



# **5 FM ANNUAL COMPLIANCE REPORT**

**MARCH 2019**

## **2017/2018 ANNUAL COMPLIANCE REPORT**

### **5 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 Constitution<sup>1</sup>, the ICASA Act<sup>2</sup>, the Electronic Communications Act<sup>3</sup> (ECA) and the Broadcasting Act<sup>4</sup> 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 5 FM's compliance with the terms and conditions as set out in its licence for the 2017/2018 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Community Participation, Programming, Format, News and Information, Local Content Obligations, Language(s), South African Music Regulations, Standard Terms and Conditions Regulations, Universal Service and Access Fund (USAF), General Licence Fee Regulations, the Code on People with Disabilities and Complaints.

#### **2. BACKGROUND**

5 FM is an Individual Sound Broadcasting Service Licensee of the South African Broadcasting Corporation (SABC). The radio station's mandate is to provide a Contemporary Hit Radio service to the geographic areas of Gauteng, Free State, Western Cape, Northern Cape, Eastern Cape, North West, Kwazulu-Natal, Mpumalanga and Limpopo. According to the Broadcast Research Council of South

---

<sup>1</sup> The Constitution of the Republic of South Africa, No 108 of 1996

<sup>2</sup> Act No. 13 of 2000, as amended

<sup>3</sup> Act No. 36 of 2005

<sup>4</sup> Act No. 4 of 1999

Africa (BRC), the listenership figures for the last quarter of the period under review was 645 000<sup>5</sup>, a 14% decrease from the same period in the previous year.

### **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. 5 FM forms part of the commercial 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 its licence.**

#### **3.2 Geographic Coverage**

Clause 2 of the schedule to the licence states that:

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

According to its frequency spectrum licence, the coverage area is a national footprint in major urban areas, with transmitter sites across major cities in all nine provinces.

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

---

<sup>5</sup> <https://brcsa.org.za/brc-ram-radio-listening-oct17-mar18-jan18-jun18/>

### **3.3 Language(s)**

Clause 3 of the schedule to the licence states that the language of broadcast is as follows:

*"Principal Language: English".*

The monitoring exercise confirmed that 5 FM's principal language is English.

**The Licensee complied with clause 3 above.**

### **3.4 Format**

Clause 4.1 of the schedule to the licence states that:

*"The licensed service shall be a sound broadcasting service in a Contemporary Hit Radio format".*

The Licensee's quarterly submissions on programming reflects a format of music and popular culture information which is consistent with a Contemporary Hit Radio format. An example of a contemporary show is *Hamman Time*, broadcast weekdays between 08:00 – 10:00.

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

Clause 4.2 of the schedule to the licence states that:

*"The format may not deviate by more than fifteen percent (15%) from the above format".*

The Authority's monitoring exercise confirmed that 5 FM does not deviate from its Contemporary Hit Radio format.

**The Licensee complies with clause 4.2 of the schedule to its licence.**

Clause 4.3 states that:

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

5 FM is categorised as the commercial radio station of the SABC as outlined in the licence. This further explains the more commercial format as opposed to a public mandate format where obligations such as drama; informal knowledge building content and children's programming are expected.

**The Licensee complies with clause 4.3 of the schedule to its licence.**

### **3.5 General programming obligations**

#### **3.5.1 General**

Clause 6.1.1 of the schedule to its licence states that:

*"To the extent that the Licensee provides programming of a religious nature, the Licensee shall ensure that its programming adequately reflects the diversity of South Africa's Religion".*

The Licensee's editorial policy in terms of religious diversity states that: *'Religious programmes should take account of regional factors, target audiences, language and cultural preferences, and the devotional needs of specific groups.*

5 FM does not have content of a religious nature. This is explained by the fact that the radio station falls under the Commercial Radio category along with Metro FM and Good Hope FM, thus these stations do not hold the same obligations as the rest of the SABC public radio stations.

**The Licensee complies with clause 6.1.1 above.**

Clause 6.1.2 of the schedule to the licence further provides that:

*"The Licensee shall during the South African performance period provide 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".*

The Authority's monitoring exercise confirmed that 5 FM caters for all sectors of South African society in terms of the different types of topics often discussed. On the show, *5 FM Breakfast*, one of the topics include dating deal breakers and as well as the benefits of 90% local music where new artists were discovered. This demonstrates the broad spectrum of topics discussed during various show on 5 FM's line-up.

**The Licensee complies with clause 6.1.2 of the schedule to its licence.**

### **3.5.2 News and Current Affairs**

Clause 6.2.1 of the schedule to the licence states that:

*"The Licensee shall broadcast at least 30 minutes of News per day during the South African Performance Period".*

The monitoring exercise found that 5 FM broadcasts news bulletins every hour between 06h00 to 18h00 and headlines every half hour. The duration of a typical news bulletin is approximately three (3) minutes. This amounts to an average of around thirty-six (36) minutes per day of news, during the South African performance period.

The following were among the news items covered during the period under review:

- *"Finance Minister Malusi Gigaba has called for unity within the African National Congress (ANC), saying egos need to be put aside in favour of accelerated and inclusive growth. Gigaba was on Monday evening delivering the Chris Hani Memorial Lecture at the Boksburg Civic Centre east of Johannesburg. Monday*

*marks 24 years since the anti-apartheid activist and general secretary of the South African Communist Party was killed. Gigaba said, "This unity will not be achieved unless the ANC is united and in turn focuses all its energies on uniting the nation behind a common agenda. Earlier, President Jacob Zuma called on South Africans to be united in the midst of frustration and misunderstanding and allow tolerance and peaceful co-existence. Zuma was addressing the 24th anniversary of Hani's death in Boksburg.*

- *The ANC in the North West has instructed all its 13 Members of Parliament representing the province, to vote against a motion of no-confidence in President Zuma. ANC Provincial Secretary Dakota Legoete says the party has communicated its decision of the extended national working committee that MP's must vote against the motion to remove the duly elected President of the Republic President Jacob Zuma. Legoete added "that no one of them will vote with his consciousness". The debate on the motion is expected on the 18th of April.*
- *The Western Cape has been officially confirmed as the country's Top Province in the 2015/16 provincial and local audit outcomes. In a ceremony held today, Mr Solly Segooa and Ms Sharonne Adams, representatives of the Auditor-General of SA, awarded deserving provincial, municipal departments and entities. The Western Cape Government was officially certified with 100% unqualified audits. The Province also achieved clean audits for 12 of its 13 departments. A total of 23 out of 30 Western Cape municipalities were also awarded clean audits. This is the fourth year running that the Western Cape has led in audit outcomes in South Africa, with the 2015/16 audit outcomes the best to date."*

**The Licensee complies with clause 6.2.1 of the schedule to its licence.**

Clause 6.2.2 of the schedule to the licence states that:

*"The Licensee shall in the production of its news and current affairs programming:*

- i. Exercise full editorial control in respect of contents of such programming;*
- ii. Include matters of international, national, regional and where appropriate, local significance;*
- iii. Meet the highest standards of journalistic professionalism;*
- iv. Provide fair, unbiased, impartial and balanced coverage independent from governmental, commercial or other interference; and*
- v. Provide a reasonable opportunity for the public to receive a variety of points of view on matters of public concern.*

The Licensee's editorial policies indicate that the Licensee exercises full editorial control in respect of contents of its programming. The editorial policies further indicate that the Licensee endeavours to meet the highest standards of journalistic professionalism. Furthermore, it provides fair, unbiased and impartial coverage independent from government, commercial or other forms of interference.

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

### **3.6 Training and Skills Developments Obligations**

Clause 7 of the schedule to the licence states the following:

*"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 take 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 the 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 87% of its employees are from designated groups.

The SABC states that its Learning and Development delivery during the period under review was slow due to financial constraints and that the delivery was on urgent and critical needs of the organisation. The SABC submits that under the period of review, it delivered 701 training interventions to 515 employees. Of the 515 employees that were trained, 379 were trained in accordance with the SABC's Work Skills Plan and 136 were trained based on operational requirements.

Furthermore, the majority of these employees were from designated groups which 87% were black, 49,5% were female and 1,75% were persons with disabilities.

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 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 complies with clause 7 of its licence.**

### **3.7 Provision of Audited Financial statements (AFS) 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, the Licensee may on good cause apply to the Authority for extension".*

The Licensee submitted its Audited Financial Statements for the 2017/2018 financial year within the stipulated timeframe.

**The Licensee complies with clause 8 of its licence.**

## **4. REGULATIONS**

### **4.1. ICASA South African Music Content Regulations**

On 23 March 2016, the Authority published the ICASA South African Music Content Regulations which repealed ICASA South African Music Content regulations published on 31 January 2006. The regulations were to be effective eighteen (18) months after publication i.e. 23 September 2017 which falls within the period under review.

Regulation 3(1) of the South African Music Content Regulations<sup>6</sup> as published on 23 March 2016 stipulates that:

---

<sup>6</sup> South African Music Content Regulations

*"A holder of a public sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting of these Regulations, a minimum of 60% increasing to 70% in the following year, of the musical works broadcast in the performance period, consist of South African music and that South African music is spread evenly throughout the performance period."*

The Licensee's submission on music indicates an average of 61% of South African Music Content for the period under review. Featured artist on 5 FM's play list include HHP; Lady Zamar; Desmond and The Tutus; Muzi featuring Yanga Madlala; Kongos; Danny K; Goldfish; Liquiddeep; Gangs of Ballet and many others.

**The Licensee complies with regulation 3.2 of the South African Music Content Regulations.**

#### **4.2 Regulations regarding Standard Terms and Conditions for Individual Licences**

Regulation 11(3) of the Standard Terms and Conditions for Individual Licences Regulations<sup>7</sup> stipulates that:

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

There was no incident of non-compliance with the Standard Terms and Conditions for Individual Licences found during the period under review.

**The Licensee complies with the Regulations on Standard Terms and Conditions for Individual Licensees.**

---

<sup>7</sup> Regulations regarding the Standard Terms and Conditions for Individual Licensee's

### **4.3 Universal Service and Access Fund (USAF) Regulations**

Regulation 3 of the USAF Regulations<sup>8</sup> 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".*

The Authority received a Section 18A certificate as confirmation of payment from the MDDA and the Licensee submitted proof of payment<sup>9</sup> to the Authority.

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

### **4.4 Regulations on the Code on People with Disabilities**

Clause 3.1 (a) of the Code on People with Disabilities 2007, states that:

*"Broadcasting Service Licensees must ensure that their services are made available and are accessible to people with disabilities".*

The SABC conducted different campaigns to encourage disability declarations for the reasonable accommodation of employees with disabilities. Further, accessibility audits were conducted and the SABC has started to implement the audit findings to ensure that the physical workplace is accessible for persons with disabilities.

---

<sup>8</sup> Universal Service and Access Fund Regulations

<sup>9</sup> Proof of SABC's contribution to the USAF

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".*

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 hosted National Disability Rights Awareness Month from 3 November until 3 December. During this period the SABC created internal disability awareness activities.

The following were some of the disability awareness campaigns hosted by the Licensee:

- National Bind Buddy Day;
- 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 through its *Take A Girl to Work* initiative that focused on scholars with disabilities.

The SABC also reported that employees with disabilities represent 2.34%, an increase from the previous reporting period. Employees with disabilities are employed on different occupational levels with majority representation on the Skilled, Technical and academically qualified levels.

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

To improve the representation of employees with disabilities, the SABC's recruitment efforts will remain targeted. The SABC also intend to accelerate disability declaration

campaigns that will aid in the improvement of employees with disability representation as well as providing reasonable accommodation.

**The Licensee complies 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.

The Licensee received eight (8) complaints during the period under review. The nature of the complaints range from Harmful Content; Inappropriate Content for Children; Hate Speech; News Sensitivity and lack of Balance in reporting. The Licensee responded to the complainants within the regulated timeframes.

#### **5. CONCLUSION**

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

#### **6. TERMS OF REFERENCE**

Attachment 1	: 5 FM's Broadcasting Service Licence
Attachment 2	: 5 FM's Frequency Spectrum Licence
Attachment 3	: Extract from the Licensee's Editorial Policy
Attachment 4	: The Licensee's training report
Attachment 5	: Regulations regarding the standard terms and condition

- Attachment 6 : Universal Service and Access Fund Regulations
- Attachment 7 : Regulations on the code for people with disabilities
- Attachment 8 : Proof of SABC's Contribution to USAF