



WHALE COAST ANNUAL COMPLIANCE REPORT

MARCH 2025

2023/2024 ANNUAL COMPLIANCE REPORT

WHALE COAST FM

Licence Period: 03 July 2024 – 02 July 2031

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) to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority is to monitor compliance by broadcasters with the terms and conditions of their licence, the three Acts mentioned already and any relevant legislation and regulations.

This report is intended to give an account of Whale Coast FM's compliance with the terms and conditions as set out in its licence, for the 2023/2024 financial year. Aspects of compliance that are measured comprise Geographic Coverage, Community Participation, Programming, Format, News and Information, Local Content Obligations, Language(s), South African Music Content Regulations and Regulations Regarding Standard Terms and Conditions.

2. BACKGROUND

On 08 February 2024, a renewed Class Broadcasting Service licence was issued to Whale Coast FM with licence number Class/Re/Com/R132/Feb/2024. As per the licence, Whale Coast FM must provide services in the Overstrand and Theewaterskloof local municipalities in the Overberg District Municipality, as set out in the licensee's Radio Frequency Spectrum license.

3. COMPLIANCE ASSESSMENT

3.1 Licensee

Clause 1 of the Schedule of Whale Coast FM's licence provides that:

¹ Act No 13, 2000 as amended.

² Electronic Communications Act No 36, 2005.

"The Licence³ is issued to:

1.1. Name of entity: Breakthrough Adventures NPC

1.2. Name of the Station: Whale Coast FM

1.3. Control of the Licensee: Control of the station shall vest in the governing body of Breakthrough Adventures NPC."

The monitoring exercise confirmed that the information prescribed in clause 1 of the Schedule to Whale Coast FM's licence did not change during the period under review.

The Licensee complied with clause 1 of the Schedule to its service licence.

3.2 Licence Period

Clause 2 of the Schedule of Whale Coast FM's licence provides that:

"2.1 The effective date of the licence is 03 July 2024.

2.2 The licence shall expire on 02 July 2031."

The Licensee's licence will expire on 02 July 2031, and the Licensee can apply for renewal from 02 July 2030.

No compliance finding is required at the time of writing this report.

3.3 Licence Area

Clause 3 of the Schedule to Whale Coast FM's licence provides that:

"The Licensee shall provide services in the Overstrand and Theewaterskloof local municipalities in the Overberg District Municipality as set out in the Licensee's radio frequency spectrum license."

Whale Coast FM's coverage area remains as prescribed in its license. Furthermore, the Authority received no reports or complaints indicating that Whale Coast FM has exceeded its licensed area.

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

3.4 Community

Clause 4.1 of the Schedule to Whale Coast FM's licence provides that:

³ Whale Coast FM's service licence.

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

The Licensee confirmed that its services are provided to the geographic community of interest residing within its coverage area. The monitoring exercise revealed nothing that pointed to the contrary.

The Licensee complies with clause 4.1 of the Schedule to its service licence.

Clause 4.2 of the Schedule to Whale Coast FM's licence provides that:

"4.2 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 listener's organisations focusing 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 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."

In terms of the two community meetings that focus on programming and programming-related matters for the selection and provision of programming, the Licensee failed to have these meetings and advised that they serve a large geographical area with at least ten (10) towns and villages and as such it is currently beyond the Licensee's capacity to meet with all the residents.

The Broadcasting Compliance Unit found their reasons unsatisfactory and requested a meeting with the Licensee to discuss the matter and provide guidance on how the Licensee should proceed.

The Licensee did not hold an Annual General Meeting (AGM) for the period under review, and the reasons for its non-compliance were not provided. However, the Licensee held an AGM on June 13, 2024, and the attendance register, minutes, and agenda were duly submitted to the Authority, the date of that AGM falls outside of this reporting period.

The Licensee did not comply with clause 4.2 of the Schedule to its service licence.

3.5 Programming

Clause 5.1.1 of the Schedule of Whale Coast FM's licence provides that:

"Local News and Information obligation: The Licensee shall broadcast a total of thirty (30) minutes of news per day of which 60% shall be local, 20% regional, 10% national and 10% international news"

The monitoring exercise found that the Licensee's news broadcasts more than thirty (30) minutes of news per day during weekdays. However, on weekends, the Licensee's total news averages approximately fifteen (15) minutes per day. Further, the monitoring exercise found that the type of news broadcast by the Licensee does not align with the licence requirement. Regional news makes up the majority of the Licensee's news content instead of local news.

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

- *"Opposition political parties have slammed President Cyril Ramaphosa's 2024 State of the Nation Address saying it was an ANC manifesto disguised as SONA with the same old recycled promises. Ramaphosa's nearly two-hour-long address was filled with promises about how the government would fix entities such as ESKOM, Transnet and the National Prosecuting Authority while it also made promises on the social welfare front."*
- *"ESKOM has announced the implementation of stage three loadshedding from 10 pm last night until further notice. This was just minutes after President Cyril Ramaphosa ended his State of the Nation Address in which he declared the end of rolling blackouts was in sight."*

- *According to Eskom the need to replenish the pump storage dams which are required to meet the morning and evening peak loads and a generating unit that was taken offline for repairs during the last twenty-four (24) hours will mean stage three loadshedding will be implemented."*
- *"Western Cape provincial traffic officers managed to seize over fifty (50) thousand mandrax tablets while conducting stops and checking vehicles on the N2 along Borchers Quarry road in Cape Town. The Department of Mobility confirmed. The seizure took place on Wednesday and the mandrax tablets are estimated to have a street value of about three (3) million rand. A provincial traffic officer became suspicious while inspecting a light motor vehicle and discovered a significant amount of mandrax tablets being transported in the boot of the vehicle."*
- *"Die Minister van Internasionale Betrekkinge, Naledi Pandor, het intussen Duitsland se optrede veroordeel nadat 'n Duitse hof 'n Suid-Afrikaner sosiale kommentator gedagvaar het oor haar standpunt oor die konflik in the Midde-Ooste. Pandor sê sy is bewus daarvan dat Malaika Mahlatsi gedaag word om voor die hof te verskyn nadat sy na bewering 'n misdaad beloon het. Mahlatsi is 'n uitgesproke ondersteuner van die regering se benadering tot die Israel-Palesteinse konflik."*

The Licensee does not fully comply with clause 5.1.1 of the Schedule to its service licence.

Clause 5.1.2 of the Schedule to Whale Coast FM's licence provides that:

"South African Music Content: 80%."

The details and findings regarding the Licensee's South African music content output are discussed in section 4.1 below.

Clause 5.1.3 of the Schedule to Whale Coast FM's licence provides that:

"Talk vs. Music: 50% Talk and 50% Music."

The monitoring exercise found that the licensee's programming is not split between fifty percent (50%) talk and fifty percent (50%) music. The monitoring exercise found that music dominates the licensee's programming and that there is no balance between the talk and music programming as prescribed by the license.

The Licensee does not comply with clause 5.1.3 of the Schedule to its service licence.

Clause 5.1.4 of the Schedule to Whale Coast FM's licence states that:

"Language(s) of broadcast

5.1.4.1 Afrikaans – 40%;

5.1.4.2 English – 40% and

5.1.4.3 isiXhosa – 20%"

The monitoring exercise found that the Licensee's programming is aligned with its prescribed broadcast languages. Some of its isiXhosa programming includes "Vuka Whalecoast"; "Vuka Community"; and "Ziyakipha", while some of its Afrikaans programming includes "Aan die gang"; "Klankkoerant" and "Vat Dit Rustig". English can be found in the "Midday Mellow"; "Sunrise" and "The Upsetter Show" programming.

The Licensee complies with clause 5.1.4 of the Schedule to its service licence.

3.6 Promise of Performance

Clause 8.1 of the Schedule to Whale Coast FM's licence states that:

"The Licensee shall provide for the participation of community members in the affairs of the station in the following ways:

8.1.1 Special phone-in programmes by members of the community"

The monitoring exercise confirmed that the Licensee makes provision for the community members to phone-in during programmes.

The Licensee complies with clause 8.1.1 of the schedule of its service licence.

Clause 8.1.2 of the Schedule to Whale Coast FM's licence states that:

"School services to be accommodated in terms of programming and their inputs"

The Licensee confirmed that the station has a relationship with "The Enlighten Trust," an organisation that supports all the schools and learners in the Overstrand. This organisation provides information concerning local education issues to the Licensee. Further, the Licensee has confirmed that it works with the Western Cape Education Department and conducts interviews with them on

educational matters. The monitoring exercise found that school services are accommodated in terms of programming and their inputs.

The Licensee complies with clause 8.1.2 of the Schedule to its licence.

Clause 8.1.3 of the Schedule to Whale Coast FM's licence states that:

"Spiritual support and programmes aimed at the elderly and senior members of the community including the youth."

The monitoring exercise found that the Licensee broadcasts three spiritual programmes every Sunday. The first programme is a Sunday morning sermon in Afrikaans, followed by *"Love, Trust, Worship,"* in English broadcast at 10:00, and finally, the Licensee has an isiXhosa Gospel programme on Sunday nights. These programmes are relevant for the elderly and senior members of the community including the youth.

The Licensee complies with clause 8.1.3 of the schedule of its service licence.

Clause 8.1.4 of the Schedule to Whale Coast FM's licence states that:

"Participation in the development and education of the Afrikaans Christian Culture."

The monitoring exercise found that Licensee broadcast an Afrikaans sermon on Sundays.

The Licensee complies with clause 8.1.4 of the schedule of its service licence.

4. REGULATIONS

4.1 ICASA South African Music Content Regulations, 2016.

Regulation 3 of the South African Music Content Regulations⁴ as published on 23 March 2016 provides that:

⁴ ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016.

"A holder of a community sound broadcasting service licence must ensure that after eighteen 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 evenly throughout the performance period".

Some of the South African music that was found aired during the period under review are the following:

Sorina Flooze "Soen My"; NX "Rondomtalie"; Riaan Grobler ft. David Fourie "Karooonag"; Elvis Blue "Die Lyn"; Marta Gomez "Liedtjie Vir Jou"; Riaan Grobler ft. Nadia Beukes "Drie Wense"; Mango Groove "Hometalk"; Holly Rey "Wanna Be"; Shekhinah "Questions"; Mi Casa "Mamela"; Karen Zoid & AB de Villiers ft. Ndlovu Youth Choir "The Flame"; and Jarrad Ricketts "Take Me to Your Heart".

The monitoring exercise found that the Licensee broadcast on average eighty percent (80%) of South African music content.

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

4.2 ICASA Compliance Procedure Manual Regulations, 2011

The Licensee is required, in terms of the Compliance Procedure Manual Regulations⁵, to submit various forms throughout the financial year. The Licensee

The Licensee has submitted the required forms in accordance with the Compliance Procedure Manual Regulations.

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

4.4 Amendment Standard Terms and Conditions for Class Licences, 2021

The Authority found that during the period under review, the Licensee contravened the Regulations in respect of the Standard Terms and Conditions for Class

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

Licences⁶ insofar as the Director, Mr John Mathew is occupying the role of management and presenter simultaneously.

The Licensee does not comply with the Amendment Standard Terms and Conditions for Class Licences, 2021

5. CONCLUSION

The Licensee's compliance with its licence terms and conditions and underlying Regulations during the period under review was not satisfactory. Several areas of non-compliance were identified such as the failure to convene two meetings with its community that focus on programming and programming-related matters, not broadcasting the required thirty (30) minutes of news during weekends and not aligning its format to fifty percent (50%) music and fifty percent (50%) talk.

The monitoring exercise further found that there was non-compliance with the Amended Standard Terms and Conditions for Class Licences due to the existence of a dual role with the director being also a presenter.

The Authority has informed the licensee of the non-compliance and requested that the Licensee provide the Authority with a remedial action plan. The Authority will monitor the Licensee's progress with ensuring compliance in the areas identified in this report and make a determination in the next financial year whether the licensee must be referred to the Complaints and Compliance Committee ("CCC").

6. TERMS OF REFERENCE

- 6.1 Annexure A: Whale Coast FM's Class broadcasting service and spectrum licence
- 6.2 Annexure B: Regulations on South African Music Content
- 6.3 Annexure C: Compliance Procedure Manual Regulations
- 6.3 Annexure D: Regulations on Standard Terms and Conditions for Class Licences

END

⁶ Standard Terms and Conditions for Class Broadcasting & Electronic Communications Network Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010, as amended.