



# **LOTUS FM ANNUAL COMPLIANCE REPORT**

**MARCH 2019**

# **2017/2018 ANNUAL COMPLIANCE REPORT**

## **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 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 Lotus 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 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 and Code on People with Disabilities.

### **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 Broadcast Research Council of South Africa (BRC), the listenership figures for the

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<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

last quarter of the period under review was 187 000<sup>5</sup>, down 25% 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 reported 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 of its licence.**

#### **3.2 Geographic Coverage Area**

Clause 2 of the licence states that:

*"The geographic 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 Gauteng, KwaZulu-Natal and Cape Town. Its transmitter sites are located in 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 spectrum licence.

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

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

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

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

*"Principal Language: English with specialist programmes in Hindi, Tamil, Urdu, Gujurati and Telegu".*

The Authority's monitoring exercise confirmed that Lotus FM's principal language of broadcast is English, with alternates between Hindi, Tamil, Urdu, Gujurati and Telegu during some of the station's specialist programmes.

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

### **3.4 Format**

Clause 4.1 of the licence states 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 during the Authority's monitoring exercise which found that the station engages in different topical issues of national interest across its programming offerings.

**The Licensee complies with clause 4.1 of its licence.**

### **3.4 Local Content Obligations**

Clause 5 of the schedule to the licence stipulates that:

*"In each licence year, the Licensee shall, within thirty (30) days of the end of the quarter, submit to the Authority written records indicating the extent of:*

*Clause 5.1 different genres; and*

*Clause 5.2 South African Music Content in programme material broadcast in the licensed service during that quarter, in each instance, distinguishing between genres, providing the relevant details in relation to prime time and the period between 05h00 and 23h00 daily ("the South African broadcast period"), and expressing relevant details both as an aggregate in minutes and as a percentage of the total of all such programming material".*

The SABC's Lotus FM submitted its quarterly reports for the period under review as reflected in the tables below in line with the Compliance Procedure Manual Regulations. The figures show Lotus FM's compliance with the quotas set out by the Authority. These figures were verified during the Authority's monitoring exercise.

*First Quarter April – June 2017*

<b>Content/ Genre</b>	<b>ICASA Quota</b> <i>(Minutes Daily/Weekly)</i>	<b>LOTUS FM's Provision in week</b> <i>(Minutes Daily/Weekly)</i>	<b>LOTUS FM's Compliance (%)</b>
News	60min (Daily)	69min (Daily) 75 (Saturday) 75 (Sunday)	100%
Current Affairs	60min (Daily)	120 (Daily) 85 (Saturday) 77 (Sunday)	100%
IKB	180min (Weekly)	229min (Weekly)	100%
Drama	150min (Weekly)	168min (Weekly)	100%

Second Quarter July – September 2017

<b>Content/ Genre</b>	<b>ICASA Quota</b> (Minutes Daily/Weekly)	<b>LOTUS FM's Provision in</b> (Minutes Daily/Weekly)	<b>LOTUS FM's Compliance (%)</b>
News	60min (Daily)	DID NOT REPORT	0%
Current Affairs	60min (Daily)	127 (Daily) 60 (Saturday) 60 (Sunday)	100%
IKB	180min (Weekly)	206min (Weekly)	100%
Drama	150min (Weekly)	120min (Weekly)	100%

Third Quarter October – December 2017

<b>Content/ Genre</b>	<b>ICASA Quota</b> (Minutes Daily/Weekly)	<b>LOTUS FM's Provision in</b> (Minutes Daily/Weekly)	<b>LOTUS FM's Compliance (%)</b>
News	60min (Daily)	DID NOT REPORT	0%
Current Affairs	60min (Daily)	160 (Daily) 75 (Saturday) 75 (Sunday)	100%
IKB	180min (Weekly)	258min (Weekly)	100%

<i>Drama</i>	<i>150min (Weekly)</i>	<i>168min (Weekly)</i>	<i>100%</i>
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*Fourth Quarter January – March 2018*

<b>Content/ Genre</b>	<b>ICASA Quota (Minutes Daily/Weekly)</b>	<b>LOTUS FM's Provision in (Minutes Daily/Weekly)</b>	<b>LOTUS FM's Compliance (%)</b>
<i>News</i>	<i>60min (Daily)</i>	<i>97min (daily) 60 (Saturday) 60 (Sunday)</i>	<i>100%</i>
<i>Current Affairs</i>	<i>60min (Daily)</i>	<i>124 (Daily) 60 (Saturday) 60 (Sunday)</i>	<i>100%</i>
<i>IKB</i>	<i>180min (Weekly)</i>	<i>120min (Weekly)</i>	<i>100%</i>
<i>Drama</i>	<i>150min (Weekly)</i>	<i>250min (Weekly)</i>	<i>100%</i>

The above quarterly submissions indicate compliance by Lotus FM with the set quotas during the 2017/2018 financial year.

### **3.5 General programming obligations**

#### **3.5.1 General**

Clause 6.1.1 of 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<sup>6</sup> stipulates that:

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

The monitoring exercise found the program, *Bhakti Sungheet* on Sundays between 17h00 and 19h00, which is a religious and devotional program where discourse is held on various spiritual topics. Devotional music can also be found during this program. In one of the shows monitored, the Licensee had an outside broadcast at the Shri Vishnu Temple Society, in Chatsworth, KwaZulu Natal, where a celebration of *Hanuman ji* was held.

### **The Licensee complies with clause 6.1.1 of its licence.**

Clause 6.1.2 of the licence stipulates that:

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

The Licensee's range of diverse program offerings demonstrates its commitment to reflect cultural and traditional diversity of its audiences. Shows such as *Gospel Hour*; *Deenyat* and *Bhakti Sungheet* are examples of shows that provide for various audiences within the coverage areas of the Licensee.

### **The Licensee complies with clause 6.1.2 of its licence.**

Clause 6.1.3 of 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".*

The following programmes were monitored during the period under review, where various issues of interest to society were discussed:

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<sup>6</sup> An extract from the Licensee's Editorial Policy



- *Life 'n Style*: A lifestyle programme touching interesting topics affecting people in today's highly demanding and fast-moving world. The show discusses topics such as dealing with autism; disability awareness and various causes of stress that parents should lookout for in a child. The show is broadcast on weekdays between 10h00 – 12h00.
- *The Lotus Lounge*: a laid-back show that is mostly dominated by music and dedications but also discusses important topics on education and choosing a career. The show is broadcast on weekdays between 20h00 – 22h00.

The diversity of shows on the Licensee's line-up confirms that it deals with various issues relevant to people of all age groups and genders.

**The Licensee complies with clause 6.1.3 of its licence.**

**3.5.2 News and Current Affairs**

Clause 6.2.1 of the schedule attached 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".*

The SABC's quarterly submissions report that the Licensee broadcasts sixty-nine (69) minutes of news each day.

The monitoring exercise identified at least sixty-five (65) minutes of news on each day of the week. An example of the news monitored is as follows:

- *"The DA has filed an urgent application asking the High Court in Pretoria to set aside President Jacob Zuma's decision to replace Finance Minister Pravin Gordhan and his deputy Mcebisi Jonas. The party wants Zuma's Cabinet reshuffle last Thursday to be declared invalid, irrational and unconstitutional. In an affidavit, DA federal executive chairperson James Selfe said the implications of Zuma's decision to fire Gordhan and Jonas were of an "extraordinarily serious and far-reaching nature". The DA*

wants Zuma to provide the court within the next five days with reasons for his decision to replace Gordhan and Jonas.

- Finance Minister Malusi Gigaba's new advisers at Treasury have controversial backgrounds, with one having alleged links to the Guptas. Thamsanqa Msomi, who will focus on political issues, and Kholeka Gcaleka, who will focus on legal issues. Msomi is a Denel board member who was "implicated by two highly placed sources as being close to the Gupta family", according to a report in Mail & Guardian in March 2016. "Msomi said he has not met with any of the Guptas since his appointment to the Denel board," the report explained early in 2016.
- The Health Professions Council of South Africa (HPCSA) is expected to conclude its hearing into the conduct of Professor Tim Noakes. Noakes advised a mother via Twitter to wean her child on foods low in carbohydrates and high in fat. Former president of the Association for Dietetics in South Africa Claire Julsing Strydom laid the complaint with the council following Noakes's tweet in 2014. The HPCSA has charged him with unprofessional conduct. It's reported that advocate Ajay Bhoopchand on Tuesday questioned the benefits of Noakes' diet for babies. Noakes's advocate, Michael van der Nest, began with arguments on Tuesday. A finding is expected later this month."

### **The Licensee complies with clause 6.2.1 of its licence.**

Clause 6.2.2 stipulates that:

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

The Licensee's quarterly reports indicate that Lotus FM broadcasts hundred and twenty (120) minutes of current affairs programming per day during the South African performance period.

During the period under review, the monitoring exercise identified the following current affairs programmes:

- "Newsbreak": Current Affairs programme between 06h00 – 07h00 on weekday mornings.
- "Newsbreak: Weekends": Current Affairs show during midday between 13h00 – 14h00.
- "Walk the Talk": a daily talk show on weekdays between 19h00 – 20h00.

**The Licensee complies with clause 6.2.2 of its licence.**

Clause 6.2.3 stipulates that:

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

- (i) Exercise full editorial control in respect of the 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 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 interference.

During the period under review, the monitoring exercise revealed that Lotus FM broadcasts matters of national and international significance.

## **The Licensee complied with clause 6.2.3 of its licence.**

### **3.5.3 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 on average one hundred and seventy-six (176) minutes (2 hours and 56 minutes) of drama programming per week during the performance period.

The Authority's monitoring exercise found that the radio station broadcasts the drama *Marigold Circle: Cruise Patrol* on weekdays at 09h45 to 10h00 in the mornings and repeated at 21h30 to 21h45 in the evenings.

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

### **3.5.4 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 on average two hundred and three (203) minutes (3 hours and 23 minutes) of informal knowledge building programming per week.

Programmes such as *Bhakti Sungheet* on weekends between 17h00 – 18h00 as well as *Walk the Talk*, broadcasts between 19h00 – 20h00 weekdays, are examples of informal knowledge building content in that a diverse range of topics are discussed on these shows.

At least, four hundred (400) minutes which translates to 6 hours of informal knowledge building programming per week was monitored during the South African performance period.

**The Licensee complies with clause 6.4 of its licence.**

### **3.6 Training and Skills Development 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 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 2017/2018 financial year within the stipulated timeframe.

**The Licensee complied 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<sup>7</sup> as published on 23 March 2016 stipulates that:

*“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 monitoring conducted by the Authority indicated that the radio station plays at least 40% South African music during the performance period. For the period under review, the Licensee attempted to comply with South African music content by featuring artists such as *Risa Moodley; Hoosein Vally; Mahendra Shamaparsad; Gona Pillay; Prabhu Nepaul* and *Shashika Mooruth*.

During 2018, the SABC lodged an application for an exemption from compliance with the Regulations for Lotus FM. On 6 February 2019 the Authority approved the exemption request authorising Lotus FM to only broadcast 35% South African music content for their licence period.

**The Licensee did not comply with regulation 3.2 of the South African Music Content Regulations during the period under review.**

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<sup>7</sup> South African Music Content Regulations

## **4.2 Regulations regarding Standard Terms and Conditions for Individual Broadcasting Service Licensees**

During the period under review, the Authority did not identify any non-compliance by the Lotus FM with the standard terms and conditions for individual Licensees.

## **4.3 Universal Service and Access Fund 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 for 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".*

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

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



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.

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 require that broadcasters complete the form bi-annually in accordance with the Licensees' Financial Year.

There were no complaints received by the Licensee during the period under review, and none were escalated to the Authority in this regard. The Licensee complied with the Code of Conduct for Broadcasters.

#### **5. CONCLUSION**

The Licensee substantially complied with its licence terms and conditions and related regulations that governs public broadcasters for the period under review.

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

Annexure A	: Lotus FM's Broadcasting Service Licence
Annexure B	: Lotus FM's Frequency Spectrum Licence
Annexure C	: Extract from the Licensee's Editorial Policy
Annexure D	: Training & Skills Development Report
Annexure E	: Regulations regarding the standard terms and condition
Annexure F	: Universal Service and Access Fund Regulations
Annexure G	: Regulations on the code for people with disabilities
Annexure H	: Proof of SABC's Contribution to USAF