



LOTUS FM ANNUAL COMPLIANCE REPORT

MARCH 2018

2016/2017 ANNUAL COMPLIANCE REPORT

SOUTH AFRICAN BROADCASTING CORPORATION (SABC) BROADCASTING AS LOTUS FM

LICENCE PERIOD: 18 DECEMBER 2008 - 17 DECEMBER 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 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.

The purpose of the report is to give an account of Lotus 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 Format, Local Content Obligations, General Programming Obligations, Training and Skills Development, Finances, Complaints, South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund (USAF) Regulations, Code on People with Disabilities and Licence Fees Regulations.

2. BACKGROUND

Lotus FM is an Individual Sound Broadcasting Service Licensee of the South African Broadcasting Corporation (SABC). The radio station forms part of the public service division of the SABC and is licensed to provide a full spectrum service to the Greater Kwa Zulu-Natal province and parts of Gauteng. The radio station is located in Durban, in the KwaZulu-Natal Province. According to the

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

Broadcast Research Council of South Africa (BRC), the listenership figures for the last quarter of the period under review was 258 000⁵.

3. COMPLIANCE ASSESSMENT

3.1 Ownership and Control

Clause 1 of the licence stipulates that:

- 1.1 Name of company/entity: The South African Broadcasting Corporation*
- 1.2 Shareholders: The State shall hold one hundred (100%) percent of the shares of the Corporation*
- 1.3 Ownership by persons from historically disadvantaged groups: N/A*

There were no changes on the name and shareholding of the Licensee. Lotus FM forms part of the public service division of the SABC and is 100% owned by the State.

The Licensee complies with clauses 1.1, 1.2 and 1.3 of the schedule to its licence.

3.2 Geographic Coverage Area

Clause 2 of the schedule to the licence stipulates that:

"The coverage area is as defined in the map attached to the radio frequency spectrum licence".

According to the frequency spectrum licence, the radio station's coverage area is Durban, Durban North, Glencoe, Johannesburg, Ladysmith, Pietermaritzburg, Port Elizabeth, Port Shepstone, Sunnyside, The Bluff and Tygerberg. The Licensee maintains that its coverage area is as defined in the frequency

⁵ <http://www.brcsa.org.za/brc-ram-radio-listening-jul-16-dec-16-oct-16-mar-17/>

spectrum licence. No complaints were received by the Authority regarding the radio station's non-compliance with clause 2 above.

The radio station complies with clause 2 of its frequency spectrum licence.

3.3 Language(s)

Clause 3 of the schedule to the licence stipulates that Lotus FM must broadcast its content as follows:

"Principal Language: English with specialist programmes in Hindi, Tamil, Urdu, Gujarati and Telugu".

The Authority's monitoring exercise confirmed that Lotus FM broadcasts its programmes principally in English, however the radio station alternates between Hindi, Tamil, Urdu, Gujarati and Telugu during some of the specialist programmes.

The radio station complies with clause 3 of the schedule to its licence.

3.4 Format

Clause 4.1 of the schedule to the licence stipulates that:

"The service authorised by this licence forms part of the public service division of the Licensee".

Clause 4.2 stipulates that:

"The licensed service shall be a full-spectrum service".

Lotus FM forms part of the public service stations of the SABC and offers a full-spectrum service to its audience as outlined in the licence. This was confirmed

<i>Current Affairs</i>	<i>60min (Daily)</i>	<i>95min (Weekdays)</i>	<i>158%</i>
		<i>62min (Saturday)</i>	<i>103%</i>
		<i>61min (Sundays)</i>	<i>101%</i>
<i>IKB</i>	<i>180min(Weekly)</i>	<i>614min (Weekly)</i>	<i>344%</i>
<i>Drama</i>	<i>150min (Weekly)</i>	<i>190min (Weekly)</i>	<i>126%</i>

Second Quarter July – September 2016

Content/ Genre	ICASA Quota (Minutes Daily/Weekly)	LOTUS FM's Provision (Minutes Daily/Weekly)	LOTUS FM's Compliance (%)
<i>News</i>	<i>60min (Daily)</i>	<i>90min (Weekdays)</i> <i>60min (Saturday)</i> <i>60min (Sundays)</i>	<i>0%</i> <i>0%</i> <i>0%</i>
<i>Current Affairs</i>	<i>60min (Daily)</i>	<i>98min (Weekdays)</i> <i>60min (Saturday)</i> <i>60min (Sunday)</i>	<i>163%</i> <i>100%</i> <i>100%</i>
<i>IKB</i>	<i>180min (Weekly)</i>	<i>615min (Weekly)</i>	<i>341%</i>
<i>Drama</i>	<i>150min (Weekly)</i>	<i>190min (Weekly)</i>	<i>126%</i>

Third Quarter October – December 2016

Content/ Genre	ICASA Quota (Minutes Daily/Weekly)	LOTUS FM's Provision (Minutes Daily/Weekly)	LOTUS FM's Compliance (%)
<i>News</i>	<i>60min (Daily)</i>	<i>90min (Weekdays)</i> <i>60min (Saturday)</i> <i>60min (Sundays))</i>	<i>0%</i> <i>0%</i> <i>0%</i>
<i>Current Affairs</i>	<i>60min (Daily)</i>	<i>91min (Weekdays)</i> <i>60min (Saturdays)</i> <i>60min (Sundays)</i>	<i>151%</i> <i>100%</i> <i>100%</i>
<i>IKB</i>	<i>180min (Weekly)</i>	<i>618min (Weekly)</i>	<i>343%</i>
<i>Drama</i>	<i>150min (Weekly)</i>	<i>190min (Weekly)</i>	<i>126%</i>

Fourth Quarter January 2017 – March 2017

Content/ Genre	ICASA Quota (Minutes Daily/ Weekly)	LOTUS FM's Provision (Minutes Daily/ Weekly)	LOTUS FM's Compliance (%)
<i>News</i>	<i>60min (Daily)</i>	<i>90min (Weekdays) 60min (Saturday) 60min (Sundays)</i>	<i>0% 0% 0%</i>
<i>Current Affairs</i>	<i>60min (Daily)</i>	<i>101min (Weekdays) 62min (Saturdays) 60min (Sundays)</i>	<i>168% 103% 100%</i>
<i>IKB</i>	<i>180min (Weekly)</i>	<i>613min (Weekly)</i>	<i>340%</i>
<i>Drama</i>	<i>150min (Weekly)</i>	<i>150min (Weekly)</i>	<i>100%</i>

The above quarterly submissions indicate compliance by Lotus FM with the set quotas during the 2016/2017 fiscal year.

3.2 General programming obligations

3.2.1 General

Clause 6.1.1 of the schedule to the licence stipulates that:

"The Licensee shall ensure that its programming adequately reflects the diversity of South Africa's Religions".

The SABC's editorial policy stipulates that:

"Religious programmes should take account of regional factors, target audiences, language and cultural preferences, and the devotional needs of specific groups".

During the period under review, the monitoring exercise revealed that Lotus FM programmes contained religious content suitable to the Hindi, Tamil, Urdu, Gujarati and Telugu speaking communities. The Licensee catered for different cultures in the Indian community and different religious groups.

The Authority's monitoring exercise further found that Sunday programming was dominated by devotional music of various Indian backgrounds as well as Islamic devotional songs.

Clause 6.1.2 of the schedule to the licence stipulates that:

"The Licensee shall take responsible steps to provide programming that reflects the cultural and tradition needs of the audience."

The Authority's monitoring exercise identified the programme "Bollywood Billboard" broadcast every Saturday between 14:00 – 17:00 that is geared towards Bollywood musicals and other artistic celebrations which is in line with their core audience needs. The above confirms that Lotus FM's programming content caters for language and cultural preferences of its audience.

The Licensee complies with clauses 6.1.1 and 6.1.2 of its licence.

Clause 6.1.3 of the schedule to the licence stipulates that:

"The Licensee shall, during the South African performance period, provide programme material that caters and has due regard for the interests of all sectors of South African society and shall provide programming on health-related issues, gender issues relevant to all age groups".

Lotus FM's programme content consists of a diversity of content that caters for the interest of all South Africans from various socio-economic backgrounds. "Life and Style" is an example of a weekday show between 10:00 and 12:00, which focuses on health and lifestyle topics.

The Licensee complies with clause 6.1.3 of its licence.

3.2.2 News and Current Affairs

Clause 6.2.1 of schedule to the licence stipulates that:

"The Licensee shall broadcast at least sixty (60) minutes of news programming each day during the South African performance period".

According to quarterly reports submitted by the SABC, Lotus FM broadcasts ninety (90) minutes news every weekday and sixty (60) minutes news on Saturdays and Sundays.

The Authority's monitoring exercise for the period under review indicates that Lotus FM broadcasts sixty (60) minutes of news during weekdays and sixty (60) news minutes of news on weekends.

The following are examples of news stories identified during the period under review:

- *"Consumers need to prepare themselves to start paying more at the pump as the price of petrol will increase by between 8 and 11 cents per litre at midnight. A heavier burden will be placed on informal settlement dwellers due to a steep increase in the prices of liquefied petroleum gas and illuminating paraffin, also rising at midnight. As the winter season bites, paraffin users will feel the biggest pinch as illuminating paraffin goes up by more than 43 cents a litre";*
- *"Bangladesh has begun observing two days of national mourning after 20 hostages were slaughtered at a restaurant packed with foreigners in a major escalation of a campaign of attacks by armed groups. Prime Minister Sheikh Hasina decreed the mourning period, which began on Sunday, as she vowed to drag Bangladesh back from the brink, warning of a concerted bid to turn one of the world's most populous nations into a failed state. Amid mass condemnation of the Dhaka killings, victims of which included 18 foreigners, the Islamic State of Iraq and the Levant (ISIL, also known as ISIS) group said it had targeted a gathering of "citizens of crusader states" on Friday night at a Western-style cafe";*

- *"Australia leaders are in talks as a hung parliament looms. The leaders of Australia's two main political parties have begun discussions with independent MPs about forming a minority government. The result of Saturday's election is too close to call and the result will not be known until at least Tuesday. At least 11 of 150 lower house seats remain in doubt. The Australian Electoral Commission tally has Labour leading in 69 seats and the ruling Liberal-National coalition leading in 64 seats"; and*
- *"Politicians, celebrities and fun-loving people gathered at Africa's biggest horse racing event, the Durban July which took place at the Greyville Race Course on Saturday. President Jacob Zuma and Sports and Recreation Minister Fikile Mbalula and Economic Freedom Fighter (EFF) leader Julius Malema were among those who attended. People are dressed according to this year's theme 'leader of the pack'. Ethekwini Mayor James Nxumalo says the city has generated millions of rand through the extravaganza. SABC spokesperson Kaizer Kganyago says supporting such events shows the public broadcaster's commitment to the development of local talent"*

The Licensee complies with clause 6.2.1 of its licence.

Clause 6.2.2 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least sixty (60) minutes of current affairs programming each day during the South African performance period".

According to quarterly reports submitted by the SABC, Lotus FM broadcasts a minimum of sixty (60) minutes of current affairs programming on weekdays, sixty (60) minutes on Saturdays and Sundays.

The Authority's monitoring exercise confirmed that Lotus FM broadcasts current affairs programmes. One of the programmes identified was "NewsBreak" on weekdays between 06:00 – 07:00. The show deals with various topics such as

in the news clips stated above, where there's a mixture of national, regional and international news covered.

The Licensee complies with clause 6.2.2 of the schedule to its licence.

3.2.3 Drama

Clause 6.3 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least two and a half (2½) hours of drama per week within the South African performance period".

According to quarterly reports submitted by the SABC, Lotus FM broadcasts one hundred and fifty (150) minutes (2 hours and 30 minutes) of drama programming per week during the performance period.

The Authority's monitoring exercise revealed that the radio station broadcasts the drama *Othello* weekdays at 09h45 to 10h00.

In total, two (2) hours and thirty (30) minutes of drama programming per week was monitored.

The radio station complies with the clause 6.3 of its licence.

3.2.4 Informal Knowledge Building

Clause 6.4 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least three (3) hours of informal knowledge building programming per week within the South African performance period".

According to quarterly reports submitted by the SABC, Lotus FM broadcasts, a minimum of 613 minutes (10 hours and 13 minutes) of informal knowledge building programming per week.

The programme *Walk The Talk*, broadcasts between 19:00 – 20:00 weekdays, a topic about national government policy on the treatment of chronic pain was discussed with experts from the field interviewed and listeners phoning in.

In total, six hundred (600) minutes which translates to (10 hours) of informal knowledge building programming per week was monitored during the South African performance period.

The radio station complies with clause 6.4 of its licence.

3.3 Training and Skills development Obligations

Clause 7 of the schedule to the licence stipulates as follows:

"7.1 The Licensee must adopt and implement equal opportunity employment practices;

7.2 The licensee must ensure that its management and staff are representative of South African society and that its human resource policies takes into account the development of managerial, production, technical and other skills and expertise, particularly with regard to the historically disadvantaged persons;

7.3 The Licensee shall endeavour to achieve fair and reasonable participation by historically disadvantaged persons with respect to:

- (a) its management and control structures;*
- (b) skills development;*
- (c) enterprise development; and*
- (d) Procurement.*

7.4 The Licensee must, within thirty (30) days of the end of each financial year, provide the Authority with written information regarding its compliance with the above requirements".

The SABC submitted a training and skills development report indicating that its management and staff is representative of South African society. Further, for the period under review there was reasonable participation by historically disadvantaged people with respect to its management and skills development.

The SABC ensured that the learning and development needs are strategically aligned to business needs so as to bring about positive business impact and increase in the productivity level at large.

According to the Licensee's report on its Annual Employment Equity and Skills Development plan, the Licensee strives for the creation of an "equitable working environment, in which the dignity of all individuals is respected and the diversity of all employees are valued." In this report, the SABC further advances that at least 86% of their overall staff complement are Black people; while 78% of its management are people from historically disadvantaged backgrounds.

The Licensee submits that it has exceeded most of the quotas prescribed by licence conditions. However, the Licensee submits that it is unable to reach their 50% target of females in the organisation. The Licensee fell short by less than 1% from reaching this target as it is currently sitting on 49.14%. Although 78% of females in management are black.

The Licensee further submits that it intends to adhere to its BBBEE obligations and remains committed to contributing to the growth of the South African Economy through the empowerment of previously disadvantaged individuals.

The Licensee submitted its Training and Skills Development to the Authority for the period under review.

The Licensee complies with clause 7 of the schedule to its licence.

3.4. Provision of Audited financial statements to the Authority

Clause 8 of the licence stipulates that:

"The Licensee shall provide the Authority with the audited annual financial statements of the licensed service within four (4) months of the end of the licensee's financial year, provided that the licensee may on good cause apply to the Authority for extension".

The Licensee submitted its Audited Financial Statements for the 2016/2017 financial year within the stipulated timeframe.

The Licensee has complied with clause 8 of the schedule to its licence.

4. REGULATIONS

4.1 South African Music Content Regulations

The Regulations on South African Music Content as published on 31 January 2006 stipulate that:

"All public sound licensees must play a minimum 40% South African music".

The monitoring conducted by the Authority indicated that the radio station plays at least 40% South African music during the performance period. The main reason for this was because of the "90% local music" position taken by the SABC at the time. The Authority is aware that the Licensee indicated that local Indian music is difficult to source and thus submit that the radio station does not meet the 40% requirement under normal circumstances.

Furthermore, the SABC applied for exemption from complying with the minimum requirement of 40% local music content, and this was approved by the Authority as follows:

- 10% South African Music for 2003/2004
- 15% South African Music for 2004/2005
- 20% South African Music for 2005/2006.

Lotus FM was further required to undertake the following initiatives in developing South African Indian music:

- Continue to create four bi-annual lyric writing competitions;
- Continue to record religious music to fulfil the religious programming needs;
- Continue to coordinate workshops for South African artists with visiting overseas artists;
- Offer special package to South African artists who want to promote their albums on Lotus FM;
- Make a concerted effort to promote local concerts through publicising them in the station's community news slots;
- Profile at least one local artist/ group per month;
- Encourage local music producers to participate in competitions where they will submit completed works as part of a year-end South African Hit Makers programme;
- Offer local artists releasing new albums, interviews on the station to publicise the album;
- Give-away local CD's/ tapes as a way of increasing support among the audience for local music.

In an effort to comply with the above listed initiatives aimed at developing South African Indian Music, Lotus FM gets involved in various projects in a supporting role as well as sponsorship role. Some of the projects include:

- sponsoring The Aryan Benevolent Home which hosted a dance group called Krishswamivel Dance Acadamey.
- In an effort to preserve Tamil arts and culture, Lotus FM Dj Mala Lutchmanan documented two books that come with an Audio CD aimed at educating the Tamil community of their heritage.
- Being part of Gospel of Dance talent search .
- DJ Vijayluxmi Balakisten released a compilation of songs by various artists who include South African artists. The CD is targeted at the Telegu and Tamil communities.

Although from the above it is evident that Lotus FM endeavours to undertake initiatives to develop South African Indian music; it appears that the exemption

in respect of the South African Content quota was up to 2006 and no further exemptions have been approved by the Authority.

For the period under review, the licensee complied with its SA Music Content obligations. (See attachment 8 and 9 respectively).

4.2 Regulations regarding Standard Terms and Conditions for Individual Licences

Regulation 11 (3) of the standard terms and conditions⁶ stipulates that:

"A station must clearly identify itself at intervals of not more than thirty (30) minutes."

Lotus FM's promos were identified during the period under review and these were broadcast at regular intervals. The promos carried the name of the station and frequency details. Furthermore, there was no incident of non-compliance with the Standard Terms and Conditions for Individual Licences found.

The Licensee has complied with the above regulation.

4.3 Universal Service Access Fund Regulations

Regulation 3 of the USAF Regulations⁷ stipulates that:

- (1) *"Every holder of a licence granted in terms of Chapters 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of its Annual Turnover to the Fund".*
- (2) *"A BS licensee who has paid an annual contribution to the MDDA must set off that contribution against its USAF Contribution, provided that the MDDA contribution and the USAF contribution against which it is set off are for the same financial year".*

⁶ Regulations regarding the Standard Terms and Conditions for Individual Licensee's

⁷ Universal Service and Access Fund Regulations

The Authority received confirmation of payment in a form of a Section 18A certificate from the MDDA and the Licensee submitted proof of payment⁸ to the Authority.

The Licensee has complied with the regulations in respect of Universal Service and Access Fund.

4.4. Code on People with Disabilities

Form 7C: Code on People with Disabilities contained in the Compliance Procedure Manual Regulations requires broadcasting licensees to annually complete the form in accordance with the Licensee's financial year end.

The SABC submitted these forms consistently throughout the year in review.

Further, Regulation 3.1 (a) of the Code on People with Disabilities as published in the Government Gazette, no 30441, 7 November 2007, states that:

"Broadcasting service licensees must ensure that their services are made available and are accessible to people with disabilities".

Regulation 3.1 (b) stipulates that:

"Options for making broadcasting services more accessible may include the following:

- i. Improve and/or increase subtitles and sign language;*
- ii. Expand knowledge on various adjustments such as induction loops, Minicom/text phones and alternatives computer software;*
- iii. Access to programme support such as fact sheet;*
- iv. Website to offer a range of formats (such as electronic versions, Braille and audiotape);*

⁸ Proof of SABC's contribution to the USAF

- v. *Use of spoken languages where economic indicators, weather details, telephone numbers and addresses or details of goods and services are shown on-screen; and*
- vi. *Use of non-scheduled services such as access via Personal Video Digital Recorders (PVR's) and TV anytime".*

Regulation 3.1 (c) states that:

"Broadcasting service licensees must monitor the effectiveness of their service through surveys as well as contact with organisations of and for people with disability and stakeholders".

During the period under review, the Licensee conducted the SABC National Disability Committee quarterly meetings to monitor and evaluate progress against its Disability mainstreaming objectives. The Licensee also conducted disability audits that provides an indication of the physical changes necessary to ensure an accessible workplace. From 03 November 2016 to 03 December 2016, the Licensee hosted the National Disability Rights Awareness Month campaign, at which awareness was created internally around issues related to disabilities. The campaign included disability awareness clips; a disability declaration campaign as well as a *Breakfast in the Dark* session for the SABC KZN management teams.

The following are the other disability awareness campaigns hosted by the Licensee:

- National Blind Buddy Day;
- Autism Awareness;
- Albinism Awareness;
- Deaf Awareness; and
- Casual day

The Licensee further conducted verifications of all declared disabilities and identification of reasonable accommodation needs, as well as participation in career exposure initiatives for scholars with disabilities.

The SABC also reported that Employees with disabilities represent 2.13% of the entire workforce. During the reporting period, the Licensee met its target of 2% of employees with disabilities and intends to focus on this aspect where the aim is to reach 4% of employees with disabilities by 2019. Furthermore, the Licensee reports that at least 77% of its employees with disabilities are black and of those, 60% are women. Gauteng has the highest number of employees with disabilities with the Auckland Park office housing 62% of them.

Producers are encouraged to establish relationships with organisations for people with disabilities to use for content when the need arises.

The Licensee has demonstrated compliance with the Code on People with Disabilities.

4.5 COMPLAINTS

Form 12A: Complaints Report of the Compliance Procedure Manual Regulations read with the Code of Conduct for Broadcasters requires that broadcasters complete the form bi-annually in accordance with the Licensees' Financial Year.

There were no complaints submitted to ICASA on the SABC's compliance with its licence terms and conditions for the year under review.

5. CONCLUSION

During the period under review, the Licensee has complied with its licence terms and conditions and related regulations that govern public broadcasters.

6. APPENDICES

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| Attachment 1 | : Lotus FM's Broadcasting Service Licence |
| Attachment 2 | : Lotus FM's Frequency Spectrum Licence |
| Attachment 3 | : The Licensee's training report |
| Attachment 4 | : Regulations regarding the standard terms and condition |
| Attachment 5 | : Universal Service and Access Fund Regulations |

Attachment 6 : Regulations on the code for people with disabilities

Attachment 7 : Proof of SABC's Contribution to USAF

Attachment 8 : Correspondence from Licensee

Attachment 9 : Correspondence from the Authority