



# **RADIO OVERBERG ANNUAL COMPLIANCE REPORT**

**MARCH 2024**

# **2022/2023 ANNUAL COMPLIANCE REPORT**

## **RADIO OVERBERG**

**Licence Period: 29 July 2021 – 28 July 2028**

### **1. PREFACE**

The Independent Communications Authority of South Africa (Authority) has a statutory mandate in terms of the Constitution, the ICASA Act<sup>1</sup>, the Electronic Communications Act<sup>2</sup> (ECA) and the Broadcasting Act<sup>3</sup> 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 Radio Overberg FM's compliance with the terms and conditions as set out in its licence, for the 2022/2023 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 Content Regulations and Regulations Regarding Standard Terms and Conditions.

### **2. BACKGROUND**

On 23 November 2021, a renewed Class Broadcasting Service licence was issued to Radio Overberg FM with licence number Class/Re/Com/R160/Nov/2021. As per the licence, Radio Overberg FM must provide services in the Cape Agulhas Local Municipality in the Western Cape Province as set out in the Licensee's Radio Frequency Spectrum license.

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1 ICASA Act No 13, 2000 as amended.

2 Electronic Communications Act No 36, 2005.

3 Act No. 4 of 1999.

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Licensee**

Clause 1 of the Schedule of Radio Overberg FM's licence provides that:

*"The Licence<sup>4</sup> is issued to:*

*1.1. Name of entity: Radio Overberg FM*

*1.2. Name of the Station: Radio Overberg FM*

*1.3. Control of the Licensee: Control of the station shall vest in the Board of Directors of Radio Overberg FM."*

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

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

#### **3.2 Licence Period**

Clause 2 of the Schedule of Radio Overberg FM's licence provides that:

*"2.1 The effective date of the licence is 29 July 2021.*

*2.2 The licence shall expire on 28 July 2028."*

The date of expiry of the licence is, 28 July 2028. The Licensee will be eligible to lodge its renewal application from, 28 July 2027.

**The Licensee complies with clause 2 of the Schedule to its service licence.**

#### **3.3 Licence Area**

Clause 3 of the Schedule to Radio Overberg FM's licence provides that:

*"The Licensee shall provide services in the Cape Agulhas Local Municipality in the Western Cape Province as set out in the Licensee's radio frequency spectrum license."*

Radio Overberg FM's coverage area remains as prescribed in the licence terms and conditions. Further, the Authority did not receive any reports or complaints indicating that Radio Overberg FM has gone beyond its licenced area.

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<sup>4</sup> Radio Overberg's service licence.

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

**3.4 Community**

Clause 4.1 of the Schedule to Radio Overberg FM's licence provides that:

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

The monitoring exercise confirmed that the services provided by the Licensee is relevant to a geographic community of interest. This is reflected through the talk and music programming. The monitoring exercise found that the Licensee broadcasts spiritual, children's, actuality, DIY, women's, sports, cooking and book-reviews programming amongst others. The Licensee further broadcasts in Afrikaans and English. These programmes, viewed collectively, adequately cater for a geographic community residing within the coverage area of the Licensee.

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

Clause 4.2 of the Schedule to Radio Overberg 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 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,*

*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."*

The Licensee confirmed that it did not convene any meetings with its community that focused on programming and programming-related matters during the period under review. In terms of the requirement to hold an Annual General Meeting ("AGM"), the Licensee has held its AGM on, 24 November 2022 at the Welverdiend Library Hall and duly submitted the required documentation to the Authority. The documentation indicated that only fifteen (15) people attended the AGM.

The Licensee was advised of the non-compliance relating to the failure to conduct programming meetings with its community. The Licensee acknowledged its non-compliance and responded that it has already planned a programming meeting for October 2023 and will ensure that it holds another meeting before the end of the current financial year.

The Licensee was further advised that its membership is very low and that this is a concern from a compliance perspective. It was recommended that the Licensee should conduct a membership drive to increase its membership before its next AGM, so that the membership can be more reflective of the community it serves. The Licensee agreed to the proposal.

**The Licensee partly complies with clause 4.2 of the Schedule to its service licence.**

### **3.5 Programming**

Clause 5.1.1 of the Schedule of Radio Overberg FM's licence provides that:

***"Local News and Information obligation: The Licensee shall broadcast a total of 30 minutes of news of which 15 minutes of news from the community produced by the station on issues affecting the station."***

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

- *"Daar is bespielings dat die voormalige burgermeester van Tshwane, Kgosientsho David Ramokgopa, die nuwe Minister van Elektrisiteit gaan wees. City Press berig dat bronne bevestig het dat Ramokgopa dalk die een is wat Suid-Afrika uit die energie krisis sal lei. President Cyril Ramaphosa het egter nog geen aankondigings gemaak nie."*

- *"ESKOM het gewaarsku dat die land se krag krisis kan vererger as dit nie die belowe verhoging kry wat NERSA aan die begin van die jaar goedgekeur het nie. Dit is in die lig van 'n dreigende hofsaak oor die verhoging van 18,65% vir hierdie jaar en 12,74% vir volgende jaar. Die DA het in Januarie die hof genader en gevra dat die verhoging irrasioneel en onwettig verklaar moet word. Intussen word fase 6 beurtkrag van gisteraand af deurlopend toegepas tot verdere kennisgewing weens talle kragstasies wat gistermiddag skielik buitewerking gestel is."*
- *"Die Minister van Polisie, Generaal Bheki Cele, sê KwaZulu-Natal het 'n nuwe brandpunt vir massamoord geword. Minister Cele het 'n opdateering gegee oor ondersoek na massa skietvoorvalle wat onlangs die lewens van 14 mense geëis het in twee afsonderlike voorvalle in Inanda en Richmond vroeër hierdie maand. Hy sê histories was die Wes-Kaap die mees problematiese provinsie wat massa skietery en moord betref maar dit het nou verander."*
- *"'n Studie het bevestig dat Volkswagen Polo bestuurders die swakste in die land is. Die studie het noodlottige ongeluk data van 1 Oktober 2017 tot 30 Junie verlede jaar ontleed. Die Padverkeersbestuurskorporasie se nasionale ongeluksdata bestuurstelsel het 'n total van 48 330 voertuie aangeteken wat betrokke was by ongeveer 37 duisend noodlottige ongelukke gedurende die tydperk. Die studie het gekyk na die top 20 voertuig modelle wat in noodlottige ongelukke betrokke was en toon dat die Volkswagen Polo, Toyota Hilux en Toyota Quantum 43.2% van die noodlottige ongelukke betrokke was. Die Volkswagen Polo was in die meeste ongelukke betrokke volgens hierdie studie."*

The monitoring exercise found that the first news bulletin on weekdays is broadcast at 09h00, followed by news at 12h00 and 14h00, respectively. The average duration of a news bulletin is four (4) minutes, totalling an average of fifteen (15) minutes of news per day on weekdays. No news was found to be broadcast on Saturdays and Sundays.

Further, the monitoring exercise found that the Licensee does not broadcast fifteen (15) minutes of news from the community on issues affecting the community per day.

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

Clause 5.1.2 of the Schedule to Radio Overberg FM's licence provides that:

***"South African Music Content: 80%."***

The details and finding regarding the Licensee's South African music content output is discussed under section 4.1 below.

Clause 5.1.3 of the Schedule to Radio Overberg FM's licence provides that:

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

The monitoring exercise found that the licensee's programming is split between fifty (50) percent talk and fifty (50) percent music.

Some of the talk programming that the monitoring exercise found was:

*"Kleuter Ore"* a children's programme broadcast weekdays at 10h00; *"Kruispad"* a religious programme broadcast on Sundays at 10h00; *"Sielskoffie"* a spiritual programme broadcast on Mondays at 11h45; *"Make A Difference"* broadcast between 20h00 and 21h00 on Tuesdays and focus on community affairs; *"Munisipale Sake"* broadcast on Thursdays at 14h30 with a focus on municipal affairs, amongst others.

**The Licensee complies with clause 5.1.3 of the Schedule to its service licence.**

Clause 5.1.4 of the Schedule to Radio Overberg FM's licence states that:

***"Language(s) of broadcast***

*5.1.4.1 English – 30%; and*

*5.1.4.2 Afrikaans – 70%"*

The monitoring exercise confirmed that the languages of broadcast as prescribed in the licence.

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

## 4. REGULATIONS

### 4.1 ICASA South African Music Content Regulations, 2016.

Regulation 3 of the South African Music Content Regulations<sup>5</sup> 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%, 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".*

The monitoring exercise found that the Licensee does not broadcast eighty (80) percent south African music content. It was found that the Licensee on average broadcasts an average of sixty (60) percent South African music per week. The Licensee was advised of the non-compliance and required to submit a plan of action to ensure that it increases its South African music content output to the required eighty (80) percent. Some of the South African music that was found during the period under review are:

Klipwerf Orkes "As die roosboom weer bloei"; Nianell "Sê Vir My"; Johnny Clegg & Juluka "Impi"; Rooies "Seer Wat Bly"; Ray Dylan "Ek Wens"; Die Campbells "Rooi Rok Bokkie"; Zaan Sonnekus "Dis Jy"; Juan Boucher "Dogter"; FATMAN & Lianie May "Ditjies & Datjies"; Samantha Leonard "Net Een Keer"; Karlien Husselman "Mis Jou"; Bobby van Jaarsveld featuring Early B "Sprokie"; Jennifer Zamudio "Weerkaats".

The monitoring exercise further found that the Licensee broadcasts regular interviews, during weekdays, with South African artists such as Bobby van Jaarsveld; Rehbart Geldenhuys; David Fourie; Zander Van Wyk and Stefan Jansen.

**The Licensee does not comply with the ICASA South African Music Content Regulations.**

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<sup>5</sup> ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016.



#### **4.2 ICASA Compliance Procedure Manual Regulations, 2011.**

The Licensee is required, in terms of the Compliance Procedure Manual Regulations<sup>6</sup>, to submit various forms throughout the financial year. The Licensee

The Licensee has submitted the required forms as per the Compliance Procedure Manual Regulations.

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

#### **4.4 Standard Terms and Conditions for Class, 2010.**

The Authority found that during the period under review, the Licensee contravened the Regulations in respect of the Standard Terms and Conditions for Class Licences<sup>7</sup> insofar as the Station Manager also occupying the role of presenter, simultaneously. The Licensee was made aware of the non-compliance and was advised to remedy the non-compliance as a matter of urgency.

### **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 focuses on programming and programming-related matters. Further, the low membership is a concern regarding the community participation requirement of the licensee.

The Licensee further did not comply with the South African Music Content regulations as it failed to broadcast the required eighty percent (80%) South African music during the period under review.

The monitoring exercise found that there was a contravention of the Standard Terms and Conditions for Class Licences, due to the existence of a dual role with the station manager being a presenter as well.

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<sup>6</sup> ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

<sup>7</sup> 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.

At the time of writing this report, the Authority has already engaged the licensee on areas of non-compliance and the Licensee has committed to address the areas of non-compliance outlined in this report. The Authority will continue to monitor the progress of the Licensee to ensure that the Licensee implements the required remedial action.

## **6. TERMS OF REFERENCE**

- 6.1 Annexure A: Radio Overberg 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**