



# **RADIO 786 ANNUAL COMPLIANCE REPORT**

**MARCH 2017**

# **2015/2016 ANNUAL COMPLIANCE REPORT**

## **RADIO 786**

**LICENCE PERIOD: 27 OCTOBER 2013 TO 28 OCTOBER 2018**

### **1. PREFACE**

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution<sup>1</sup>, the ICASA Act<sup>2</sup>, the Electronic Communications Act<sup>3</sup> (ECA) and the Broadcasting Act<sup>4</sup> to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority is to ensure compliance by broadcasting service Licensees with the terms and conditions of their licence and any relevant legislation and regulations.

This report is intended to give an account of Radio 786's compliance with the terms and conditions, as set out in its license, for the 2015/2016 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, Regulations Regarding Standard Terms and Conditions.

### **2. BACKGROUND**

Radio 786's Broadcasting Service Licence was renewed in October 2013 and is valid until October 2018. Radio 786's provides a service to the Greater Cape Metropolis in the Western Cape Province as set out in the Licensee's radio frequency spectrum licence.

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<sup>1</sup> The Constitution of the Republic of South Africa, No 108 of 1996

<sup>2</sup> Act No. 13 of 2000, as amended

<sup>3</sup> Act No. 36 of 2005

<sup>4</sup> Act No. 4 of 1999

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Licensee**

Clause 1 of the schedule of the licence provides that:

*"The Licence<sup>5</sup> is issued to:*

- 1.1 Name of entity: Islamic Unity Convention*
- 1.2 Name of the Station: Radio 786*
- 1.3 Control of the Licensee: Control shall vest in the Board of Trustees of a Trust known as the Islamic Unity Convention."*

In the year under review, the Authority did not receive any notifications from the Licensee indicating a change in any of the above stated obligations. The Authority can confirm, based on its monitoring activities that **the Licensee complies with clauses 1.1, 1.2 and 1.3 of schedule of the licence.**

#### **3.2 Community**

Clause 4 of Radio 786's schedule to the licence provides as follows:

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

Radio 786 provides services to a Muslim community residing within the Greater Cape Metropolis. In the year that is currently under review, the Authority received no reports indicating that the Licensee is failing to give service to its licensed footprint or that it has overstepped its licensed footprint.

**The Licensee was found to be in compliance with clause 4.1 of the schedule of the licence.**

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<sup>5</sup> Appendix A: Radio 786's Broadcasting Service Licence

Clause 4.2 of the schedule of the licence stipulates 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 (2) two general meetings annually with its community on programming and programming-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 as 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<sup>6</sup>,*

*4.2.3.2 To provide feedback on the Licensee's operational and financial<sup>7</sup> 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".*

Radio 786 is a standing member of its licence holder, the Islamic Unity Convention (IUC).

In the Executive of the IUC, a dispute arose during the 2011 Triennial General Meeting at which point the Chairman, Mr Muhammed De Vries abruptly adjourned the meeting without resolving any of the issues that needed to be addressed by that meeting. This prompted a faction of the members of the IUC to continue with the meeting, alluding to the fact that the Chairman had no right to just adjourn the meeting. The TGM continued in the absence of the Chairman and company and ended up electing a new Board of Directors as per the IUC's founding

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<sup>6</sup> Radio 786's Station Manager Report

<sup>7</sup> Radio 786's Financial Statements

documents. This exercise was disputed by Mr M De Vries and he continued to serve at the helm of the mother body.

In the four years that followed, the radio station continued to function as usual and remained unaffected by the developments in what essentially is a matter affecting its mother body.

In 2015, a group, alleging to be disgruntled by IUC's constituent members and the proceedings of the 2011 TGM, then brought a court application to challenge its validity. The outcome of this court challenge saw Judge Weinkhove ordering the parties to reconvene a TGM – with a clear instruction to elect a proper Board of Directors for the IUC – on Sunday 3 April 2016.

The TGM continued for 12 hours, with the Authority in attendance and came to an abrupt conclusion when one of the three advisors – whose presence was prescribed by the Court Order<sup>8</sup> – advised that the election could not continue because the IUC's Financial Statements were not available. This was around 21h00 in the evening and the TGM had commenced at 10h00. It is to be noted that although Radio 786's two reports – as prescribed by the clauses 4.2.3.1 and 4.2.3.2 – including their Financial Statements, were available for presentation in this TGM, the radio station was never allowed a platform to present them.

Furthermore, the other 2 meetings prescribed by this clause are a responsibility charged with the Board of Directors of the IUC which is dysfunctional at this point because it does not constitute a quorum.

**The Licensee (IUC) has accordingly failed to comply with the entire clause 4 of the schedule of the licence.**

### **3.3 Programming**

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

#### *Clause 5.1.1 Local News and Information:*

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<sup>8</sup> A copy of the Court Order that necessitated the April 2016 TGM

*"80% of the total news provided by the Licensee in its daily broadcast shall be local news. This shall include news from the community produced by the station on issues affecting the identified community."*

Radio 786's programming log sheets indicate that at least 67% of its news output is made up of local news, regional news and national news; while 33% is international news. In addition to that, the Licensee's monthly submission show that 65% of its news content is produced by the station.

The Authority's monitoring exercise revealed that the bulk of the Licensee's news content is news of national interest, rather than local news. While the Licensee's efforts to produce local news was evident from the monitored recordings, the amount of news of local interest was measured to be at least 25% in each news bulletin monitored.

The following News extracts were found during monitoring:

1. *"Marius Fransman is maintaining his innocence saying the emergence of flirtatious text messages is by no means a crime. A series of these messages was exposed by an online news portal, the Daily Maverick, which his accuser suggests is a pattern of indecency. The 21-year-old woman has accused Fransman of Sexual Harassment while travelling to the North West for the ANC's birthday celebrations in January. Some reports claimed, yesterday that the case against Fransman has been reopened, while his lawyers claim no knowledge of that development. Earlier, the Director of Public Prosecutions reportedly found insufficient evidence to formally charge Fransman. Marius's Legal Counsel Muztag Parker, told Radio 786 that they are confident about the case should the matter reach the court;*
2. *Arguments in the sentence hearing of the convicted murderer, Oscar Pistorius, will round up today. Pistorius being sentenced for the murder of his girlfriend, Reeva Steenkamp in February 2013. The defence called three witnesses to testify in the mitigation of sentence, while the state has called two witnesses in aggravation of sentence. The State intends calling one more witness today before the Legal Counsels begin to argue the proposed*

*sentence in front of Judge Thokozile Masipa. A 15 year jail time is prescribed for murder;*

- 3. Government is planning to take action against parents who prevent children from going to school during community protests. The Department of Planning, Monitoring and Evaluation in the Presidency believes it is time to do away with the leniency. Making a submission at the Human Rights Commission hearings on the impact of violent protests on education, the Department officials says they have systems whereon the child is deprived of going to school they can charge the parents. The official has called for the system to be implemented. Department to Education says of Human Rights; and*
- 4. Outgoing Tshwane Mayor, Kgosietsi Ramakgoba, is calling for calm as streets in Pretoria are barricaded with fires. Residents are protesting against what they argue is the imposition of Thoko Didiza as the mayoral candidate. They have been protesting since Monday when the ANC announced that Didiza will be the mayoral candidate for Tshwane."*

On the account that Radio 786 failed to broadcast at least 80% local news daily, **the Authority concludes that the Licensee failed to comply with clause 5.1.1 of the schedule of the licence.**

#### *5.1.2 South African Music Content: 40%*

Radio 786's programming log sheets<sup>9</sup> report that the Licensee plays at least 54.5% South African Music Content.

The Authority found that the Licensee plays very little music in general. This is because Radio 786 has an obligation to carry at least 95% talk in its programming profile. Of the overall music output by Radio 786, the Authority found that at least 60% of the Licensee's music list is made up of South African Music. The following music artists were found to enjoy airplay on Radio 786: Ahlul Quraan, Al-

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<sup>9</sup> Radio 786's Programming Log Sheets

Ghurabaa, Amwaajun Nur, Aswaatul Mumineen, Khadimaat, khuddamul Islam, Yusuf Allie, Ijaaz, Anisa, Nafeesa, Oesmania and a couple of others.

**The Licensee was found to be in compliance with clause 4.1 of the schedule of the licence.**

*5.1.3 Talk vs. Music: 95% Talk and 5% Music*

The monitoring exercise – carried out on at least 2 weeks of Radio 786's Programming Profile – found that the Licensee programming format is mostly talk. In all 3 hour shows monitored, the Authority found that music would account for less than 10 minutes of the show. Radio 786's format carries at least 95% talk while at least 5% is dedicated to music.

**The Licensee was found to in compliance with clause 5.1.3 of its licence.**

*5.1.4 Language(s) of broadcast:*

*5.1.4.1 Afrikaans;*

*5.1.4.2 English; and*

*5.1.4.3 IsiXhosa*

*5.1.4.4 The Licensee shall ensure that 5% of its programme is in IsiXhosa.*

Radio 786's general programming contains all languages of broadcast with the English language dominating the airwaves. However, the obligation implies that these languages be needs to be reflected in the Licensee's overall programming including news.

The Authority's monitoring exercise could not find isiXhosa news on Radio 786. On this basis , **Radio 786 failed to comply with clause 5.1.4 of the schedule of its licence.**

*5.2 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."*



Radio 786 submits its log sheets to the Authority as required.

**The Licensee was found to be in compliance with clause 5.2 of the schedule of its licence.**

#### **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"<sup>10</sup>.*

The Authority found that the Licensee plays very little music in general. This is because Radio 786 has an obligation to carry at least 95% talk in its programming profile. Of the overall music output by Radio 786, the Authority found that at least 60% of the Licensee's music list is made up of South African Music. The following music artists were found to enjoy airplay on Radio 786: Ahlul Quraan, Al-Ghurabaa, Amwaajun Nur, Aswaatul Mumineen, Khadimaat, khuddamul Islam, Yusuf Allie, Ijaaz, Anisa, Nafeesa, Oesmania and a couple of others.

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

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<sup>10</sup> 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 that is currently under review, Radio 786 submitted its Form 12As indicating that the Licensee received no complaints.

The Licensee's complaints promo was found during monitoring. This promo gives details on how listeners can lodge complaints about the service provided by Radio 786.

**The Licensee complied with the Compliance Procedure Manual Regulation.**

## **4.3 Code on People with Disabilities**

Regulation 3.1 (a) on the Code for People with Disability of 2007 stipulates that:

*"Broadcasting service Licensees must ensure that their services are made available and accessible to people with disability."*

Radio 786's programming profile was found to be inclusive of issues affecting people with disabilities. Furthermore, the use of the industrial lift in the Licensee's premises makes it possible for people with disabilities to access Radio 786's premises.

**The Licensee was found to be in compliance with the above-mentioned Regulation.**

## **4.4 Regulations regarding Standard Terms and Conditions for Class Licensees**

Regulation 2 (1) (d) of the Regulations Regarding Standard Terms and Conditions for Class Licensees<sup>11</sup> provide two fundamental regulations that are constantly and continuously used to measure a Licensee's compliance. The two regulations are Regulation 2(1) and the sub clauses, along with Regulation 9 in its entirety.

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<sup>11</sup> Regulations regarding the Standard Terms and Conditions

In terms of the provisions made by Regulation 2(1) of the Regulations Regarding Standard Terms and Conditions for Class Licensees; Radio 786 has had no changes to its Licensee details and information in the year that is currently under review.

In addition, Radio 786 makes it a point that all information required of them is submitted as per given format and at the given deadlines.

**The Licensee was found to be in compliance with the above-mentioned Regulation.**

## **5. CONCLUSION**

The Radio Station's (Radio 786) noble attempts to comply with the licence terms and conditions are marred by the issues affecting the mother body (IUC). Radio 786 – despite some non-compliance with its programming obligations – remains a good example of a well-run community radio station and currently employs around 30 people. The actions of the mother body in this instance frustrate and taints the radio station's good deeds. As it stands, there have been no developments to the prescription made by the Court Order, for the Licensee to convene an elective Triennial General Meeting, since the adjournment of the April 2016 TGM which did not serve the purpose it was intended for.

Issues of non-compliance with the programming obligations will be addressed with the Licensee to find remedial measures.

## **6. TERMS OF REFERENCE**

**Appendix A** : Radio 786's Broadcasting Service Licence

**Appendix B** : Radio 786's Station Manager Report