



**COMMUNICATIONS
AUTHORITY OF KENYA**

QUARTER 4 FINANCIAL YEAR 2020/2021

(April-June 2021)

BROADCASTING SERVICE REPORT

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EXECUTIVE SUMMARY

The Communications Authority of Kenya (CA) is the regulatory authority for the ICT industry in Kenya with responsibilities in telecommunications, e-commerce, broadcasting, postal/courier services and cyber security. CA is also responsible for managing the country's numbering and frequency spectrum resources as well as safeguarding interests of consumers of ICT services.

The Authority is mandated with licensing of broadcasting services, developing media standards, and monitoring compliance with these standards. This report provides the snapshot of the broadcasting sector with regard to licensing and compliance monitoring activities during the fourth quarter of FY 2020/21.

During the period under review, the number of licensees increased by 26, surpassing the target of 25 for the quarter. This comprised of 17 Commercial FTA TV, 7 Commercial FM and 2 Community FM.

In Quarter four, the number of broadcasting licensees increased by 26 bringing the cumulative total number of new broadcasting service providers licensed during the year to 93. Subscriptions for broadcasting services grew by 138,142 to 5,675,497 subscribers at the end of June 2021. This consisted of 54,954 (or about 1.4%) growth in DTT subscriptions to 4,056,520 subscribers, 80,307 (or about 5.5%) growth in subscriptions to DTH services to 1,533,745 subscribers and 2,881 (or about 1.7%) growth in subscriptions to cable broadcasting services to 85,232 subscribers.

Digital terrestrial television (DTT) broadcasting service remained the most popular way of accessing television services. However, it is worth noting that both DTH subscription services had the highest percentage increase in new subscribers at 5.5% growth from the last quarter. There has also been an increasing interest of local content on the subscription platform, which may also contribute to the growing subscribers on the other platforms.

As at the end of June 2021, the proportion of the population that was under DTT network coverage increased to 91.21. This increase in DTT population coverage achieved during the year is attributed from new coverage from newly commissioned and upgraded DTT transmitter sites in Lokichogio, Lodwar, Wajir, Maralal, Kilifi and Galole/Hola, as confirmed through DTT inspection and coverage measurements carried out during the fiscal year.

Overall, the highest growth in the sector was seen in the Commercial FTA TV category. SIGNET has also in this financial year installed local insert facility at various DTT sites, giving regional broadcasters opportunities to go on air only in areas where they are interested as opposed to including their TV signal in national streams which attracts more hosting fees.

With regard to broadcast content monitoring carried out for Quarter 4, we established that forty-seven (47) of the fifty two (52) TV stations monitored met the 40% threshold. This means that, 90% of the stations monitored were compliant with the 40% quota requirement.

During this period, the TV stations with the highest local content during the watershed period were Kingdom TV, Baite TV and Jiam JBN TV registering 77.2%, 75% and 74.7% respectively. The stations with the lowest local content during the watershed period were Signs TV, End Time TV and KTN Home registering 11%, 28% and 30.6% respectively.

Religious programmes had the highest weekly average of 47%, music came in second at 19% and features came in third at 12%. Comedy, magazine and sports had the lowest local content across most of the stations monitored during the period under review registering 0.4%, 0.8% and 0.9 % respectively.

The Authority sensitized 101 stations this fiscal year covering broadcasters in Nairobi, Central Rift, Coast, Nyanza and Central regions. During the next fiscal year, the Authority intends to focus on 70 broadcasters who are yet to be sensitized on the Programming Code and Complaints Handling procedure

I. INTRODUCTION

The Communications Authority of Kenya (the Authority) is mandated to promote and facilitate the development of a diverse range of broadcasting services in Kenya. This mandate is implemented through issuing licenses for various broadcasting services, facilitating the development of Kenyan programmes, administering the broadcasting content aspects of the ICT Law, developing media standards, and regulating and monitoring compliance with these standards.

In addition, the Authority promotes the observance of public interest in broadcasting services and ensures that broadcasters provide internal mechanism for disposing of complaints related to broadcasting services.

This report provides highlights of the performance of the broadcasting services sub-sector during the fourth Quarter FY 2020/21 and a snapshot of the whole fiscal year.

II. STRATEGIC IMPLICATIONS

In the Corporate Strategic Plan 2018-23, the Authority, under Key Result Area (KRA) I on Access and Market Development committed to achieve efficient ICT markets by fostering competition in the ICT sector through licensing of additional operators and service providers. Further, one of the strategic objectives of the Authority is to ensure compliance to regulatory requirements, and to this effect, Authority monitors broadcasters compliance with license requirements as per the ICT Law.

III. OVERVIEW OF THE BROADCASTING MARKET

1. Increment of Licensees during the period under review Q4 -2020-2021

Under the current strategic period, the Authority is expected to increase the number of licensees by 350 new licensees by the end the financial year 2020-2021. Specifically, the targeted new broadcasting service licences was 100 for the FY 2020/21.

Table 1 below gives a breakdown of licences issued by the end of the fourth quarter of 2020-2021

Table 1: New Licenses issued period April – June 2021

LICENSE FRAMEWORK	LICENSE TYPE	Q1 NEW	Q2 NEW	Q3 NEW	Q4 NEW	RENEWALS	TOTAL
Multi Media Services - Broadcasting	Commercial Free to Air Television	10	17	11	17	-	55
	Commercial FM Radio	8	6	9	7	-	30
	Community FM Radio	1	2	2	2	-	7
	Subscription Broadcasting Service	1	0	0	0	-	1
Sub-Total		20	25	22	26	0	93

In Quarter four, the number of broadcasting licensees increased by 26 bringing the cumulative number of new broadcasting service provider licensed during the year to 93. This falls short of the target of 100 new licensees. An analysis of the growth in the broadcasting licensees in this fiscal year shows an almost constant increment in every quarter, an indication that the broadcasting sub-sector may be approaching the saturation level.

The Table 2 below provides the details of the total number of licensees in the broadcasting licence sector.

Table 2: Cumulative Licensees Under Broadcast License Framework

No.	Licence Category	Total Licenses issued as at the end of Q1	Total Licenses issued as at the end of Q2	Total Licenses issued as at the end of Q3	Total Licenses issued as at the end of Q4
1.	Broadcast Signal Distributor	2	2	2	2
2.	Self-Provisioning Broadcast Signal Distributor	3	3	3	3
3.	Commercial Free to Air Television	184	201	212	229
4.	Community Free to Air Television	8	8	8	8
5.	Commercial FM radio	84	90	99	106
6.	Community FM Radio	16	17	19	21
7.	Subscription Broadcasting Service	17	17	17	17
8.	Subscription Management Service	4	4	4	4
9.	Landing Rights Authorization	4	4	4	4
	Total	322	346	368	394

Table 3 below details the TV and FM Radio broadcasting stations that were on air during this fiscal year.

Table 3: Television and Radio stations that were on air by the end of Q1, Q2, Q3 & Q4 of the FY 2020/21

Number of stations	Q1 2020/21	Q2 2020/21	Q3 2020/21	Q4 2020/21
FTA TV				
Commercial FTA TV stations	111	122	130	130
Community FTA TV stations	2	2	2	4
Public FTA TV stations	3	3	3	3
FM RADIO				
Commercial FM Radio stations	131	131	131	131
Community FM Radio stations	42	42	42	42
Public FM Radio stations	13	13	13	13

An analysis of Table 2 & 3 reveals that there was no significant growth in all the broadcasting licence categories except for the Commercial Free to Air TV. This corroborates the earlier attribution of the stagnation to the likelihood that we may be approaching the saturation level.

Table 4 presents a comparative trend of the number of broadcasters who were on air for each of the above categories from fiscal year 2017/2018 to 2020/2021.

Table 4: Comparison of on-air FTA broadcasting services from 2017/18 to Q3 2020/21.

Number of stations	2017/18	2018/19	2019/2020	2020/21
	FTA TV			
Commercial FTA TV stations	66	85	95	130
Community FTA TV stations	1	1	2	4
Public FTA TV stations	3	3	3	3
	FM RADIO			
Commercial FM Radio stations	131	131	131	131
Community FM Radio stations	38	42	42	42
Public FM Radio stations	13	13	13	13

Figure 1 below presents a comparative trend of the number of broadcasters who were on air for each of the above categories for as at the 4th quarter of FY 2020/21.

Figure 1: Comparison of on-air FTA broadcasting services as end of 4th Quarter of year 2020/21.

2. Subscription Broadcasting Services

During Q4, subscriptions for broadcasting services grew by 138,142 to 5,675,497 subscribers at the end of June 2021. This consisted of 54,954 (or about 1.4%) growth in DTT subscriptions to 4,056,520 subscribers, 80,307 (or about 5.5%) growth in subscriptions to DTH services to 1,533,745 subscribers and 2,881 (or about 1.7%) growth in subscriptions to cable broadcasting services to 85,232 subscribers.

Figure 2 below illustrates the growth trend of the number of subscribers for broadcasting services for the four quarters of the FY 2020/21.

Figure 2: Broadcasting subscription from Q1 of 2020/21 to the end of Q4 2020/21

Digital terrestrial television (DTT) broadcasting service remained the most popular way of accessing television services. However, it is worth noting that both DTH subscription services had the highest percentage increase in new subscribers at 5.5% growth from the last quarter. There has also been an increasing interest of local content on the subscription platform, which may also contribute to the growing subscribers on the other platforms.

Figure 3 below shows the trends in DTT subscription over the last four quarters.

Figure 3: DTT Subscription Growth Trend between Q1 2020/21, Q2 2020/21, Q3 2020/21 and Q4 2020/21

Cable TV subscriptions grew at a steady rate over the fiscal year, however relatively low uptake of these services could be attributed to the required high initial set up costs for this services.

Table 5 below illustrates the trend of the number of subscribers for broadcasting services from fiscal year 2017/2018 to 2020/21

Table 5: Broadcasting subscription trends from fiscal year 2017/2018 to the end of FY 2020/2021

Subscriptions	2017/18	2018/19	2019/2020	2020/21
DTT	3,469,570	3,620,831	3,813,126	4,056,520
DTH	1,008,316	1,544,248	1,266,989	1,533,745
Cable	153,462	151,955	73,417	85,232

3. Broadcasting Signal Distribution Services –DTT Population coverage

In its 4th Strategic Plan cycle running for the period 2018-2023, under KRA 1 on Access and Market Development, the Authority aims to achieve universal access to ICT services. Therefore, the Authority committed to increase the percentage population covered by digital broadcasting

networks from 85% in 2018 to 90% by 2023. The Authority’s strategy was to achieve this goal by enforcing DTT network rollout obligations on common-carrier broadcasting signal distributors (BSDs) who are licensed to develop DTT infrastructure.

To realize this, the Authority engaged common carrier BSDs to set the rollout targets and thereafter monitored the progress in implementation of the committed network rollout. To bring additional population under DTT coverage, the Authority required BSDs to roll out DTT networks in areas with no or with poor DTT network coverage.

As at the end of June 2021, the proportion of the population that was under DTT network coverage increased to 91.21. This increased DTT population coverage was realised from newly commissioned and upgraded DTT transmitter sites as confirmed through DTT inspection and coverage measurements carried out during the fiscal year. During the year, DTT coverage mapping was done in Lokichogio, Lodwar, Wajir, Maralal, Nyandarua, Kericho, Kilifi, Homa/Galole, Migori and Homa Bay.

Table 6: Comparative of DTT population coverage trends from fiscal year 2016/2017 to the end of 2020/2021

DTT TV Coverage	2016/17	2017/18	2018/19	2019/20	2020/21
Population Coverage (%)	78.5	85	86	89.26	91.21

4. Broadcasting Subsector Performance Analysis from the Licensing data

Over all, the highest growth in the sector was seen in the Commercial FTA TV category. This can be attributed to various factors such as:

- Reduced regulatory fees which CA reviewed in 2018 in order to reduce barriers for investors in the sector
- Availability of TV channel slots on the DTT platform that is a benefit from digital broadcasting
- There is also an increased knowledge base in the market on TV broadcasting due to an increase of players in the broadcasting value chain. This has boosted the confidence of investors in the sector and created a demand for these licences especially during the Covid-19 pandemic period which has increased airing of educational and religious programmes on TV.

- SIGNET has also in this financial year installed local insert facility at various sites, giving regional broadcasters opportunities to go on air only in areas where they are interested as opposed to national streams.

The steady growth of the FTA television broadcasting services continues to provide prospects for job creation within the value chain, increased and diversified broadcast content on the free to air platform, increased consumer choice and likely improved quality of programming due to the ensuing competition. Further, this may result in growth of local content especially with increasing regional broadcast services.

The subscription television platform has also seen steady growth over the financial year, with highest percentage growth seen in DTH services at 5.5% for DTH from the last quarter. The DTT subscription services however still have the highest number of subscribers, and this may be due to the affordability of services with the minimum bouquet costing just below 500KES per month and the most expensive just below 1500KES. There has also been an increasing interest of local content on the subscription platform, which may also contribute to the growing subscribers on the other platforms.

5. Broadcast Content Monitoring Performance

The Authority assessed broadcasters' performance on the following standards outlined in the Programming code:

- Watershed period programming
- Local content including genre performance
- Local Children's programming
- Accessibility to broadcasting services by PWDs
- Religious programmes
- Occultism and superstition
- Advertisement
- Hate speech

Priority was given to five standards namely local content, children's programming, access to broadcasting content by Persons with disabilities, advertisement and inappropriate content as they are of public interest and therefore have a higher magnitude to the public. Other standards like accuracy, impartiality and privacy are subjective in nature and therefore difficult to monitor. Enforcing them is mostly based on the complaints received. Other standards are monitored when they occur or on need basis. They include; elections and electioneering period, crime and crisis

situations. Checking for compliance for Copyright and classification of programmes was done when carrying out inspections.

During the fourth quarter, the Authority monitored fifty two (52) TV and Twenty-three (23) FM radio stations. The broadcast monitoring findings for the sampled FTA TV Stations in the fourth quarter, are summarized in Table 7 below:

Table 7: Q4 Broadcasting Monitoring Findings

Requirement	Compliant TV stations	Non-Compliant TV Station	% Compliance Quarter 4	% Compliance Quarter 3	% Compliance Quarter 2	% Compliance Quarter 1
Local content quota requirement of 40%	47	5	90	94	94	91
PWDs sign language insert requirement	21	0	100	100	100	100
Advertisement (maximum limit of 10 minutes in every 30 minutes of TV programming)	52	0	100	100	100	100
Local Children's programming requirement	13	39	25	15	13.5	19

of at least 5hrs per week						
Appropriate content requirement during the watershed period	51	1	98	100	98	96

Analysis of the Findings:

a. Local Content Compliance

During the monitoring exercise in Quarter 4, we established that forty-seven (47) of the fifty two (52) TV stations monitored met the 40% threshold. This means that, 90% of the stations monitored were compliant with the 40% quota requirement. The stations that did not comply with the 40% local content threshold were five (5), an increase from the last quarter, which registered four (4) stations. The non-compliant stations were KTN Home, Family TV, Signs TV, End Time TV, One Accord and Ukombozi TV. The Authority will continue sensitizing broadcasters on the Programming Code standards on local content expectations to ensure compliance with the same and take the necessary regulatory actions against the non-compliant stations.

During this period, the TV stations with the highest local content during the watershed period were Kingdom TV, Baite TV and Jiam JBN TV registering 77.2%, 75% and 74.7% respectively. The stations with the lowest local content during the watershed period were Signs TV, End Time TV and KTN Home registering 11%, 28% and 30.6% respectively. On the other hand during the third quarter, the TV stations with the highest local content during the watershed period were Faith TV, Kingdom TV and MBCI registering 87.7%, 75.5%, and 71.6% respectively. The stations with the lowest local content during the watershed period were One Accord, KTN Home and Mahdi TV registering 31%, 32%, and 14.4% respectively.

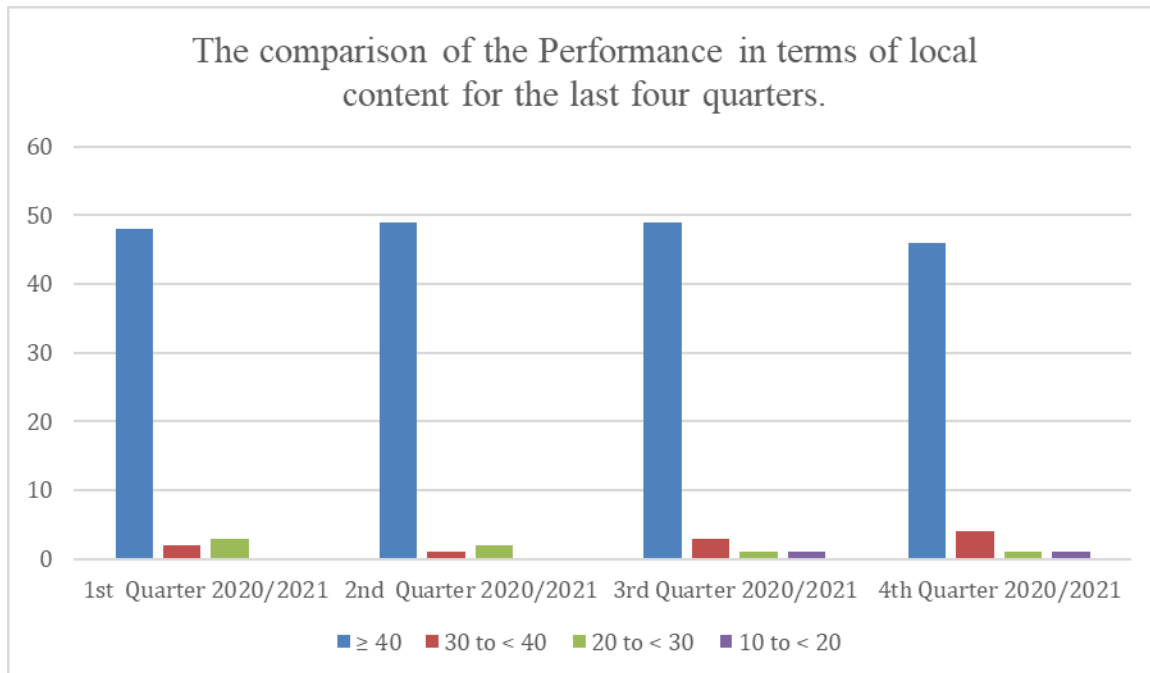
Q4 2020/21	Q3 2020/21	Q2 2020/21	Q1 2020/21
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Stations	Highest to lowest local content %age	Stations	Highest to lowest local content %age	Stations	Highest to lowest local content %age	Stations	Highest to lowest local content %age
Kingdom TV	77.2%	Faith TV	85.7%	Faith TV	95%	Faith TV	91.7%
Baite TV	75%	Kingdom TV	75.49%	Kingdom TV	77.7%	Mwangaza TV	76%
Jiam JBN TV	74.7%	MBCI TV	71.64%	Ukombozi TV	74%	Ukombozi TV	74.6%
Signs TV	11%	One Accord	31%	KTN Home	32%	CTN	28.9%
End Time TV	28%	KTN Home	32%	CTN	25%	KTN Home	28.6%
KTN Home	30.6%	CTN TV	37%	Star Africa	23%	Star Africa	21.2%

Table 8: The comparison of the Performance in terms of local content for the last four quarters.

Local Content Quota (%)	Number of broadcasters (1 st quarter 2020/21)	Number of broadcasters (2 nd quarter 2020/2021)	Number of broadcasters (3 rd Quarter 2020/2021)	Number of broadcasters (4 th Quarter 2020/2021)
≥ 40	48	49	50	46
30 to < 40	2	1	3	4
20 to < 30	3	2	0	1
10 to < 20	0	0	1	1
<10	0	0	0	0

Figure 4: Local Content Performance



b. Performance of the various genres of local content during watershed

Table 9: Performance of the various genres of local content

Genre	1 st Quarter 2020/2021	2 nd Quarter 2020/2021	3 rd Quarter 2020/2021	4 th Quarter 2020/2021
Music	24.9	26	27.01	21.9
Religious	35.4	33.2	32.83	40
Talk shows	11.2	10.5	10.82	9.1
Children	4.3	3.9	4.14	4.6
Reality	3.6	3.4	3.59	3.4
Drama	2	2.5	2.57	1.7
Comedy	0.3	0.4	0.25	0.2
Docs/Features	6.8	7.2	9.47	9.3
Sports	0.6	0.7	0.88	0.9
Current affairs	3.8	4.5	2.88	2.9
Magazine	6.5	7.7	5.58	6.1

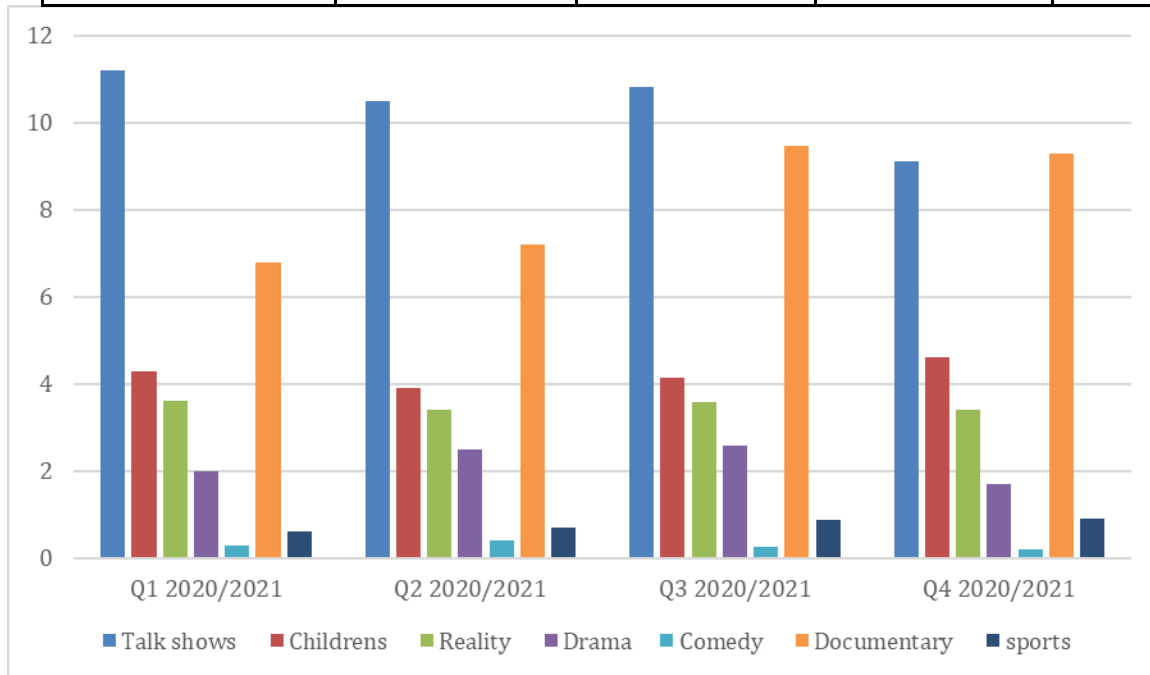


Figure 5: Performance of the various genres of local content

The results in this quarter show that religious content had the highest weekly average of 40% while music programming was rated second with a weekly average of 21.9%, features came in third at 9.3% and talk shows came at fourth at 9.1%. Comedy, sports and Drama had the lowest local content across most of the stations monitored during the review period registering 0.2%, 0.9% and 1.7% respectively.

c. Performance of the various genres during prime time

Table 10: Performance of the various genres during prime time

Genre	1st Quarter 2020/2021	2nd Quarter 2020/2021	3rd Quarter 2020/2021	4th Quarter 2020/2021
Music	16.5	18	16.78	19
Religious	38.9	37.4	40.11	47
Talk shows	15	14.6	11.57	11.3
Children	1.0	1.2	0.75	1.3
Reality	6.5	7.1	7.66	4
Drama	5.9	5.8	6.37	2.7
Comedy	1.1	0.9	1.29	0.4
Docs/Features	11.2	12.1	11.27	12
Sports	0.02	0.3	0.51	0.6
Current affairs	0.4	1.5	0.38	0.9
Magazine	3.1	1.1	3.34	0.8

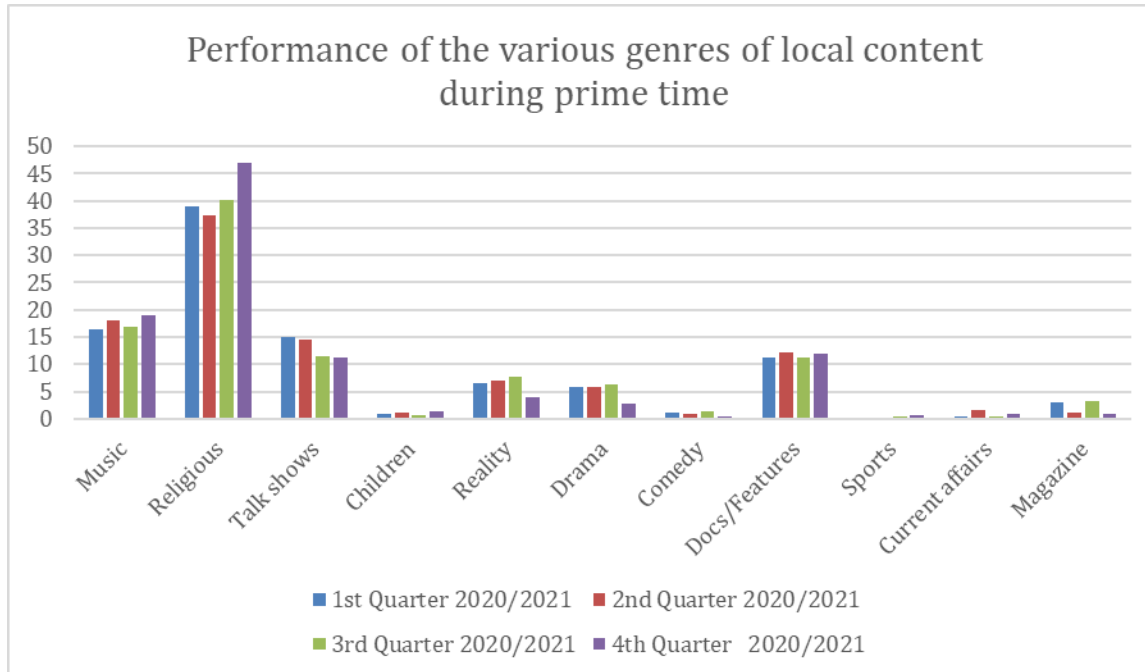


Figure 6: Performance of the various genres of local content during prime time

The results in this quarter show that religious programmes had the highest weekly average of 47%, music came in second at 19% and features came in third at 12%. Comedy, magazine and sports had the lowest local content across most of the stations monitored during the period under review registering 0.4%, 0.8% and 0.9 % respectively.

d. Advertisements requirements

During the quarter under review, no TV station contravened this requirement.

e. Accessibility to broadcasting services by Persons with Disabilities (PWDs)

On accessibility to broadcasting services by PWDs, twenty- one (21) TV stations that air news and programs of national importance were compliant.

f. Religious programming guidelines

During the period under review, no station was found to be in contravention with this requirement.

g. Appropriate content during watershed period requirement

During the the period under review, Mt. Kenya TV, Kameme TV Jambu TV were found to be in contravention with this requirement.

h. Children programming performance

The TV stations that were compliant with the 5 hours of children’s programming this quarter were thirteen (13) namely Edu TV, Citizen TV, Horizon TV, KTN Home, K24, Hope TV, GBS, KU TV, Deliverance TV, Revival TV, Lolwe TV, Inooro TV, and Switch TV. This is a significant increase from the previous quarter, which registered eight (8) stations that complied with the requirement.

Table 11: Children’s Programming Performance

Duration of Children Programming (Minutes)	Number of broadcaster (1 st Quarter 2020/2021)	Number of broadcaster (2 nd Quarter 2020/2021)	Number of broadcaster (3 rd Quarter 2020/2021)	Number of broadcasters (4 th Quarter 2020/2021)
<100	26	24	20	25
≥100 and <300	10	21	27	14
≥300	7	7	7	13

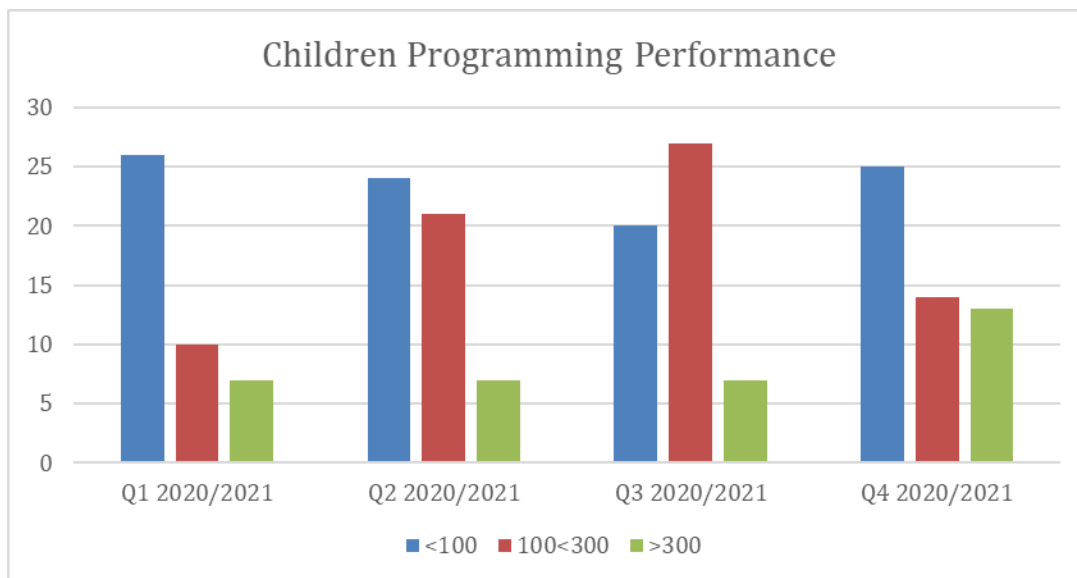


Figure 7: Children programming performance

i. Radio Stations Monitoring

During the period under review, twelve (23) radio stations were monitored. Of the twenty three stations, two stations (Ghetto Radio and Radio Citizen) were found to be in contravention of the Programming Code requirements (airing of unconfirmed reports) and appropriate regulatory actions were taken against them.

6. Sensitizations on the Programming Code

The Authority continued carrying out sensitizations on the Programming Code and the Complaints Handling Procedure with the aim of enhancing compliance with broadcast content regulatory requirements.

The sensitizations aimed to give licensees an opportunity to understand the regulatory framework in-depth. Notably, the following provisions set out in the Code were highlighted:

- Public Interest obligations of broadcasters
- Good taste and decency
- Religious programming
- Advertisements
- Privacy and fairness
- Professionalism
- Copyright obligations
- User Generated content
- Broadcast competitions
- Regulatory actions

During the sensitizations, broadcasters were educated on the requirement to provide appropriate complaints resolution mechanisms. It is a requirement for them to develop their internal procedures for handling complaints from aggrieved consumers of their broadcasting services. The procedures are required to provide for complainant to first complain directly to the broadcaster for resolution of their complaints and if not satisfied with the response, the same can then be escalated to the Authority.

The Authority sensitized 101 stations this fiscal year covering broadcasters in Nairobi, Central Rift, Coast, Nyanza and Central.

The following details some recommended actions based-on the sensitization exercise:

- The Authority should collaborate with other government agencies i.e. IEBC to sensitize the public as well as broadcasters on the electioneering process as we near an election year.
- There is need for increased monitoring capacity as current capacity is relatively low.
- Compliance to copyright was a challenge as most broadcasters, cited that the CMO's invoiced them huge amounts yet failed to show evidence on how they arrived at the cost.

During the next fiscal year, the Authority will target the remaining 70 broadcasters who are yet to be sensitized on the Programming Code and Complaints Handling procedure.

7. Enforcement actions taken against broadcasters that contravened the broadcast standards in the Programming Code

During this fiscal year there were eleven (11) stations that contravened the Programming Code standards. These stations were namely Baite TV, Superflex, PPP TV, Weru TV, Ghetto Radio, Homeboyz Radio, Mt. Kenya TV, Citizen TV, Kameme TV, Jambu TV and Radio Citizen.

8. Overall Broadcast Licensees Compliance Status

The Authority continuously assesses the licensee's compliance with various regulatory requirements as spelled out in the license terms and conditions. To do this, the Authority inspects broadcasters' facilities, monitors broadcast content, reviews compliance returns and other documents against the set license terms and conditions.

Accordingly, broadcasting service licensees are required to ensure compliance with all license terms and conditions. Upon determination of a licensee's full compliance, the Authority issues an annual compliance certificate to the said broadcaster. In the financial year 2020/21, the Authority commenced the issuance of annual certificates of compliance to the complaint broadcasters. Compliance monitoring checks on:

- a) Statutory compliance – compliance with relevant government laws and policies required for the provision of broadcasting services. These include compliance with local shareholding requirements, tax laws, copyright, and neighboring rights, etc
- b) Financial compliance – compliance with the requirement to pay various regulatory fees, frequency utilization fees, contributions to the universal service fund (USF), and payment of any fines and penalties levied by the Authority for violations of license terms and conditions.

- c) Operational compliance – compliance with measures required to be put in place to ensure that broadcasting services are provided in a manner that meets the public expectation or to facilitate the meeting of such requirements. These include keeping broadcast records as required, implementation of profanity delayers, meeting requirements on handling broadcast complaints, among others.

Only broadcasters who demonstrated full compliance with all the requirements were issued with annual certificates of compliance.

In order to ascertain the level of compliance, the Authority undertook the following activities

- a) Determination of each Licensee’s adherence to regulatory requirements through the review of statutory documents such as CR12 and tax compliance certificates.
- b) Review of submitted quarterly compliance returns for quarters 1, 2 and 3 together with attachments thereto.
- c) Review of reports generated by other departments including the Frequency Spectrum Management (FSM), Finance and Accounts (F&A) and Licensing, Compliance, and Standards departments (LCS).
- d) Inspection of broadcasters studios to ensure compliance with operational aspects of the licences. In the financial year 2020/21, inspections were done in Nairobi and its environs, Central Rift Valley, Central and Eastern Region, Nyanza Region, parts of Coast, and western Regions.
- e) Monitoring of broadcast content to ensure compliance with the content standards specified in the Programming Code.

7.1 Compliance with requirement to obtain licences & to commence licensed services within specified period of time

As of 30th June 2021, there were a total of 445 Broadcasting Service Providers of which 394 were licensed while 51 were yet to be licensed. Of the licensed broadcasting service providers, 258 were operational while 136 were not operational.

Table 12: Summary of licensee compliance with respect to Licensing and commencement of Licensed services

Category	Licensed	Unlicensed	Licensed & Operational	Issued with Compliance Certificate	Licensed & Not operational
BSD	5	0	5	0	0
SBS	17	0	11	1	6
SMS	4	0	3	2	1
Landing Rights	4	0	3	0	1
Commercial FTA TV	229	1	124	10	105
Commercial FM Radio	106	34	93	2	13
Community FTA TV	8	0	3	0	5
Community FM Radio	21	12	16	1	5
Public FTA TV	0	2	0	0	0
Public FM Radio	0	2	0	0	0
Total	394	51	258	16	136

An analysis of the data in Table 12 concluded that:

1. About 40% of the unlicensed broadcasting stations were owned by Kenya Broadcasting Corporation (KBC) with 13 unlicensed broadcasting stations (11 FM radio stations and 2 TV stations) and Radio Africa Group had 7 unlicensed FM stations.

2. Licensees are required to comply with the requirement to commence the provision of licensed service within the specified time (six (6) months for licence categories that do not require setting up infrastructure and 12 months for licence categories that require setting up of infrastructure). 104 licensees had not commenced the provision of licensed services upon expiry of the allowable grace period

3. As of 30th June 2021, only 16 of the licensed and operational broadcasting service providers had obtained annual compliance certificate having fully complied with all the various regulatory requirements. Noting that the Authority commenced the issuance of Compliance Certificate in this fiscal year, it is expected that the percentage compliance will increase in the next fiscal year.

7.2 Compliance with specific regulatory requirements

Table 13 : The summary of compliance status with respect to each regulatory requirement as of 30th June 2021.

S.No.	Regulatory Requirement	Evaluated	Complied	Percentage
1.	Payment of all regulatory fees as well as universal service fund levy.	441	59	13.4
2.	Compliance with frequency related licence conditions (FM broadcasters & BSDs).	150	111	74
3.	Filing of quarterly and annual returns	441	75	17
4.	Submission of EPG (TV broadcasters only)	133	38	28.5
5.	Submission of statement of disposal of surplus (community broadcasters only)	28	1	3.6
6.	Compliance with requirement to obtain copyright and related rights for third-party produced content	297	47	15.8

S.No.	Regulatory Requirement	Evaluated	Complied	Percentage
7.	Have an approved complaints handling procedure	441	366	83
8.	Keeping log of complaints	301	103	34.2
9.	Publicize complaints procedure at least 3 times per day	302	245	81.1
10.	Have an internal editorial policy	284	122	43
11.	Ensures compliance with MCK accreditation of journalists	284	100	35.2
12.	Records and keeps broadcast for at least one (1) year	284	203	71.5
13.	Time-stamps broadcast records as required	284	73	25.7
14.	Implemented a profanity delayer of at least 7 seconds	272	98	36
15.	Has in place mechanism for accessibility by PWDs	138	49	35.5
16.	Complied with broadcast content standards as per the programming code	284	279	98.2
17.	Submission of a valid tax compliance certificate	441	256	58
18.	Submission of the latest audited financial statements	441	129	29.3

S.No.	Regulatory Requirement	Evaluated	Complied	Percentage
19.	Submission of Form CR.12 showing its shareholding	441	345	78.2
20.	Maintained at least 30% of shares are held by Kenyans	441	355	80.5
21.	Submission of all required statistics (STB sales statistics & list of channels on the platform) – (SBS & BSDs only)	14	10	71.4

The number of evaluated broadcasters is limited to the broadcasters for which the specific requirement is applicable. In evaluating operational compliance, only broadcasters who are already operational were included (both licensed and unlicensed).

Table 14 is an extract showing areas that recorded the worst compliance.

Table 14: Areas of worst performances		
S.No.	Regulatory Requirement	Percentage
1.	Submission of statement of disposal of surplus (community broadcasters only)	3.6
2.	Payment of all regulatory fees as well as contributions to the universal service fund.	13.3
3.	Compliance with requirement to obtain copyright and related rights for third-party produced content including payment of royalties	15.8
4.	Filing of all quarterly and annual returns	16.9

In terms of performance by license category, community broadcasters registered the worst performance. This is perhaps due to the fact that the stations do not generally have professional staff to ensure that they comply with regulatory requirements.

IV. RECOMMENDATION

In order to improve licensee compliance in the next financial year, the Authority shall undertake the following measures:

1. The Authority shall continue with sensitization of small broadcasters especially community stations who may not afford to hire specialized regulatory staff on regulatory requirements. This shall cover both the requirements for content standards according to the Programming Code and technical operational compliance.
2. The Authority shall strengthen the proposed collaboration with the Government Advertising Agency (GAA) and County Governments through the Council of Governors (CoG). The full implementation of the proposed collaboration will improve the effectiveness of the recently introduced annual certificates of compliance.
3. The Authority shall consider the introduction of specific fines for failure to submit compliance returns among other regulatory requirements. This shall be undertaken during the revision of the existing legal and regulatory instruments such as Broadcasting Regulations in order to facilitate the introduction of specific fines for failure to comply with specific regulatory requirements and licence conditions or provide other required information by the set timelines.
4. As per the relevant provisions of the licenses on the commencement of licensed services within a specified timeline after issuance of licenses, the Authority shall track down all the 104 licensees who have not yet commenced operations to verify their operational status including reasons as to why they have not commenced operations. If such licensees cannot demonstrate that they have made progress towards operationalizing the licensed services, then the Authority shall commence license revocation process against such licensees as per the provisions of their licenses. This will aid in reducing cases where non-traceable licensees that continue to accumulate debt which then becomes non-recoverable.