



VUMA FM ANNUAL COMPLIANCE REPORT

MARCH 2017

2015/2016 ANNUAL COMPLIANCE REPORT
VUMA FM (PTY) LTD BROADCASTING AS VUMA FM
LICENCE PERIOD: 25 MAY 2012 -24 MAY 2022

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution,¹ the ICASA Act of 2000,² the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ to regulate broadcasting activities in South Africa in the public interest. The main task of the Authority is to ensure compliance by broadcasters with the terms and conditions of their licence and any relevant legislation and regulations

The purpose of the report is to give an account of Vuma 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 the Geographic Coverage, Language(s), Format, Local Content Obligations, General Programming Obligations, Training and Skills Development Obligations, Finances, Complaints Received, Regulations on Code on People with Disabilities, South African Music Content Regulations, Regulations regarding Standard Terms and Conditions, Regulations in respect of Prescribed Annual Contributions of Licensees to The Universal Service and Access Fund and General Licence Fees Regulations.

2. BACKGROUND

Vuma FM is an Individual Sound Broadcasting Service Licensee broadcasting from Durban in Kwa-Zulu Natal. The Authority issued Vuma FM with its first licence on 25 May 2012.

3. COMPLIANCE ASSESSMENT

3.1. Ownership and Control

Clause 1.1 of the schedule of the licence states that:

"Name of the Company/Entity: Vuma FM (Pty) Ltd"⁵.

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.

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

The Authority confirms that the name of the Licensee is Vuma FM (Pty) Ltd.

The Licensee complies with clause 1.1 of the schedule of its licence.

Clause 1.2 of the schedule of the licence states as follows:

"Shareholders:

KNI - 13%;

Sisulu Family Trust – 15%;

Rita Maud Motanyane – 4%;

Mr Lincoln Matjele – 2%;

Mr Muzi Majozi – 2%;

Pastor Sizwe Daphne Chili – 2%;

Reverend Abe Sibiya – 2%; and

Times Media Pty (Ltd) – 60%".

The Licensee states that Vuma FM's shareholding has changed to the following:

Sisulu Family Trust – 15%;

Times Media Pty (Ltd) – 85%"⁶

The above changes in shareholding were submitted to the Authority on 1 February 2017. The Authority has posed certain questions to the Licensee and the Licensee has requested a meeting with the Authority to discuss the shareholding submission. At the time of writing this report, the meeting was yet to be scheduled.

In the Authority's assessment, a conclusion cannot be drawn in terms of the Licensee's compliance with clause 1.2 of the schedule to the licence as this matter was still pending at the time of writing this report.

Clause 1.3 of the licence provides as follows:

"Ownership held by persons from historically disadvantaged groups: 72%"

⁶ Appendix C: Vuma FM's Compliance Report.

According to the Notification lodged with the Authority on 1 February 2017, Vuma FM submits that ownership held by persons from historically disadvantaged groups has changed to 64.7%⁷.

The Licensee was found to be compliant with the minimum 30% as prescribed by the ECA but non-compliant with clause 1.3 of the schedule to its licence. As indicated, due to the questions posed by the Authority, the Licensee has requested a meeting with the Authority to discuss the shareholding submission.

3.2. Geographic Coverage Area

Clause 2 of the schedule to the licence provides that the geographic coverage area is:

"Durban, Donnybrook, Eshowe, Glencoe, Kokstad and Newcastle in KwaZulu Natal, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence".

The radio station states that the geographic coverage area has not changed. The radio station broadcasts in Durban and covers areas stipulated above.

The Licensee was found to be compliant with clause 1 of the schedule to the Licence.

Broadcast Language(s)

Clause 3 of the schedule to the licence provides that:

"The Licensee shall broadcast in 50% isiZulu and 50% English".

The languages of broadcast were confirmed during the Authority's monitoring exercise and Vuma FM's content is in both isiZulu and English languages.

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

3.3 Format

Clause 4 of the schedule to the licence states that:

⁷ Appendix C: Vuma FM's Compliance Report.

"The Licensee shall have a programming format that is exclusively and predominantly gospel music led. The Licensee shall broadcast 60% music and 40% talk. 10% of music will be inspirational and spiritual".

It was revealed, through the monitoring exercise that Vuma FM's format is 60% music and 40% talk. However, the radio station is not a commercial radio station with programming format that is exclusively and predominantly gospel. The radio station plays different music genres such as gospel, RNB, house, kwaito, etc. Vuma FM changed its licenced music format without the Authority's approval.

The Licensee was found to be non-compliant with clause 4 of the schedule to its licence.

3.4 Local Content Obligations

Clause 5 of the schedule to the licence states that:

"The Licensee shall broadcast 50% of South African music on a weekly basis".

The monitoring exercise revealed that Vuma FM broadcasts more than 50% of South African music on a weekly basis. For example, South African songs feature during **"Kwasa Breakfast Show"** which is broadcast from Mondays to Fridays between 6h00 and 9h00.

"The Big Weekend Show" broadcast on Sundays between 06h00 and 10h00 during which time South African gospel music is played.

"Out and About" broadcast between 14h00 and 18h00 on Sundays where South African gospel and jazz music is aired.

"Backstage Pass" between 18h00 and 22h00 which is dominated by South African gospel.

South African music artists featured by Vuma FM includes Betusile, Benjamin Dube, Sifiso Ncwane, Freshly Ground, Ringo Madlingozi, Nathi, Zahara, Ntando, Jabu Khanyile, Mafikizolo, Lerato Molapo (Lira), Chomee, Bongani Ngcamu, Nhlakanipho Cele, Nqubeko Mbatha and many more.

The Licensee was found to be compliant with clause 5 of the schedule to its licence.

3.4 General Programming Obligations

3.4.1 General

Clause 6.1 of the schedule to the licence stipulates that:

"The Licensee shall broadcast in 90% isiZulu and 10% English".

Vuma FM broadcasts in both English and isiZulu. It was confirmed during monitoring exercise that the radio station broadcasts 90% in isiZulu and 10% in English. For example, the majority of the radio stations programmes are broadcast in isiZulu. Most programmes broadcasts on weekdays are broadcast in isiZulu.

"Sunday School Radio" is the English programme broadcast between 6h00 and 10h00. The programme broadcasts sermons and gospel music.

The Licensee was found to be compliant with clause 6.1 of the schedule to its licence.

Clause 6.2 of the schedule to the licence states that:

"The Licensee will broadcast its news in English and isiZulu".

The monitoring exercise confirmed that the radio station broadcast news in both English and isiZulu.

Clause 6.3 of the schedule to the licence states that:

"The Licensee shall broadcast news on a regular basis, a total of fifty-two (52) minutes each weekday and twenty-four (24) minutes on weekends between 05h00 and 23h00"

The Licensee confirms that the radio station broadcast news on a regular basis as required by clause 6.3 of the schedule to the licence⁸. According to the Licensee it broadcasts 39 minutes of news per day.

⁸ Ibid.

According to the Authority's monitoring exercise, the radio station broadcasts 40 minutes of news per day which falls short of the 52 minutes of news requirement during weekdays. The news bulletins are 3 to 4 minutes in duration. The radio station broadcasts 12 news bulletins on weekdays and 4 news bulletins on weekends.

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

- *"The Provincial MEC of Agriculture, Mr Cyril Xaba says current drought will persist through winter";*
- *"Mandeni mayor, Siphesihle Zulu says violent public protests have a negative impact in the economy";*
- *"The Hawks have denied claims by public protector, Thuli Madonsela that they are investigating her";*
- *"South African Human Rights Commission is investigating reports of violation of learners' rights at Mpepule primary school outside Lephalale in Limpopo";*
- *"KPMG has terminated its business relationship with the Gupta business empire due to the political storm surrounding the family's friendship"; and*
- *"Whistling by opposition law makers forced Kenya's president, Uhuru Kenyatta to interrupt the country's annual state of nation address".*

The Licensee was found to be non-compliant with clause 6.3 of the schedule to its licence by failing to meet the stipulated 52 minutes of news during weekdays and 24 minutes during weekends.

Clause 6.4 of the schedule to the licence states that:

"The Licensee shall ensure that 55% of its news content is local, 35% national and 10% international news per day".

The Licensee states that it broadcasts 32% local, 32% national and 5% international news⁹. The monitoring exercise confirmed that the Licensee does not comply with clause 6.4 above. In its monitoring, the Authority found that the Licensee broadcasts 35% local, 33% national and 5% international.

The Licensee was found to be non-compliant with clause 6.4 of the schedule to its licence

Clause 6.5 of the schedule to the licence states that:

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

The Licensee submits that the news sources used by the station include IOL, Independent Newspapers, Stringers, Community, NGO's and Government Departments. This was confirmed during monitoring¹⁰.

The Licensee was found to be compliant with clause 6.5 of the schedule to its licence.

Clause 6.6 of the schedule to the licence states that:

"The Licensee shall broadcast thirty (30) minutes of current affairs programming per week day. It will further ensure that the ninety per cent (90%) of current affairs be broadcast in isiZulu. Eighty per cent (80%) of the current affairs programming is to be generated from the coverage area".

The Licensee broadcasts a current affairs show programme called **"KZN in sixty (60) minutes"** between 18h00 and 19h00, Mondays to Thursdays.

The Licensee was found to be compliant with clause 6.6 of the schedule to its licence.

3.4.2 Ownership and control structures of the Licensee

Clause 7 of the schedule to the licence stipulates that:

⁹ Ibid.

¹⁰ Ibid.

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

Vuma FM submits that ownership held by persons from historically disadvantaged groups is 64.7%¹¹.

In the Authority's assessment the Licensee is in compliance with the 30% minimum requirement as contemplated in clause 7 above. However, the Licensee's notification reducing its HDI equity ownership to 64.7% was still pending at the time of writing this report.

3.4.3 Special Conditions

Clause 8.1 of the schedule to the licence provides as follows:

"The majority of the employees shall be Zulu speaking individuals".

The Licensee confirms that the majority of the radio station's employees are Zulu speaking individuals¹².

Clause 8.2 of the schedule to the licence provides as follows:

"The Licensee shall employ a local news team specifically for the production of local news".

The Licensee confirms that its news team is made up of local individuals.

Clause 8.3 of the schedule to the licence provides as follows:

"At least 80% of the employees employed of the Licensee shall be historically disadvantaged persons".

The Licensee confirms that 80% of its employees are from historically disadvantaged groups.

The Licensee was found to be compliant with clause 8 of the schedule to its licence.

¹¹ Ibid.

¹² Ibid

4. REGULATIONS

4.1 Complaints Received

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A¹³ which reports on all complaints received during the financial year under review. Vuma FM submitted its complaints report in accordance with the Regulations regarding the Code of Conduct for Broadcasting Service Licensees.

The Licensee is a member of the National Association of Broadcasters (NAB). Any complaint related to code of conduct it is dealt with by the Broadcasting Complaints Commission of South Africa (BCCSA).

For the year under review, the Licensee reported that it did not receive complaints from its listeners or any member of the public.

The Licensee was found to be compliant with the Compliance Procedure Manual Regulations.

4.2 South African Music Content Regulations

The Regulations on South African Music Content as published on 31 January 2006 stipulates that:

"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 25% of the musical works broadcast in the performance period consist of South African music and that such South African music is spread reasonably evenly through the said period".

From the monitoring exercise, it transpired that the Licensee plays least 50% South African music.

The Licensee has, during the period under review, complied with the Regulations on South African Music Content.

4.3 Regulations Regarding Standard Terms and Conditions for Individual Broadcasting Licences

¹³ Ibid

During the year under review, the Authority could not find any non-compliance with the standard terms and conditions for individual licences.

The Licensee was found to be compliant with the Standard Terms and Conditions of Licenses Regulations.

4.4 Universal Service and Access Fund Regulations

Regulation 3 of the USAF Regulations stipulates 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 BS 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 paid USAF and submitted proof of payment to the Authority.

The Licensee was found to be compliant with Regulation 3 of the USAF Regulations.

4.5 General Licence Fees Regulations

Regulation 2(b) of General Licence Fees Regulations provides for Licensees to pay annual licence fees.

Vuma FM has paid R 8 336. 64 towards licence fees which is equivalent to 1.5% of its annual turnover. This amount was paid within the stipulated time frames.

The Licensee was found to be compliant with Regulation 2(b) of General Licence Fees Regulations

5. CONCLUSION

The Licensee complied with most provisions of its licence conditions. However, Vuma FM has failed to comply with clauses 4, 6.3 and 6.4 of the schedule to its licence. Further, the Authority could not draw conclusion in respect of the Licensee's compliance with clause 1.2 pertaining to Shareholding structure. However, the Licensee will need assistance in order to comply.

5.1. TERMS OF REFERENCE

Appendix A: Vuma FM's broadcasting service

Appendix B: Vuma FM's frequency spectrum licence

Appendix C: Vuma FM's Report