



SMILE FM ANNUAL COMPLIANCE REPORT

MARCH 2024

2022/2023 ANNUAL COMPLIANCE REPORT

CAPE TOWN RADIO (PTY) LTD BROADCASTING AS SMILE 90.4 FM

Licence Period: 25 May 2022 – 24 May 2032

1. PREFACE

The Independent Communications Authority of South Africa (“the Authority”) has a statutory mandate in terms of the Constitution, the Independent Communications Authority of South Africa Act¹ (ICASA Act), the Electronic Communications Act² (ECA) and the Broadcasting Act³ to regulate broadcasting activities in South Africa, in the public interest. Among the responsibilities of the Authority is the task to ensure compliance by broadcasting service Licensees with the terms and conditions of their licence and any relevant legislation and/or regulations.

This report seeks to give an account of Smile 90.4 FM’s compliance with the terms and conditions, as set out in its license, for the 2022/23 financial year. Aspects of compliance that are measured comprise of the service licence conditions of Geographic Coverage Area, Broadcast Language, Format, Local content Obligations, General Programming Obligations, and Ownership and Control Obligations.

Furthermore, the report will measure compliance with regulations that includes South African Music Content, Standard Terms and Conditions for Individual Licensees, Universal Service and Access Fund, and General Licence Fees.

2. BACKGROUND

Cape Town Radio (Pty) Ltd broadcasting as Smile 90.4 FM (“Smile 90.4 FM”) is an Individual Commercial Sound Broadcasting Service Licensee providing a programming mix of music and information to the City of Cape Town Metropolitan in the Western Cape Province⁴.

¹ Act No. 13 of 2000, as amended.

² Act No. 36 of 2005.

³ Act No. 4 of 1999.

⁴ Appendix A: Smile 90.4 FM’s Broadcasting Service License.

3. COMPLIANCE ASSESSMENT

a. Licensee

Clause 1 of the Schedule to Smile 90.4 FM's licence provides that:

"1.1 Name of Company/Entity: Cape Town Radio (Pty) Ltd.

1.2 Name of the Station: Smile 90.4 FM

1.3 Shareholders:

<i>Videovision Entertainment (Pty) Ltd</i>	<i>70.5%</i>
<i>All Parts Cape (Pty) Ltd</i>	<i>5%</i>
<i>African Peoples Investment Company (Pty) Ltd ("APIC")</i>	<i>2.5%</i>
<i>Radio 021 FM (Pty) Ltd</i>	<i>17%</i>
<i>Smile 90.4 FM Share Incentive Scheme Trust</i>	<i>5%</i>

The Licensee confirmed that no changes occurred regarding the information reflected in clause 1.

The Licensee complies with clause 1 of the Schedule to its Licence.

3.2 Licence Period

Clause 2 of the Schedule to Smile 90.4 FM's licence provides:

"2.1 The effective date of the licence: 25 May 2022.

2.2 The licence shall expire on: 24 May 2032."

The licence is valid until 24 May 2032.

3.3 Geographic Coverage Area

Clause 3 of the Schedule to Smile 90.4 FM's licence provides that:

"City of Cape Town Metropolitan area as indicated in the coverage map attached to the Licensee's radio frequency spectrum licence."

The monitoring exercise confirmed that the Licensee provides its services to the geographic coverage area of City of Cape Town Metropolitan as indicated in the coverage map attached to its radio frequency spectrum licence.

The Licensee complies with clause 3 of the Schedule to its licence.

3.4 Programming

Clause 4.1.1 of the Schedule to Smile 90.4 FM's licence provides that:

"Format: The Licensee shall have a programming format of 60% music and 40% talk, providing entertainment, informative and educational programming by means of features on lifestyle issues and talk in the form of phone-in's and other forms of programming. The music to be broadcast will include amongst other genres, South African Pop, South African Afrikaans music, International Pop and International Gold."

The monitoring exercise found that the programming of the Licensee is entertaining, informative and education in nature. Further, the monitoring exercise found that the Licensee features regular phone-in programming. Programmes such as "Smile Breakfast" and "Smile Drive" focus on entertainment and information while the "The Honest Truth" programme focus on educational and lifestyle content such as Africa's green economy submit; social media usage by children; spiritual master classes such as forgiveness.

The monitoring exercise found that the music broadcast by the Licensee includes the genres of South African pop, South African Afrikaans, international pop and international gold.

The Licensee complies with clause 4.1.1 of the Schedule to its Licence.

Clause 4.1.2 of the Schedule to Smile 90.4 FM's licence states that:

"Local Content Obligations:

4.1.2.1 The Licensee shall adhere to the following, namely:

4.1.2.1.1 Broadcast 40% South African music during its daily programming.

4.1.2.1.2 South African music on its service will include amongst other genres, South African Pop music, South African Afrikaans and South African rock."

The monitoring exercise found that the Licensee broadcast forty percent (40%) south African music and that this music includes South African pop music, South African Afrikaans music and South African rock music. Details of South African music are further outlined in section 4.3 of this report.

The licensee complies with clause 4.1.2 of the Schedule to its licence.

Clause 4.1.3 of the Schedule to Smile 90.4 FM's licence provides that:

"General Programming Obligations:

4.1.3.1 The Licensee shall broadcast its news in the following manner, 65% local/regional, 20% South African national and 15% international news."

The monitoring exercise found that the news programming broadcast by the licensee aligns to the percentages prescribed in the licence for local/regional, national and international news, respectively.

The Licensee complies with clause 4.1.3.1 of the Schedule to its Licence.

Clause 4.1.3.2 of the Schedule to Smile 90.4 FM's licence states that:

"The Licensee shall broadcast news on a regular basis for a minimum of thirty (30) minutes per day between 05h00 and 23h00."

Some of the news that was found during the period under review include:

- *"Die uittredende ESKOM hoof, Andre DeRuyter, het herhaal dat die kragvoorsiener wel gebeurlikheidsplanne in plek het, sou die implementering van fase agt beurtkrag nodig word. Hy sê daar is tans 'n baie lae risiko van 'n algehele ineenstorting van die kragnetwerk. DeRuyter sê fase ses beurtkrag is oor die naweek geïmplementeer nadat verskeie opwekkingseenhede onklaar geraak het."*
- *"Die stad Kaapstad het maatreëls ingestel om vervoer pendelaars môre veilig te hou aangesien taxi bestuurders wat aan die SANTACO taxi organisasie behoort aan 'n eendag wegbly aksie gaan deel neem. Hulle taxi's gaan by die huis of by die taxi staanplek geparkeer word en pendelaars sal 'n ander manier van vervoer moet vind werk toe, skool of waarheen ook al hulle moet gaan."*

- *"South Africa Tourism acting chief finance officer, Johan Van der Walt, has stepped down in the wake of the controversial sponsorship deal with English Premier League team Tottenham Hotspur. Van der Walt was appointed on a seven-month contract last month. The controversial deal proposed a payment of close to one billion rand by SA Tourism for the deal."*
- *"The trade union COSATU says it hopes Finance Minister Enoch Godongwana's budget will address economic revival, transformation and improved service delivery. Parliamentary officer Matthew Parks says the country's workforce and South Africans in general are tired of waiting on the government to act."*

The monitoring exercise confirmed that the Licensee broadcast on average forty (40) minutes of news per day. News bulletins are broadcast from 06h00 until 18h00 and average a duration of four (4) minutes.

The Licensee complies with clause 4.1.3.2 of the Schedule to its Licence.

Clause 4.1.3.3 of the Schedule to Smile 90.4 FM's licence reads:

"Should the Licensee source news material from a news agency/source other than itself, the source(s) thereof shall be disclosed during the news broadcast."

The monitoring confirmed that the Licensee discloses the source of news material during the news broadcast in the event that the news material is from a news agency/source other than itself. Some of the sources utilised by the Licensee include *News24Wire; ENCA; SABC; BBC; CNN and IOL*.

The Licensee complies with clause 4.1.3.3 of the Schedule to its Licence.

Clause 4.1.3.4 of the Schedule to Smile 90.4 FM's licence states that:

"All programming will originate locally with the exception of outsourced news and content."

The Licensee confirmed that its programming originates locally. The only programming that does not originate locally is the occasional news and content that is outsourced.

The Licensee complies with clause 4.1.3.4 of the Schedule to its Licence.

Clause 4.4.1 of the Schedule to Smile 90.4 FM's licence states that:

"The Licensee shall broadcast 55% English and 45% Afrikaans."

The monitoring exercise found that the licensee prescribed to a percentage of fifty-five (55) percent English programming and forty-five (45) percent Afrikaans programming.

The Licensee complies with clause 4.4.1 of the Schedule to its licence.

3.5 Ownership and Control

Clause 5 of the Schedule to Smile 90.4 FM's licence reads:

"The Licensee shall for the duration of this licence maintain at least thirty percent (30%) ownership and control of the station by persons from historically disadvantaged groups."

The Licensee submitted proof that confirmed its ownership and control is currently held by more than fifty-one (51) percent of persons from historically disadvantaged groups.

The Licensee complies with clause 5 of the Schedule to licence.

3.6 Specific Terms and Conditions

Clause 6 of the Schedule to Smile 90.4 FM's licence provides that:

"Besides sourcing of news from secondary source(s), the Licensee shall employ a news team specifically for the production of its local news."

The Licensee confirmed that it has an established news team that is responsible for the production of its local news. The Licensee's news team is: Merentia van der Vent (AM News anchor and reporter); Liz Persens (reporter and news reader); Caitlin Maledo (reporter and news reader); Danielle Mentoer (PM News Anchor and reporter); Liesl Smit (News Manager) and Nathan Adams (weekend news anchor).

The Licensee complies with clause 6 of the Schedule to its service licence.

4. REGULATIONS

4.1 ICASA Compliance Procedure Manual, 2011 – Form 12A

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A⁵ which reports on all complaints received during each financial year.

The Licensee submitted Form 12A within the prescribed timeframe.

The Licensee complies with the Compliance Procedure Manual, as stated above.

4.2 Regulations regarding Standard Terms and Conditions for Individual Broadcasting Licensees, 2010 as amended.

The Authority is satisfied that during the period under review the Licensee did not contravene the regulation in respect of the Standard Terms and Conditions for Individual Licences⁶.

The Licensee complies with the Standard Terms and Conditions for Individual Broadcasting Service Licence.

4.3 ICASA South African Music Content Regulations, 2016

Regulation 2 of the Regulations on South African Music Content, 2016 provides that:

“A holder of a commercial sound broadcasting service licence must ensure that after eighteen (18) months of the 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 evenly throughout the performance period”⁷.

⁵ Appendix B: ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

⁶ Appendix C: Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010, as amended.

⁷ Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016.

The monitoring exercise found that the Licensee broadcast an average of forty (40) percent of South African music content during the performance period. The forty (40) percent is inclusive of the format factors as outlined in the Regulation.

Some of the South African music tracks that were broadcast during the period under review include:

Monark "Build It Up"; Joy "Paradise Road"; Rubber Duc feat. Adam "Come Again"; Jimmy Nevis "Day Dream (Last Night)"; Easy Freak "If You Want It"; Craig Lucas & GoodLuck "Better"; Jethro Tait "Will You Stay"; Danny K "Brown Eyes"; David Watkyns "Education"; Heinz Winckler "Next Stop Happiness"; Karlien Van Jaarsveld "Hande"; Yanga feat. Paxton "Catch Me"; Lloyiso "What I Would Say".

The Licensee complies with the ICASA South African Music Content Regulations, 2016.

4.4 Universal Service and Access Fund, 2011

Regulation 3 of the USAF Regulations⁸ provides 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 Broadcasting Service 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 made its annual contribution to the MDDA on 17 March 2023 and submitted its proof of payment to the Authority.

The Licensee complies with the USAF Regulations, 2011.

4.5 General Licence Fees Regulations, 2012

Regulation 3 (1) of the General Licence Fees Regulations, 2012 state 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

⁸ Appendix E: USAF Regulations, 2011 as published in *Government Gazette* No. 34010 dated, 10 February 2011.

licences and individual commercial Broadcasting Service licences.”⁹

Schedule 2 of the Annual Licences Fees regulations provide for Individual Commercial Broadcasting Services Licensees to pay an annual licence fee of 1.5% to the Authority.

Regulation 4(b) and (c) of Schedule 3 state that:

“(b) In respect of payment, such are due and payable within 6 months from 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.”¹⁰

The Licensee made the required payment on 27 June 2023 and submitted the necessary proof to the Authority.

The Licensee complies with the General Licence Fees Regulations, 2012.

5. CONCLUSION

The Licensee was found to be compliant with all its obligations during the period under review.

6. TERMS OF REFERENCE:

- 6.1 Appendix A: Smile 90.4’s Service Licence.
- 6.2 Appendix B: Compliance Procedure Manual Regulations, 2011.
- 6.2 Appendix C: Standard Terms and Conditions for Individual Licensees, 2010 as amended.
- 6.3 Appendix D: ICASA South African Music Content Regulations, 2016.
- 6.4 Appendix E: USAF Regulations, 2011.
- 6.5 Appendix F: General Licence Fees Regulations, 2012.

END

⁹ Appendix E: General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013, as amended.

¹⁰ *Ibid.*