



EKURHULENI FM ANNUAL COMPLIANCE REPORT

MARCH 2018

2016/2017 ANNUAL COMPLIANCE REPORT: EKURHULENI FM

Licence Period: 03 March 2014 to 01 March 2019

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 Act² (ICASA Act), the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ 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 is intended to give account of Ekurhuleni FM's compliance with the terms and conditions as set out in its licence, for the 2016/2017 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

In March 2014, a broadcasting licence was issued to Ekurhuleni FM which is broadcasting as East Rand Stereo. The licensed service is to serve the community of East Rand and surrounding areas in the Gauteng Province. According to the Broadcast Research Council of South Africa, the listenership figures for the last quarter of the period under review was 39 000⁵

3. COMPLIANCE ASSESSMENT

3.1 Licensee

Clause 1 of the schedule to Ekurhuleni FM's licence provides that:

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 <http://www.brcsa.org.za/brc-ram-radio-listening-jul-16-dec-16-oct-16-mar-17/>

"The Licence⁶ is issued to:

1.1. Name of entity: Ekurhuleni FM.

1.2. Name of the Station: East Rand Stereo.

1.3. Control of the Licensee: Control shall vest in the Board of Directors of a non-profit Company incorporated under section 21 of the Companies Act of 1973 known as Ekurhuleni FM."

In the year under review, the Licensee appeared before the Complaints and Compliance Committee (CCC) for allegation contravention of Section 16 (6) of the ECA by entering into a Business Rescue process without informing the Authority. The reasons for the referral was that the Business Rescue Practitioner was in charge of the radio station's finances and overall operational affairs, and that they were in contravention on the Memorandum of Incorporation pertaining to their controlling structure. The Licensee appeared before the CCC on 16 November and the judgement is expected before March 2018.

The Licensee complies with clause 1.1 and 1.2 of the schedule to its Licence. It however does not comply with clause 1.3 of the schedule to its licence.

3.2 Licence Period

Clause 2 of the schedule to Ekurhuleni FM's licence provides that:

"1.4 The effective date of the Licence is 03 March 2014.

1.5 The Licence shall expire on 02 March 2019."

The Licensee will be notified of the pending renewal and be advised of the process thereof and the applicable forms to be submitted.

3.3 Licence Area

Clause 3 of the schedule to Ekurhuleni FM's licence provides that:

"The Licensee shall provide services in East Rand and surrounding area in the Gauteng Province as set in the Licensee's radio frequency spectrum licence."

⁶ Annexure A: Ekurhuleni FM's Broadcasting Service Licence

Ekurhuleni FM's coverage area remains as prescribed in the licence terms and conditions. In the year under review, the Authority received no reports or complaints indicating that the radio station has gone beyond its licence area.

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

3.4 Community

Clause 4.1 of the schedule to Ekurhuleni FM's licence provides that:

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

The monitoring exercise confirmed that Ekurhuleni FM caters for a Christian community as per its Christian sermons that are broadcasted on Sundays, as well as the Christian based religious content that is broadcast throughout the performance period, starting with a Christian programme consisting of thirty (30) minutes each of local and international sermons from 05h00 till 06h00 from Mondays to Friday.

The Licensee was found to be in compliance with clause 4.1 of the schedule to its Licence.

Clause 4.2 of the schedule to Ekurhuleni FM's 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 and shall include members from the broader community of Daveyton and other historically disadvantaged communities in the coverage area.

4.2.2 The Licensee shall furnish the Authority with proof of such meetings as well the attendance thereof by members of the community.

The Licensee did not make any submission to Authority of any meeting that they held with the community. The Authority held a regulatory workshop and induction for the new management of the radio station on 25 November 2016 in order to address the challenges

that they had with some of the licence conditions and also to provide clarity. The radio had submitted that they have structures and that they have meetings with the community but they were not formalised. The Licensee was advised to formalise the structures and keep minutes and attendance registers of the meetings.

The Licensee failed to comply with clauses 4.2.1 and 4.2.2 of its licence.

"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 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".

Ekurhuleni FM held an AGM on 07 December 2017 after the CCC hearing in order to elect a controlling structure. The agenda of the meeting reflects that the purpose of the meeting was the introduction of the 2017 Board of Directors as well as the presentation of the Board of Directors report. The attendance register, hereto attached as Annexure C, of said meeting reflects that the meeting was attended by staff of Ekurhuleni FM without any members of the broader community of Daveyton, nor other historically disadvantaged communities in the coverage area were present.

The Licensee has failed to comply with clause 4.2.3 of the schedule to its licence.

3.5 Programming

Clause 5.1.1 of the schedule to Ekurhuleni FM's licence provides that:

"The Licensee shall broadcast a total of one hundred and twenty-four (124) minutes of news per day. Sixty (60) minutes shall be local, fifty two (52) minutes shall be national and twelve (12) minutes shall be international news per day."

The log of programmes broadcast, hereto attached as Annexure D, as submitted by Ekurhuleni FM depicts that the average daily news that is broadcast by Ekurhuleni FM average just under sixty (60) minutes per day.

The Licensee broadcasts news bulletins weekdays every hour averaging an approximate broadcast of three (3) and half minutes and news headlines between the hour for approximately fifteen (15) seconds, between the period of 6h30 and 18h30. The overall total, as evident by the monitoring exercise, averages about fifty (50) minutes of news broadcast per day, on weekdays. The Licensee broadcasts a *Weekend News Round-up* bulletin on Saturdays, on the hour at 7h00 and at 08h00 consisting of approximately two (2) minutes per bulletin with a total of four (4) minutes of news broadcasted on Saturdays. The Sundays news bulletin is broadcasted only between 07h00 and 09h00 for two (2) minutes.

Some of the news that was covered include:

"Oscar Pistorius back in court. The Department of Correctional Services has confirmed that convicted murder Oscar Pistorius was taken to hospital over the weekend but will appear in the Pretoria High court today for the postponement of his sentencing proceedings."

"The death toll from the earthquake that hit Ecuador's pacific coast over the weekend has risen to over 400 and about 2000 people have been injured."

"Three men who stand accused of raping a woman and killing two men at Rhodes Park are expected to appear in the Johannesburg Magistrate's Court today. The three men are believed to be part of twelve men who attacked two couples where two men were tied up and left to drown while one woman was raped and the other woman managed to escape."

"The Democratic Alliance is calling for the Independent Police Investigation Directory to investigate police brutality in Bushbuck Ridge. Reports claim that business people in the area say that police broke into their homes, assaulted them and stole money, including firearms while pretending to investigate rhino poaching"

The Licensee has not fully complied with clause 5.1.1 of the schedule to its licence.

Clause 5.1.2 of the schedule to Ekurhuleni FM's licence provides that:

"The Licensee shall broadcast 40% South African music content"

The programming log sheets submitted by Ekurhuleni FM indicate that the Licensee plays the required 40% of South African music content. The Authority's monitoring exercise found that the Licensee music tracks are well balanced between the different genres as well as between local and international music. Some of the local artists and tracks that were featured include: Kurt Darren "Cowboys and Crooks", Bok van Blerk - "Afrikanerhart", Izak Davel - "Permanente Pen", Brandan Peyper - "Stop, wag, bly nog 'n bietjie", and Rymstoft - "Hartvlinders".

The Licensee has a new releases segment on Saturdays, where it plays fifteen (15) new releases from local artists. During the segment which starts from 15h00 until 19h30, they conduct short interviews with artists.

The Licensee has complied with its South African music obligations

Clause 5.1.3 of the schedule to Ekurhuleni FM's licence provides that:

"The Licensee shall have a programming format of talk (35%) and (65%) music."

The Authority's monitoring exercise confirms that the content is split between 35% talk and 65% music.

The Licensee has complied with its format.

Clause 5.1.4 of the schedule to Ekurhuleni FM's licence provides that the languages of broadcast are as follows:

"50% English and 50% Afrikaans"

The Authority's monitoring exercise found that the Licensee is fully bilingual with presenters being able to switch between English and Afrikaans with ease in their broadcast. This is done in a manner where it does not cause any listener-confusion. The Licensee also have news broadcasts alternate between the two languages.

The Licensee complied with its languages of broadcast obligations.

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".

The Authority's findings showed Ekurhuleni complies with the obligation to play a minimum of 40% South African music.

The Licensee was found to be in compliance with the Regulations on South African Music Content.

4.2 Compliance Procedure Manual – Form 12A

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A which reports on all complaints received in the course of each financial year. In the year under review, the Licensee submitted its Form 12A, hereto attached as Annexure E.

The Licensee was found to be in compliance with the Compliance Procedure Manual.

4.3 Regulations regarding Standard Terms and Conditions for Class Licensees

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 Class Licences.

⁷ Appendix D: Regulations on South African Music Content

5. CONCLUSION

Ekurhuleni FM is compliant with the majority of its obligations. The Licensee was advised to contact their Licensing Officer in relations to amendments to their news obligations. The matters pertaining to community participation will be addressed when the Broadcasting Compliance Unit meets with the sound broadcasting service before end March 2018.

6. TERMS OF REFERENCE

- Annexure A:** Ekurhuleni FM's Service Licence;
- Annexure B:** Ekurhuleni FM's AGM Agenda;
- Annexure C:** AGM Attendance register;
- Annexure D:** Log sheets April 2016; and
- Annexure E:** Form 12A of the Compliance Procedure Manual.