licensees; PE FM has had no changes to its Licensee details and information in the year that is currently under review.

Further, PE FM always ensures that all information required of them is submitted as per given format and as prescribed by Regulation 9 of this regulation.

The Licensee was found to be in compliance with the Regulations Regarding Standard Terms and Conditions for Class Licensees.

5. CONCLUSION

PE FM was found to have failed to comply with most of its licence terms and conditions. This matter will be addressed with the Licensee in the new financial year in order to find ways to remedy the gross non-compliance. In general, PE FM is a "good" Licensee, the Authority's Compliance Unit attributes areas of non

¹¹ Regulations regarding the Standard Terms and Conditions

compliance to an oversight by the Licensee. This report will give the Licensee insight into the areas that need attention as well as guidance as to how to fix them. The planned visit to the Licensee will provide further guidance.

6. TERMS OF REFERENCE

- 6.1 Appendix A: Izwi LeThemba's Broadcasting Service Licence
- 6.2 Appendix B: Email sent to Licensees asking for the submission of Proof of Compliance with Clause 4
- 6.3 Appendix C: Licensee's Response to a complaint submitted to Consumer Complaints Division
- 6.4 Appendix D: Complaint submitted to ICASA's Consumer Complaints Division
- 6.5 Appendix E: PE FM's General Log Sheet (Sample)
- 6.5 Appendix F: Regulations regarding the Standard Terms and Conditions for Class Licensees