



E.TV ANNUAL COMPLIANCE REPORT

MARCH 2019

2017/18 ANNUAL COMPLIANCE REPORT

e.tv (Pty) LIMITED BROADCASTING AS e.tv

LICENCE PERIOD: 17 December 2008 – 16 December 2023

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution¹, the ICASA Act² and the Electronic Communications Act³ (ECA) to regulate broadcasting activities in South Africa in the public interest. The Authority is tasked with ensuring compliance by broadcasters with the terms and conditions of their licence, the ICASA Act, ECA, the Broadcasting Act and any relevant legislation and regulations.

This report is intended to give account of e.tv's compliance with the terms and conditions as set out in its licence for the 2017/2018 financial year in line with its licence year. Aspects of compliance that are measured comprise of geographic coverage, ownership and control structures, languages, format, local content obligations, general programming obligations, information programming, news and current affairs programming, programming targeted at children, employment equity obligations, skills and development obligations, finances, limitations on advertising, Regulations on South African Television Content, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund (USAF) Regulations, General Licence Fee Regulations, Code on People with Disabilities and Digital Terrestrial Television (DTT) Regulations.

¹ The Constitution of the Republic of South Africa, No 108 of 1996

² ICASA Act No 13 of 2000, as amended

³ Electronic Communications Act No 36 of 2005

Appendix A: Broadcasting Service licence

2. BACKGROUND

In December 2008, a converted licence was issued to e.tv in terms of the Licence Conversion process, as enunciated in Chapter 3, read together with Chapter 15 of the ECA. According to the converted licence, e.tv's licence is valid for fifteen (15) and is due to expire in 2023 (*See Appendix A- Licence Terms and Conditions*).

The holding company is Sabido Investments, a subsidiary of Hosken Consolidated Investments (HCI), a black economic empowerment and duly registered public company⁴.

3. COMPLIANCE ASSESSMENT: SCHEDULE 1

3.1 Geographic Coverage Area

Clause 2 of the licence provides that:

"The Licensee shall provide national coverage of its broadcasting services provided that any given time the minimum population coverage shall be 77%".

The Licensee consistently enjoyed the coverage of 80.5% of the country's population on its terrestrial platform and 100% through satellite. According to the Licensee's transmission service provider Sentech, e.tv exceeds the prescribed minimum of 77% as clause 2 of its licence instructs.

The Licensee complies with clause 2 of the schedule to its licence.

3.2 Target Audience

Clause 3 of the licence provides that e.tv's target audience is:

"General Public".

⁴ e.tv's licence conditions

The Licensee provides a service to the general public. The Authority's monitoring exercise confirmed that the Licensee's programming profile accommodates a broad spectrum of the population through the provision of news, entertainment and informative content in accordance to its licence terms and conditions.

The Licensee complies with clause 2 of the schedule to its licence.

3.3 Format

Clause 4 of the licence provides that:

"The Licensee shall provide a wide variety of programmes".

The monitoring exercise conducted by the Authority confirms that e.tv provides a wide variety of programmes. These include information programming, documentaries, current affairs, children's programmes and drama programmes.

The following programmes are televised regularly on the channel:

Rhythm City: 19:00 – 19:30 / Monday – Friday

Scandal: 19:30 – 20:00 / Monday – Friday

Checkpoint: 21:30 / Tuesdays

Craze – E: 16:00 / Thursdays

The Licensee complies with clause 4 of the schedule to its licence.

3.4 Language(s)

Clause 2(1) of the licence provides that:

"Subject to the specific language requirements set out below, the Licensee shall ensure in respect of the licensed service, its programme material is provided primarily in English."

The Licensee provides its programming principally in English.

The Licensee therefore complies with clause 2(1) of the schedule 2 above.

e.tv is further required, in terms of clause 2(2) of schedule 2 of the licence to ensure that it *"broadcast a minimum of two (2) hours of news and information programming per week during the performance period in a wide range of official languages other than English and shall make provision for sign language translation on screen during the prime-time news bulletin. In complying with its obligations in respect of the use of official languages other than English, the Licensee shall not make excessive use of a single language, other than English to the exclusion of other official languages"*.

The Licensee has exceeded the requirement by broadcasting an average of 6.3 hours per week of news and information programming. Other languages in its news and information programming feature a combination of isiZulu, isiXhosa, Sesotho and Setswana.

The Licensee makes provision for sign language during its daily prime-time (20:00) news bulletin. In addition, during the period under review, the Licensee made use of sign language during the broadcast of the "State of the Nation" address and the "Budget Speech".

The above confirms the Licensee has complied with clause 2(2) of schedule of its licence.

In terms of clause 2(3) of schedule 2 of the licence, e.tv is the required to *"broadcast four (4) hours of programming other than news and information per week in official languages other than English. Compliance with this sub-clause shall be measured accordingly over the licence year. In complying with the above obligation, the Licensee shall not make excessive use of a single language, other than English, to the exclusion of other official languages"*.

The Licensee has during the period under review exceed the requirement by broadcasting 6.5 hours of programming other than news and information per week in official languages other than English.

The Licensee complies with clause 2(3) of schedule of its licence.

Clause 2(4) of the Schedule 2 of its licence provides that the Licensee shall ensure that:

"At least 10% of the aggregate broadcasting time of South African drama productions transmitted by the Licensee is broadcast in a wide range of official languages other than English".

e.tv has, during the period under review, broadcast 58 of its South African drama productions televised, in official languages other than English. The channel provided drama programming in isiZulu, isiXhosa, Setswana as well as Sesotho. Below is a summary of drama programmes broadcast in this regard:

- "Rhythm City", broadcast primarily in isiZulu, Sesotho and Setswana;
- "Scandal", broadcast in isiZulu, Setswana, Sesotho and Afrikaans;
- "Gold Diggers", broadcast in isiXhosa, isiZulu and Sesotho;
- "Broken Vows", broadcast in Sesotho, Setswana, Sepedi, isiXhosa and isiZulu;
- "Harvest", broadcast in Sepedi, isiXhosa and isiZulu;
- "Easy Money" broadcast in Sesotho, isiXhosa and isiZulu.

The Licensee complies with clause 2(4) of the schedule of its licence.

Clause 2.5 of schedule 2 of the licence enjoins e.tv to *"endeavour to dub some of the children's programming acquired from abroad and broadcast by the Licensee into official language other than English"*.

The Licensee does not dub programmes acquired from abroad into official languages. However, the children's programmes broadcast such as *"Siyabonga Gogo"* and *"Cool Cats"* are locally produced and therefore in official languages, other than English.

The Licensee complies with clause 2(5) of the schedule of its licence.

3.5 Employment Equity Obligations

Clause 6 of the licence provides that:

- (1) *"At least forty percent (40%) of the Licensee's employees (being staff and management) are African, that is, Black people excluding Coloureds and Indians.*
- (2) *At least thirty five percent (35%) of the Licensee's employees (being staff and management) shall be women.*
- (3) *At least five percent (5%) of the employees shall be disabled people.*
- (4) *The Licensee's management shall consist predominantly of South Africans from historically disadvantaged groups (i.e. black (African, Coloured and Indian) South Africans, women and disabled people".*

The Licensee submits that 49.36% of its employees are African and 51.91% are women. Further, e.tv employs twenty-four (24) disabled employees which is 7.12% of the total staff. Furthermore, e.tv management consists predominantly of people from historically disadvantaged groups, South Africans, women and disabled people. (See appendix C for further details)



The Licensee complies with clause 6 of schedule of its licence.

3.6 Skills and Development Obligations

Clause 7(1) of schedule 1 of the licence provides that:

"The Licensee shall adhere to the following human resource training, skills and development practices:

- (a) an efficient human resources function supported by a competent human resource development function;*
- (b) consultation between management and employees in decision-making processes;*
- (c) fair labour practices;*
- (d) a safe, healthy and accommodating working environment; and*
- (e) a well-resourced training arm with responsibility for the development of the Licensee's core staff and major independent contractors".*

In response to clause 7.1(a) and (b) above, the Licensee maintains that it has a functional human resource function headed by a Group Head. Consultations takes place between management and employees on key and strategic decisions taken or to be taken.

Further for the year under review the Licensee has submitted that it implemented policies and procedures to ensure fair labour practices in line with the Labour Relations Act No.66 of 1995 as amended. This demonstrates compliance with clause 7(1)(c) to (e).

The Licensee complies with clause 7.1 of schedule 1 of its licence.

Clause 7(2) of schedule 1 of the licence provides that:

"The Licensee must ensure to participate in the development of the broadcasting industry by, amongst other things:

- (a) supporting independent contractors from historically disadvantaged groups;*
- (b) supporting industry development initiatives; and*

(c) promoting the development of independent producers”.

The Licensee submits that all local programming other than news and current affairs is commissioned out to the independent production sector. All production agreements entered into between e.tv and independent production companies include a provision which requires the production company to provide for training for historically disadvantaged persons.

The Licensee complies with clause 7.2 of schedule 1 of its licence.

Clause 7.3 of the schedule 1 of the licence provides that:

“The Licensee must recruit, train and develop individuals from historically disadvantaged groups and equip such people with appropriate managerial and technical skills relevant to the management and operation of a television station”.

Further, clause 10 of schedule 2 of the Skills and Development obligation provides that:

“The Licensee must invest 5.5% of its total annual salary costs, escalating annually at the rate of inflation, in staff training”.

For the year in review, the Licensee recruited and trained individuals from HDG’s in various skills relevant to television such as film and television production operation certificate, film and production, computer skills, camera operations and video editing. The Licensee spent 6.42% of its total salary costs on training.

The Licensee complies with clause 7.3 of schedule 1 and clause 10 of schedule 2 of its licence.

3.7 Provision of Audited Financial Statements to the Authority

Clause 8 of schedule 1 of the licence provides that:

"The Licensee shall provide the Authority with Annual audited financial statements within three (3) months of the end of its financial year".

e.tv submitted its Audited Financial Statements to the Authority within the stipulated time frame.

The Licensee complies with clause 8 of schedule 1 of its licence.

3.8 Local Content Obligations

Clause 3(1) of schedule 2 of the licence requires the Licensee to ensure that in procuring programming produced in South Africa, its commissions programming from the different provinces and to ensure that such programming is reflective of provincial diversity, cultures and characters.

The Licensee procures programming content from different production companies which represent a variety of cultures and characters around the country. During the period under review, the Licensee commissioned programming from more than 20 companies. Below are some of the production companies commissioned:

- African Footprints of Hope,
- Tia Productions;
- Okuhle Media;
- Storytown Productions;
- Madoda Mditshwa;
- Thapelo Media;
- Paw Paw;
- Grapevine;
- Urban Cows; and
- Badda Pictures.

According to the Licensee, whereas programming has, during the period under review reflected provincial diversity and that e.tv has succeeded in commissioning production companies based in other regions, the majority of its producers are

still based in Gauteng and the Western Cape. One major production has been commissioned in KZN. The Licensee attributes this to the fact that there is still minimal fully-fledged production capacity in other Provinces. Notwithstanding this however, the Licensee states that it will continue with its endeavours to identify and support production capacity in areas outside of the Gauteng and the Western Cape provinces.

The Licensee complies with clause 3(1) of schedule 2 above.

Clause 3(2) of schedule 2 of the licence provides that:

"The Licensee must ensure that forty-five percent (45%) of broadcast time consists of local television content" and further that "a maximum of fifteen percent (15%) of which shall be re-broadcast, measured over a year".

During the period in review, the Licensee broadcast at least 54.7% local content programming during the period under review. At least fifteen percent (15%) comprised re-broadcasts.

e.tv complies with clause 3(2) of schedule 2 above.

Clause 3(3) of schedule 2 of the licence provides that:

"The Licensee shall broadcast animations which reflect African and South African culture and lifestyles".

The Craz-e series is the animation broadcast by e.tv reflective of the South African culture and lifestyles.

The Licensee complies with clause 3(3) of schedule 2 of its licence

Clause 3(4) of schedule 2 of the licence provides that:

"The Licensee must provide programming which develops and promotes South African culture and talent, especially in the area of music, through locally produced programmes which may be broadcast during the time that falls outside the South African television performance period".

In terms of the current South African Television Content Regulations, published in Government Gazette number 28454 of 2006 (the Regulations), the measurement of compliance is done during the performance period from 05h00 to 23h00. The new local content regulations will be effective from March 2018.

During the period under review, e.tv programmes were broadcast and recorded from 05h00- 23h00 in line with the South African performance period.

"Club 808" is locally produced and developed and promotes South African culture and talent in the area of music.

The Licensee complies with clause 3(4) of schedule 2 above.

Clause 3(5) of schedule 2 of the licence requires e.tv to submit, on a quarterly basis, a log of local television content broadcast by the Licensee during the preceding quarter.

The Licensee made its submissions to the Authority as contemplated in its licence and as such **is compliant with clause 3(5) of schedule 2 of the licence.**

3.9. General Programming Obligations

Clause 4.1 of schedule 2 of the licence provides that:

"The Licensee must broadcast two (2) hours thirty (30) minutes of South African drama per week of which at least two (2) hours twenty (20) minutes must be broadcast during prime time".

Further, clause 4.2 of schedule 2 of the licence provides that:

"The Licensee shall ensure that no more than fifty percent (50%) of the South African drama referred to in sub -clause (2) above consists of re-broadcasts"

During the period under review, the Licensee broadcast 8.4 hours of South African drama per week during prime time of which two (2) hours thirty (30) minutes was allocated to youth drama, as is evidenced by the broadcast of drama programmes such as "Scandal", "Gold Diggers", "Our Stories" "Broken Vows", "eKasie", "Our Stories" and "Rhythm City". In addition, to complying with clause 4.2 of its licence, the Licensee ensured that re-broadcasts of its drama programming was less than 50%. 16 % of the Licensee's drama consisted of re broadcasts.

The Licensee complies with clause 4.1 and 4.2 of schedule 2 of its licence.

Clause 4.3 of schedule 2 of the licence provides that:

"The Licensee must ensure that at least ten percent (10%) of South African drama productions broadcast by it comprise a broad range of official languages other than English. In meeting this requirement, the Licensee shall not make excessive use of a single official language other than English, to the exclusion of other official languages".

During the current period 40% of e.tv's South African drama programming consisted of official languages other than English.

The Licensee complies with clause 4.3 of schedule 2 of its licence.

3.10 Information Programming

Clause 5 of Schedule 2 the licence provides that:

"The Licensee shall broadcast at least nineteen (19) hours of information programming per week, at least two (2) hours of which shall be broadcast during prime time".

e.tv met the minimum requirement by broadcasting 19.9 hours of Information Programming weekly. Further, the Licensee broadcast 2.9 (translating to 3 hours) hours of Information Programming during prime time.

The Licensee complies with clause 5 of Schedule 2 of its licence.

3.11. News and Current Affairs

Clauses 6.1 read with clause 6.2 of schedule 2 of the licence provide that:

'The Licensee must ensure that it broadcasts news and current affairs programming that reflect local, regional and provincial events and developments". Further, that e.tv "broadcast at least two (2) hours of news during the performance period, of which at least thirty (30) minutes, packaged as a single programme, shall be broadcast during prime time".

e.tv's programming profile confirmed that the Licensee broadcasts news bulletins on weekdays between 05h30 and 19h00 including but not limited to: Morning Edition, Sunrise, Newsday and Prime Time and weekends between 18h00- 19h30 as follows- early Edition and Prime time.

During the period under review, the Licensee broadcasted 3 hours of news per day during prime-time. Of the news programmes at least 30 minutes was packaged as a single programme.

The Licensee's news and current affairs offering is reflective of local, regional and provincial events and developments.

The Licensee complies with clause 6.1 read with clause 6.2 of schedule 2 of its licence.

Clause 6.3 of the schedule 2 of the licence provides that:

"The Licensee shall exercise full editorial control in respect of the content of its news programming".

During the period under review, there was no evidence that suggested that the Licensee is not exercising full editorial control in respect of the content of its news programming.

Accordingly, the Licensee complied with clause 6.3 of schedule 2 of its licence.

3.12. Programming Targeted at Children

Clause 7.1 read with clause 7.3 of schedule 2 of the licence provides that:

"The Licensee must broadcast sixteen (16) hours of children's programming per week, of which at least 20% shall comply with the local content requirements as set out in the applicable regulations..."; and

"The Licensee shall broadcast one (1) hour thirty (30) minutes of South Africa youth drama during prime time. This is to be included in the children's programming quota referred to in sub-clause (a) and shall be measured as a weekly average over the period of a licence year."

During the year in review, the Licensee broadcast an average of 18 hours per week of children's programming including a weekly average of 3 hours of youth drama per week. In terms of the 20% local content requirement, e.tv exceeded the requirement by broadcasting 42,5% South African children's programming.

The Licensee complies with clauses 7.1 and 7.3 of schedule 2 of its licence.

3.13 Limitations on Advertising and Provision of advertising-related information

Clause 8.1 and 8.2 of schedule 2 of the licence provides that:

"The Licensee may not broadcast more than an average of ten (10) minutes of advertisements per hour on the licensed service during any licence year; and advertisements in excess of twelve (12) minutes in any one hour".

The Licensee did not exceed the maximum requirement of twelve (12) minutes advertising in any hour.

Accordingly, the Licensee complies with clause 8.1 and 8.2 of schedule 2 of its licence.

3.14 Events of National interest.

Clause 9.1 of schedule 2 of the licence provides that:

"The Authority may, on written application by the Licensee, grant the Licensee exemption in writing, on such terms and conditions as the Authority deems necessary in the circumstances, from compliance with some or all of the on air programming obligations set out in this licence, for a specified period, in the event that the Licensee satisfies the Authority that it is unable to comply with such obligations as a result of the broadcast of any event of national interest".

During the period under review, the Authority did not receive any application for exemption to broadcast events of national interest from the Licensee.

4. REGULATIONS

4.1 South African Television Content Regulation

Regulation 4.1 of the 2006 ICASA South African Television Content Regulation provides that:

"A commercial television Licensee must ensure that at the commencement of its broadcasting service a minimum weekly average of 35% of its programming, measured over a period of a year, during the South African television performance period consists of South African television content"⁵.

In complying with the above; a Commercial television broadcasting Licensee must ensure that a minimum of:

- i. 20% of its drama programming consists of South African drama;*
- ii. 50% of its current affairs programming consists of South African current affairs;*
- iii. 30% of its documentary programming consists of South African documentary programming;*

⁵ Appendix B: South African Television Content Regulation

- iv. *30% of its informal knowledge building programming consists of South African informal knowledge building;*
- v. *25% of its children's programming consists of South African children's programming".*

For period under review, the Licensee complied with its obligations as follows:

- i. 53.5% of its drama programming consists of South African drama;
- ii. 100% of its current affairs programming consisted of South African current affairs;
- iii. 64.8% of its documentary programming consisted of South African documentary programming;
- iv. 100% of its informal knowledge building programming consisted of South African informal knowledge building; and
- v. 40% of its children's programming consisted of South African children's programming.

The Licensee complies with the South African Television Content Regulations.

4.2 Standard Terms and Conditions for Individual Broadcasting Licensees

During the year under review, the Authority did not identify any non-compliance by e.tv with the Standard Terms and Conditions Regulations.⁶

4.3 Universal Service and Access Fund

Regulation 3(1) of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF) as published in the Government Gazette, no 31499 of April 2009 provides that:

⁶ Appendix C: Regulations Regarding Standard Terms and Conditions for Individual Licences

"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".⁷

Further, Regulation 3(3) provides that:

"A broadcasting service Licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution against its prescribed annual contribution to the Fund."

The Licensee paid its annual USAF contribution to the MDDA and submitted proof to the Authority on 12 December 2017.

The Licensee complies with the regulation in respect of the Universal Service and Access Fund.

4.4 General Licence Fee Regulations

The General Licence Fee Regulations as published in the Government Gazette, no 32084, 01 April 2009, provides that:

"Individual Commercial Broadcasting Service Licensee's must pay annually to the Authority a licence fee of 1.5% of its gross profit".⁸

Schedule 3(4)(b) of the General Licence Fee Regulations provides that:

"Annual payments are due and payable within 6 months from the end of the Licensee's financial year".

The Licensee paid its annual licence fee to the Authority on 26 July 2017.

The Licensee complies with the General Licence Fee Regulations.

⁷ Appendix D: Universal Service and Access Fund

⁸ Appendix E: General Licence Fees Regulations

4.5 Digital Terrestrial Television Migration Regulations 2012 (DTT Regulations)

Regulation 9(3)(c) of the DTT Regulations as published in Government Gazette No. 36000 on 14 December 2012⁹, requires e.tv to submit a commercial agreement with an electronic communications network service Licensee to provide a signal distribution services for digital broadcasting within three (3) months of the Minister's publication of the date for commencement of dual illumination together with the tariff structure for the signal distribution services.

The Minister published the date for commencement of dual illumination on 1 February 2016. During the period in review, e.tv failed to submit the foregoing advancing an argument that it was yet to finalise and sign the Multichannel Tariff Agreement (MTA) with Sentech. As at the time of writing this report, compliance in this regard had still not been achieved.

e.tv has, during the period in review, failed to comply with Regulation 9(3)(c) above.

4.6 Code on People with Disabilities

Clause 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".¹⁰

The Licensee confirms that its offices have been adapted to the needs of people with disabilities.

Clause 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".

⁹ Appendix F: Digital Migration Regulations 2012

¹⁰ Appendix G: Code of People with Disabilities

The Licensee reports that it sponsors charitable associations and foundations on areas of disability. The Licensee assisted the following organisations associated with people with disabilities.

- Retinal Foundations; and
- Talk Sign;

Where possible the Licensee uses the means available to allow hearing impaired people better access to its services in the news and entertainment fields.

The Licensee complies with the Code on People with Disabilities.

4.7 Compliance Procedure Manual Regulations – Form 12A

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A¹¹ which reports on all complaints received during each financial year. In April 2017, the SABC submitted its complaints report in accordance with the Regulations regarding the Code of Conduct for Broadcasting Service Licensees.

The Licensee is a member of the National Association of Broadcasters (NAB) and complaints in relation to the Code of Conduct by Broadcasters are administered by the Broadcasting Complaints Commission of South Africa (BCCSA).

5. CONCLUSION

For the period under review e.tv has complied with most of its licence terms and conditions save for Regulation 9(3)(c) of the DTT Regulations.

6. TERMS OF REFERENCE

Appendix A: Broadcasting Service licence

Appendix B: South African Television Content Regulations

¹¹ Appendix H: Compliance Procedure Manual – Form 12A

Appendix C: Regulations Regarding Standard terms and Conditions

Appendix D: Universal Service and Access Fund

Appendix E: General Licence Fees Regulations

Appendix F: Digital Migration Regulations 2012, Correspondence to e.tv regarding DTT Regulations dated 23 August 2017; Response from e.tv dated 30 October 2017.

Appendix G: Code on People with Disabilities

Appendix H: Compliance Procedure Manual Regulation