



UTHUNGULU YOUTH FM ANNUAL COMPLIANCE REPORT

MARCH 2023

2021/2022 ANNUAL COMPLIANCE REPORT

UTHUNGULU YOUTH FM

LICENCE PERIOD: 31 JANUARY 2019 to 30 JANUARY 2024

1. PREFACE

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution¹, the Independent Communications Authority of South Africa Act (ICASA Act²), the Electronic Communications Act³ (ECA) and the Broadcasting Act to regulate broadcasting activities in the public interest. The Authority has a mandate to ensure compliance by broadcasters with the terms and conditions of the licence, the ECA, the ICASA Act and any other relevant legislation and Regulations.

The purpose of this report is to give an account of Uthungulu Youth FM's ("Licensee") compliance with the terms and conditions as set out in its licence for the 2021/2022 financial year. 2021/2022 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Community participation, and Programming Obligations.

Furthermore, the report will measure compliance with regulations that include South African Music Content, Standard Terms and Conditions, and the Compliance Procedure Manual Regulations.

2. BACKGROUND

Uthungulu Youth FM is a class broadcasting service Licensee providing services to a geographic community residing in the uThungulu District Municipality in the KwaZulu-Natal Province. The radio station provides a programming format that is a mix of talk and music.

¹ The Constitution of the Republic of South Africa, No 108 of 1996

² ICASA Act No 13 of 2000, as amended

³ Electronic Communications Act No 36 of 2005

3. COMPLIANCE ASSESSMENT

3.1 Control Structure

Clause 1 of the schedule to the licence provides that:

"The Licence is issued to:

1.1 Name of company/entity: uThungulu Youth FM.

1.2 Name of Station: uThungulu Youth FM.

1.3 Control of the Licensee: Control shall vest in the board of uThungulu Youth FM."

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

The Licensee complies with clause 1 of the schedule to its licence.

3.2 Licence Period

Clause 2 of the schedule to the licence provides that:

"2.1 The effective date of the licence is 31 January 2019.

2.2 The licence shall expire on 30 January 2024."

The licence is still valid.

3.3 Licence Area

Clause 3 of the schedule to the licence provides that Inkonjane Community Radio's coverage area is as follows:

"The Licensee shall provide services to OR Tambo District Municipality in the Eastern Cape Province, as set out in the Licensee's radio frequency spectrum licence".

The Licensee confirmed that it provides a service to licensed area as set out in the Licensee's radio frequency spectrum licence.

In the year under review, the Authority did not receive any reports or complaints indicating that the radio station has gone beyond its licenced area.

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

3.4 Community

Clause 4.1 of the schedule to the licence provides that:

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

The Licensee submitted and confirmed that it provides a sound broadcasting service as prescribed in its licence.

The Licensee complies 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) meetings annually with its community on programming and programme-related matters for the selection and provision of programmes; and

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".

The Licensee did not hold programming meetings with community members during the period under review.

The Licensee does not comply with clause 4.2 of the schedule to its licence.

Further, clause 4.2.3 provides that:

"The Licensee shall hold an Annual General Meeting 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".

The Licensee did not hold an AGM during the period under review.

The Licensee does not comply with clause 4.2.3 of the schedule to its licence.

3.5 Programming

Clause 5.1 of the schedule to the licence provides that:

"The Licensee shall provide programming as follows":

5.1.1 Local News and Information: The Licensee shall broadcast news to a total of fifty (50) minutes per day of which 22 minutes shall be local, 18 minutes national and 10 minutes international news."

The Authority's monitoring exercise revealed that the Licensee does not broadcast any news bulletins. It only provides updates on news that is making headlines and updates on things like market indicators, traffic and sport.

The Licensee does not comply with its news obligation.

Clause 5.1.2 of the licence provides that:

"South African Music Content: 70%.

The Licensee must ensure that the South African Music Content broadcast increases by 10% annually until it reaches 80%, and that the South African Music Content is spread evenly throughout the performance period."

The Authority's monitoring exercise confirmed that the radio station broadcasts a significant amount of South African music. It broadcasts approximately 80% South African Music Content.

The Licensee complies with clause 5.1.2 above.

Clause 5.1.3 of the licence provides that the format is as follows:

"40% Talk and 60% Music"

The monitoring exercise revealed that the Licensee's shows are a mixed blend of music and talk, with more music. The station has discussions throughout the day on issues that affect the community, such as relationship issues and youth development. It also provides for listener interaction. The monitoring exercise confirmed that the Licensee's format is as prescribed in the licence.

The Licensee complies with its prescribed format.

Clause 5.1.4 of the licence provides that:

"Language(s) of broadcast:

5.1.4.1 isiZulu– 40%; and

5.1.4.3 English– 60%."

The monitoring exercise revealed that the Licensee broadcasts all its programmes mainly in isiZulu. English is spoken occasionally, and it was identified during listener interactions and during interviews.

The Licensee does not comply with its languages of broadcast obligation.

Clause 5.2 of the schedule to the licence provides 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".

The Licensee did not submit programming logs on a monthly basis during the period under review.

The Licensee does not comply with clause 5.2 of the Schedule to its licence.

3.6 Promise of Performance

Clause 8.1 of the schedule to the licence provides that:

"The Licensee shall provide a community programming committee and conduct community programming community meetings once a month.

The Licensee did not provide any proof of monthly programming meetings.

Clause 8.2 of the schedule to the licence provides that:

"The Licensee shall encourage listeners to submit complaints and/or suggestions on improving content and any other issues with regards to the station through audience surveys via social media, telephonically, or through email."

The Licensee did not submit a report on any surveys that were done with its listeners.

The Licensee does not comply with clause 8.2 of the schedule to its licence.

Clause 8.3 of the schedule to the licence provides that:

"The Licensee shall establish programming that is educational. This shall include informal education such as skills development, HIV/AIDS awareness, teenage pregnancy awareness, workplace education and combating crime."

The Licensee did not submit a report on this obligation. The Licensee does offer informal education; however, there were no programmes that were identified that are dedicated to the topics specified in this clause.

The Licensee does not comply with its Promise of Performance obligations.

4. REGULATIONS

4.1 ICASA Regulations on South African Music Content

Regulation 3 (3) of the Regulations on South African Music Content as published on 23 March 2016 stipulates that:

"A holder of a community sound broadcasting licence must ensure that after eighteen (18) 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 reasonably evenly throughout the said period".

For the period under review, the obligation in accordance with the SA Music regulations above, provides for at least eighty percent (80%) of South African music content to be played by community sound broadcasting Licensees.

The Authority's monitoring exercise revealed that the radio station broadcasts a significant amount of South African music content. Various genres were identified on the station's music line-up including House, Hip-Hop, Maskandi, Gospel, Afro-Soul and Kwaito with artists such as *Big Nuz, Soul Brothers, Afrotraction, DJ Hlo, Teargas, Nasty C, Ricky Rick, Naima Kay, Johnny Clegg and Sankomota,*

The Licensee complies with ICASA South African Music Content Regulations.

4.2 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences

The Licensee did not adhere to the Standard Terms and Conditions for class licences as it did not submit all the information required by the Authority. The Licensee also has a bad record of not submitting, submitting late or not submitting in the format required, any information that is requested by the Compliance Department. During the period under review, all Licensees were requested to submit form 1 and supporting documents on or before 15 July 2021. After numerous reminders, the Licensee only submitted this information in October 2021 and it was still incomplete. This is in contravention of regulation 9 of the Amendment Standard Terms and Conditions for Class Broadcasting Services, 2016⁴ which provides that:

"(1) The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide any information including documents or books not ordinarily required, so as to enable it to (a) monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions and other requirements of the Act and related legislation.

(4) A licensee must provide all the required information as required by the Authority in sub-section (1)."

The Licensee does not comply with the Regulations Regarding Standard Terms and Conditions for Class Broadcasting Services.

5 CONCLUSION

The Licensee is not compliant with most of its licence terms and conditions, the Compliance Procedure Manual Regulations and Standard Terms and Conditions for Class Broadcasting Services Regulations.

The Licensing and Compliance Division will advise the Licensee of its non-compliance and endeavour to assist the Licensee to comply. However, should the Licensee not improve its performance it will be advised of the Authority's intention to refer them to the Complaints

⁴ Published in *Government Gazette* No. 39872 dated, 31 March 2016.

and Compliance Committee (CCC) and provided with the opportunity to respond to the non-compliance findings.

6 TERMS OF REFERENCE

Appendix A: uThungulu Youth FM's Service Licence;

Appendix B: Standard Terms and Conditions for Broadcasting Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010, as amended;

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

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

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