



TUT FM ANNUAL COMPLIANCE REPORT

MARCH 2018

2016/2017 ANNUAL COMPLIANCE REPORT

COMMUNITY RADIO TSHWANE UNIVERSITY OF TECHNOLOGY

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 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 account of TUT FM's performance 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 Licence Area, Community Participation, Local News and Information, Programming, Languages, Broadcast Hours, Promises of Performance, South African Music Content Regulations, and Regulations on Standard Terms and Conditions.

2. BACKGROUND

The Licensee is a community of interest radio station situated in the Soshanguve campus of the Tshwane University of Technology (TUT) broadcasting on 96.2 FM. The sound broadcasting service has been licensed to provide services to the campus community of TUT and people residing within a 50 km radius of the campus. According to the Broadcast Research Council of South Africa, the listenership figures for the last quarter of the period under review is 18 000⁵.

3. COMPLIANCE ASSESSMENT

3.1 LICENSEE

Clause 1 of the service licence stipulates that:

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

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

"The Licence is issued to:

1.1 Name of the Entity: Tshwane University of Technology;

1.2 Name of the Station: Community Radio Tshwane University of Technology; and

1.3 Control of the Licensee: Control shall vest in the Council of Tshwane University of Technology.

The Licensee confirmed that the licensed entity is the Tshwane University of Technology with control vested in the Council of the University. It should be noted that the Licensee has been using its on air branding and name as "TUT FM" without proper notification filed with the Authority in accordance with the applicable regulations. The matter has been brought to the Licensee's attention so that they can update the information so that the correct name can to be reflected on the licence accordingly.

The Licensee does not fully comply with clause 1 of its service licence.

3.2 Licence Period

Clause 2 of the service licence stipulates that:

2.1 The effective date of the Licence is 27 October 2013.

2.2 The licence shall expire on 28 October 2018.

The Licensee has complied with the clause 2 of its licence.

3.3 Licence Area

Clause 3 of the service licence stipulates that:

"The Licensee shall provide services to the campus community of Tshwane University of Technology and people residing within the 50km radius of the campus in the Gauteng Province as set out in the Licensee's radio frequency spectrum licence".

The Licensee confirmed that the radio station is still broadcasting in the areas as stipulated in the licence.

The Licensee has complied with clause 3 of its licence.

3.4 Community

Clause 4.1 of the service licence stipulates that:

"The Licensee shall provide services to a community of interest, being the Campus community of Tshwane University of Technology and people residing within the 50km radius of the campus in the geographic coverage area specified herein".

The Licensee confirmed that it provides its services to the community as defined in the licence conditions.

The Licensee has complied with clause 4.1 of its licence.

Clause 4.2 of the service licence stipulates as follows:

"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 2 (two) meetings annually with its community on programming and programme-related matters for the selection and provisioning 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";

During the period under review, the Licensee did not hold any meetings with the community regarding programming and programme related matters.

The Licensee did not comply with clause 4.2.1 and 4.2.2 respectively.

Clause 4.2.3 of the service licence stipulates as follows:

"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 the 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 held their last AGM on 08 December 2012. The Licensee cited various reasons for not holding the AGM for the past 5 years which included the student uprising in the "Fees Must Fall" strikes which created instability at the campus. The Licensee also mentioned that there was no time to hold internal meetings as Council was busy attending to the student uprising.

The Authority has on 20 October 2017 received a petition from community members complaining about the lack of compliance with licence terms and conditions and applicable legislation by the Licensee. The petition outlined challenges at the radio station which included amongst others lack of community participation through an AGM which has not been convened for an extended period of time for reporting purposes and election of a controlling structure. Subsequently, the Broadcasting Compliance Unit held two meetings on 30 November 2017 and 12 December 2017⁶ with the community and the University Council to resolve the issues raised in the petition and also to come up with a date for the AGM. The meeting resolved that the AGM will be held no later than March 2018.

The Licensee did not comply with clause 4.2.3 of its licence

3.5 PROGRAMMING

The Authority's monitoring exercise revealed that some of the programme recordings of the radio station were not properly labelled and not audible. Furthermore, there was no proper sequence of programmes as per the daily schedule and which made it difficult to monitor the flow of programmes and the consistency thereof.

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

5.1.1 Local News and Information

Clause 5.1.1 of the service licence stipulates that:

"The Licensee shall broadcast a total of 205 minutes of news per day. This shall include news from the community produced by the station on issues affecting the community."

The Authority's monitoring exercise revealed that the radio station broadcast news bulletin every hour and the headlines news are broadcast every half hour during the morning and mid-morning shows broadcast between 06h00 until 09h00 and 09h00 until midday. Another news bulletins is broadcasted once during the afternoon drive time between 15h00 and 18h00.

The radio station has nine (9) news bulletin that lasts for four (4) minutes each and the headlines lasts for two (2) minutes for an overall total of fifty four (54) minutes which is far less than the quota mentioned in the licence condition. The news monitored are not local as

⁶ Post Visit Report

mentioned above, they are mostly of national and provincial interest. On the recordings submitted, there was no news broadcast identified over the weekends.

The following are some of the news extracts identified during the period under review:

- *"As the African National Congress (ANC) prepares for Monday Special National Executive Committee Meeting, some ANC members has told 'Eye Witness News' they will use the meeting to raise concerns about Finance Minister Pravin Gordhan unsuitability to hold office. This comes after the ANC Youth League, Women's League and Umkhonto we Sizwe Military Veteran Association call that Gordhan be axed because he has failed his duties. ANC members will meet on Monday to prepare for the party's policy conference in June."*
- *"A group of people has planned a march against foreigners in Pretoria says it will go ahead with a demonstration on Friday despite Tshwane Metro Police Department rejecting their application. The Mamelodi concerned residents intends on marching to the Home Affairs department to protest against government allowing immigrants into the country. Dozens of shops owned by foreigners has been targeted in Atteridgeville, Mamelodi, Pretoria West and Roseville. The leader of the concerned Mamelodi residents told Eye Witness News that they believe that their democratic right to demonstrate has been violated and the march will go ahead"*

The Licensee does not comply with its news obligations.

5.1.2 South African Music Content

Clause 5.1.2 of the service licence stipulates that:

"The Licensee shall broadcast 60% South African music content"

The Authority's monitoring exercise revealed that the radio station played approximately seventy five percent (75%) of South African music content which exceed the quota mentioned above. The radio station plays different genres of music such as Hip-Hop, Kwaito, Gospel, House, Afro-pop, R&B and others.

The following South African Artists were identified amongst others during the period under review: Kabomo – 'Kissing you; Emtee – 'Roll Up'; Caiphus Semenya – 'Matswale'; AKA – 'The World is Yours'; Babes Wodumo – 'Wololo'; Black Motion – Omodudu'; Prince Kaybee –

'Better days'; A-Reece – 'Zimbali'; Mbongeni Ngema – "Stimela sami sase Zola' amongst others

The Licensee has complied with its South African music obligations.

5.1.3 Talk vs Music

Clause 5.1.3 of the service licence stipulates that:

"The Licensee shall have a programming format of talk (40%) and (60%) music."

The Authority's monitoring exercise revealed that the Licensee is providing a community driven broadcasting service in a talk and music format as required by its licence. The findings on the programme recordings show that the Licensee has maintained the format of (40%) talk and (60%) music.

The Licensee has complied with its format.

5.1.4 Language(s) of broadcast

Clause 5.1.4 of the service licence stipulates that the languages of broadcast are as follows:

5.1.4.1 English – 30%

5.1.4.2 Sepedi – 14%

5.1.4.3 Tshivenda – 14%

5.1.4.4 Xitsonga – 14%

5.1.4.5 isiXhosa – 14%

5.1.4.6 Setswana – 14%; and

5.1.4.7 isiZulu – 14%

The Licensee broadcasts in all languages as stipulated above, the monitoring exercise revealed that the Licensee broadcast predominantly in English followed by Sepedi. The listeners who were calling and participating in the programmes broadcast and the guest speakers were mostly speaking English, Sepedi, Tshivenda and isiZulu. The jingles are dominant in English.

During the period under review, the Authority identified a bit of Xitsonga, isiXhosa and Setswana language on the programmes of the Licensee. In essence, the Licensee did not match the percentage of 14% percent of these languages.

The Licensee did not fully comply with clause 5.1.4 of its licence.

Clause 5.2 of the service licence stipulates that:

"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".

The Authority confirms that the Licensee has not been submitting the log sheets as stipulated above.

The Authority has conducted a compliance induction with the Licensee previously on 22 October 2009 and therefore the Licensee is fully aware of their obligations regarding all licence terms and conditions.

The Licensee did not comply with clause 5.2 of its licence.

3.6 PROMISES OF PERFORMANCE

Clause 8.1 of the service licence stipulates that:

"The Licensee shall ensure that members of the campus community and people within a radius of 50km of the campus of Tshwane University of Technology are represented on the board of directors, and that members of the community elect members of the Board".

The Licensee has a board of Directors that was elected in December 2012 which includes the campus community as reflected in the service licence.

The Licensee has complied with clause 8.1 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".

⁷ Appendix D: Regulations on South African Music Content

The Authority's monitoring exercise found that the Licensee plays at least seventy five percent (75%) South African Music in its programming which is more than the minimum of requirement of forty percent (40%) South African music as per the regulation.

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

4.2 Compliance Procedure Manual Regulations– 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. Furthermore, the monitoring exercise revealed that the complaints announcement is not being broadcast on the radio station. The Licensee is fully aware of that obligation as it was informed in the previous compliance induction that was conducted by the Authority.

The Licensee does not comply with its complaints obligations.

4.3 Code on People with Disabilities

Clause 3.1 (a) of 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."

The Authority observed during the station visit that the Licensees' facilities have easy access for people using wheelchairs. The studio is structured in such a way that a person in a wheelchair can be able to talk through the mike.

The Licensee has complied with the Code of People with Disabilities.

4.4 Regulations regarding Standard Terms and Conditions for Class Licensees

The Authority is satisfied that during the period under review the Licensee did not contravene the regulation in respect of the Standard Terms and Conditions for Class Licences.

5. CONCLUSION

The Licensee has not complied with most of the requirements as set out in its licence and the Licensee must improve on the following:

1. Clause 4.1 – Community participation
2. Clause 4.2.3 - AGM
3. Clause 5.1.1 – Local News and International news
4. Clause 5.1.4 – Tshivenda and Xitsonga Languages
5. Clause 5.2 – Log sheets

The Authority will continue to endeavour in ensuring that the Licensee comply in full with its licence terms and conditions.

6. REFERENCE

APPENDIX A: Sound broadcasting service licence;

APPENDIX B: AGM minutes and attendance register;

APPENDIX C: The Petition;

APPENDIX D: Post Visit Report; and

APPENDIX E: Regulations on Standard Terms and Conditions for Class Licences.