



SEDIBENG FM ANNUAL COMPLIANCE REPORT

MARCH 2021

Dr. K Modimoeng (Chairperson), P Kadi, Y Kedama, Dr. C Lewis, Adv. L Mkumatela, Adv. D Qocha,

T Semane, PJ Zimri, (Councillors), WA Ngwepe (CEO)

2019/2020 ANNUAL COMPLIANCE REPORT

EMFULENI COMMUNITY RADIO BROADCASTING AS SEDIBENG FM

LICENCE PERIOD: 05 August 2013 to 04 August 2018

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution¹, the ICASA Act², the Electronic Communications Act (ECA)³ and Broadcasting Act⁴ 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, and any relevant legislation and regulations.

The purpose of this report is to give an account of Sedibeng FM performance for the 2019/2020 financial year. Aspects of compliance that are measured comprise of the Geographic Coverage, Community participation, Programming Obligations and Standard Terms and Conditions.

2. BACKGROUND

Sedibeng FM hold a Class Sound broadcasting service licence⁵. The radio station's mandate is to provide sound broadcasting service to the community of Emfuleni Local Municipal area in Gauteng Province, as set out in the Licensee's radio frequency spectrum licence.⁶

3. COMPLIANCE ASSESMENT

3.1 Control Structure

Clause 1 of the licence states that:

"The Licence is issued to:

1.1 Name of Company/Entity: Emfuleni Community Radio.

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

² Independent Communications Authority of South Africa Act, Act No. 13 of 2000, as amended

³ Electronic Communications Act No. 36 of 2005

⁴ Broadcasting Act No. 4 of 1999

⁵ Appendix A: Sedibeng FM broadcasting licence

⁶ *Ibid*

1.2 *Control of the licensee: Control shall vest in the Board of Directors of a non-profit organisation known as Emfuleni Community Radio."*

According to Sedibeng FM's constitution, the Board shall consist of not less than five (5) Directors. The board members are elected in an Annual General Meeting and shall serve for a period of one (1) year.

The Licensee submitted a list of three (3) Board of Directors that were elected in its last elective AGM held on 22 June 2019 at 81 Cassandra Avenue Bedworthpark Boardroom. The new Board members were elected by community members and the old Board members were not present at the AGM. However, they were also removed or voted out as Board members. The control of the Licensee is now in the hands of the new Board of Directors of a non-profit company known as Emfuleni Community Radio.

The Licensee does not comply with clause 1.1 to 1.2 of the licence.

3.2 Licence Period

Clause 2 of the licence states that:

"This licence is valid for a period of five (5) years from the signature date."

Sedibeng FM's licence has expired. The Licensee has applied for the licence renewal on time to the Authority. The licensee received an approval letter from the Authority pending the issue of a renewed Licence.

At the time of drafting this report, the Licensee had not received its renewed licence.

3.3 Geographic Coverage Area

Clause 3 of the licence stipulates that:

"The Licensee shall provide services to Emfuleni Local Municipal area in Gauteng Province, as set out in the Licensee's radio frequency spectrum licence"

Sedibeng FM provide services to the areas stipulated in its licence.

The Licensee complies with clause 3 of the licence.

3.4 Community

Clause 4.1 of the licence states that:

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

Sedibeng FM provides a sound broadcasting services to the geographic community residing within the geographic coverage of Emfuleni Local Municipal area in Gauteng Province, as set out in the Licensee's radio frequency spectrum licence.

The Licensee complies with clause 4.1 of the licence.

Clause 4.2 of 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 focusing on programming and programming policies of the station.

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.

During the year under review, the Licensee did not submit proof that it convened meetings with its community on programming related matters.

The Licensee did not comply with clause 4.2.1 and 4.2.2 of its sub clauses of the licence.

4.2.3 The Licensee shall hold Annual General Meeting (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."

The Licensee submitted proof of AGM minutes dated 22 June 2019 which was held at Cassandra Avenue Bedworthpark Boardroom. The minutes indicate that feedback was provided on compliance issues with licence conditions, also did not provide feedback on the overall financial performance of the radio station. The new board members were also elected during the AGM with an unsigned constitution of the non-profit company. Three (3) board members were elected which is less than the required number of five (5) members as per their constitution.

The Licensee did not comply with clause 4.2.3 and its sub clauses of the licence.

3.5 Programming

Clause 5.1 of the licence states that the Licensee shall provide programming as follows:

5.1.1 "Format: 65% Talk and 35% Music."

Sixty-five per cent (65%) talk during the performance period weekly, is equal to four thousand nine hundred and fourteen (4 914) minutes.

The Licensee did not submit a log of programme it broadcast, indicating total minutes per week and the monthly percentage of talk the radio station is broadcasting. Submission of information for the annual compliance report must be in line with Form 8A.

The monitoring exercise found that the recordings submitted by the Licensee were not audible, making it impossible to monitor content. The recordings would play without any audible sound. Other parts of the recordings, the volume would be too low to monitor the content.

The licensee did not comply with sub clause 5.1.1 of the licence

5.1.2 "News and information: The Licensee shall broadcast news to total of four hundred and ten (410) minutes per week, of which 60% shall be local news, 30% national news, and 10% international news.

5.1.3 Local Content: The Licensee shall broadcast a South African music content of 75%.

5.1.4 Language(s) of broadcast:

(a) Sesotho – 65%;

(b) English – 15%;

(c) isiXhosa – 13%; and

(d) isiZulu – 7%.”

The Licensee submitted recordings which were not audible, making it impossible to monitor content.

The licensee did not comply with sub clause 5.1.2 to 5.1.4 of the licence

Clause 5.2 of 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 proforma of the log to be kept will be supplied by the Authority."

The Licensee did not submit the log of programmes broadcast to the Authority as required by clause 5.2.

The licensee did not comply with clause 5.2 of the licence

4 REGULATIONS

4.1 Complaints Received

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

For the year under review, the Licensee did not submit any forms on the complaints it may have received. Therefore, Broadcasting Compliance cannot make any inference or conclusion that the licensee did not receive any complaints.

The Licensee did not comply with the Compliance Procedure Manual Regulations

4.2 South African Music Content Regulations⁷

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

"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%, increased by 10% annually to reach 80% of the musical work in the performance period, consist of South African music and that such South African music is spread evenly throughout the performance period⁸"

The monitoring exercise found that the recordings submitted by the Licensee were not audible, making it impossible to monitor content. The recordings would play without any audible sound. Other parts the volume would be too low to monitor the content.

The licensee does not comply with the Regulations

4.3 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Services Licences⁹

During the year under review, the Licensee did not comply with the standard terms and conditions for class licences.

The Licensee did not comply with regulation 10A (2) and (13) of the Standard Terms and Conditions under general obligations of licensees. The Licensee failed to provide information upon request, for monitoring purposes.

Sedibeng FM did not comply with the Regulations on Standard Terms and Conditions for Class Broadcasting Service Licences.

5 CONCLUSION

Sedibeng FM is generally non-compliant with most provisions of its licence conditions and applicable Regulations.

⁷ Appendix B: ICASA South African Music Content Regulations, 2016.

⁸ *Ibid*

⁹ Appendix C: Standard Terms and Conditions for Class Licences, 2016.

Broadcasting Compliance will monitor their compliance and where Sedibeng FM does not comply in full, they will be advised of the intention to refer them to the Complaints and Compliance Committee (CCC), for a hearing.

6. TERMS OF REFERENCE

6.1 Appendix A: Sedibeng FM broadcasting licence

6.2 Appendix B: ICASA South African Music Content Regulations 2016

6.3 Appendix C: Regulations Regarding Standard Terms and Conditions for Class Licences 2016

End

March 2021