



94.7 HIGHVELD STEREO ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/19 ANNUAL COMPLIANCE REPORT

PRIMEDIA (Pty) Ltd BROADCASTING AS 94.7 HIGHVELD STEREO

LICENCE PERIOD: 17 December 2018 – 16 December 2028

1. PREFACE

The Independent Communications Authority of South Africa (“the Authority”) has a statutory mandate in terms of the Constitution, the ICASA Act and the Electronic Communications Act of 2005 (“EC Act”) to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority is to ensure compliance by broadcasters with the terms and conditions of their licence, the Electronic Communications Act, the ICASA Act, any relevant legislation and regulations.

The following report is intended to give account of 94.7 Highveld Stereo’s compliance with the terms and conditions as set out in its licence for the 2018/2019 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Broadcasting Languages, Format, General Programming Obligations, Training and Skills Development, Community-Related Obligations, South African Music Regulations, Regulations Regarding Standard Terms and Conditions and Universal Service and Access Fund (USAF) Regulations.

2. BACKGROUND

In September 2019, the Authority issued Primedia (“the Licensee”) with the renewed Individual Commercial Sound Broadcasting Service licence¹ and a Radio Frequency Spectrum licence² in terms of the EC Act.

The Licensee broadcasts as 94.7 Highveld Stereo and provides a service in the Gauteng province. The radio station is broadcasting from the studios situated at 5 Gwen Lane, Sandown, Sandton. The signal distribution service is conducted by Sentech (Pty) Ltd.

¹ 94.7 Highveld Stereo Broadcasting Service Licence

² 94.7 Highveld Stereo Frequency Spectrum Licence

3. COMPLIANCE ASSESSMENT

3.1. Control Structure

3.1.1. Ownership and Control

Clause 1 of 94.7 Highveld Stereo's licence provides that:

"The licence is issued to:

1.1 Name of Company/Entity: Primedia (Pty) Ltd

1.2 Shareholders: Mineworkers Investment Company – 46.61%

Kirsh Consortium – 23.8%

Brait Entities – 18.84%

Management Stake – 5%

Titan Share Dealers – 2.86%

Sabvest (together with BPESAM 1 Ltd)

BPESAM II Ltd – 0.99%

KV and GR Direct – 1.9%

1.3 Ownership held by persons from historically disadvantaged groups: 46.61%"

During the period under review, there were no changes reported by the Licensee to its name, shareholding and HDG structure.

The Licensee complies with clause 1 of its licence.

3.2. Contact Details

Clause 2 of the licence provides that:

2.1 "The contact person for the Licensee shall be:

2.1.1 Name: Mr. Tebogo Mokoena

2.1.2 Tel: 011 506 3845

2.1.3 Fax: 086 262 3003

2.1.4 Cell: 084 293 9192

2.1.5 Email: tebogomo@primedia.co.za"

The Licensee did not submit any notification with regards to all the above as stated during the period under review.

The Licensee complies with clause 2 of its licence.

3.3 Notices and Addresses

Clause 3 of the licence provides that:

3.1 "The Licensee chooses the following addresses as its principal addresses:

3.1.1 Postal Address: PO Box 5572

Rivonia

2126

3.1.2 Physical Address: Primedia House

5 Gwen Lane

Sandown

Sandton, 2146

The Licensee did not submit any notification in terms of its principal addresses during the period under review.

The Licensee complies with clause 3 of its licence.

3.4 Name of Station

Clause 1 of the schedule to 94.7 Highveld Stereo's licence provides that:

"Name of Station: 94.7 Highveld Stereo".

There were no changes reported by the Licensee to its name during the period under review.

The Licensee complies with clause 1 of the schedule to its licence.

3.5 Geographic Coverage Area

Clause 2 of the schedule to 94.7 Highveld Stereo frequency spectrum licence provides that 94.7 Highveld Stereo's geographic coverage area is:

"Southern Gauteng, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence".

The Authority did not receive reports suggesting the Licensee broadcasts outside the defined coverage area.

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

3.6 Broadcast Language (s)

Clause 3 of the schedule to 94.7 Highveld Stereo licence provides that the language of broadcast shall be:

"Principal Language: English".

94.7 Highveld Stereo broadcast its programmes in English as its primary language.

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

3.7 Format

Clause 4 of the schedule to 94.7 Highveld Stereo's licence provides that the Licensee is:

"The Licensee shall have a programming mix of talk and music in an adult contemporary format, providing a mix of music and information (including coverage of community affairs)".

The Licensee has not submitted any details regarding the above licence condition, however the Authority's monitoring exercise found that the Licensee's broadcast a programming mix of talk and music in an adult contemporary format which includes coverage of community affairs as required by the clause above.

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

3.8 Local Content Obligations

Clause of the schedule to 94.7 Highveld Stereo's licence provides that:

"The Licensee shall promote at least eight (8) local music concerts per annum and allocate airtime for the broadcasting thereof".

The Licensee has not submitted any details regarding the above licence condition, however the Authority's monitoring exercise confirmed that the Licensee promoted more than eight (8) local music concerts per annum and allocate airtime for the broadcasting thereof.

The Licensee partially complies with clause 5 of the schedule to its licence.

3.9 General Programming Obligations

Clause 6.1 of the schedule to 94.7 Highveld Stereo's licence provides that:

"The Licensee shall broadcast a minimum of thirty (30) minutes of news per day between 05h00 and 23h00 during weekdays".

The Licensee has not submitted any details regarding the above licence condition, however the monitoring exercise revealed that 94.7 Highveld Stereo broadcast news at the top of every hour during the Performance Period, daily. The Licensee broadcast approximately forty-nine (49) minutes of news per day during Performance Period. The following were among the news items identified during the period under review:

- *"University of Cape Town's (UCT) Black Academic Caucus says newly appointed Vice-Chancellor Professor Mamokgethi Phakeng's excellent track record will ensure positive change at the institution. The council has this past weekend officially announced Phakeng will take over from outgoing VC Doctor Max Price in July;"*
- *"After a two-week break, the former Cape Town mayor says she's used the time to conduct research and consult with her family and supporters, and has now decided to launch a new party that will contest next year's elections in all nine provinces.";*
- *"Gauteng Education MEC Panyaza Lesufi says all the teachers accused of misconduct at Parktown Boys High are no longer teaching there. Lesufi visited the school on Friday to investigate claims of assault and racism."; and*
- *"Public Protector Busisiwe Mkhwebane has lost an application for leave to appeal against an order that she personally cover some of the Reserve Bank's legal costs in the Bankorp review case.*

- *Last month a full bench in Pretoria set aside the controversial report and its remedial action which had ordered the Special Investigating Unit to recover more than R1 billion from Absa for an apartheid-era bail out.”;*

The Licensee complies with clause 6.1 of the schedule to its licence.

Clause 6.2 of the schedule to 94.7 Highveld Stereo’s licence provides that:

“The source(s) of all news material (other than news sourced from the Licensee) shall be disclosed during the news broadcast”.

The monitoring exercise revealed that most of 94.7 Highveld Stereo’s news bulletins are sourced from Eyewitness News (EWN), a subsidiary of Primedia (Pty) Ltd, as well as its US, UK and Africa correspondents. It was however not confirmed whether the Licensee discloses sources of news whenever it reports news obtained from other sources other than itself.

The Licensee complies with clause 6.2 of the schedule to its licence.

3.10 Training and Skills Development Obligations

Clause 7 of the schedule to 94.7 Highveld Stereo licence provides that:

“The Licensee shall over its licence period, allocate R350 000 (three hundred and fifty thousand Rand) per annum to training and development, particularly of staff from historically disadvantaged groups”.

The Licensee has not submitted any details regarding the above licence obligation.

The Licensee does not comply with clause 7 of the schedule to its licence.

3.11 Community - related Obligations

Clause 8.1 of the licence provides that:

“The Licensee shall:

8.1.1 raise at least R250 000.00 (two hundred and fifty thousand Rand) in cash and goods annually”.

The Licensee has not submitted any details regarding the above licence obligation.

The Licensee does not comply with clause 8.1.1 of the schedule to its licence.

8.1.2 provide airtime worth R250 000 (two hundred and fifty thousand Rand) annually, towards supporting community organisations such as those benefiting:

- a) people infected or affected by HIV & AIDS;*
- b) the terminally ill and/or the elderly;*
- c) schools;*
- d) women;*
- e) children;*
- f) animal welfare; and or*
- g) natural/environmental disasters such as fires and floods”.*

The Licensee has not submitted any details regarding the above licence obligation.

The Licensee does not comply with clause 8.1.2 of the schedule to its licence.

Clause 8.2 of the licence provides that:

"The Licensee shall train staff from community sound broadcasting services in its geographic coverage area in the areas of: programme presenting and production, news, sales, marketing and sound engineering through mentoring and on-the-job training that is, having such staff "shadow" 94.7 Highveld Stereo presenters, producers, news reporters, sales representatives, marketing staff and sound engineers while at work”.

The Licensee has not submitted any details regarding the above licence obligation.

The Licensee does not comply with clause 8.2 of the schedule to its licence.

Clause 9 of the licence provides that:

"Directors of the Licensee shall retain control and responsibility for the running of the station notwithstanding the provisions of any management consultancy services engaged by the Licensee”.

Although there were no changes reported regarding ownership patterns of the station, however the Licensee has not submitted any details regarding the above licence obligation.

The Licensee does not comply with clause 9.2 of the schedule to its licence.

4. REGULATIONS

4.1 Complaints

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A which reports on all complaints received during the period under review.

The Licensee has not submitted any details regarding the above regulation in terms of the compliance procedure manual as it relates to complaints.

The Licensee does not comply with the Compliance Procedure Manual Regulations in relation to complaints.

4.2 SA Music Content

Regulation 3 (2) of the ICASA South African Music Contents Regulations, 2016 as published on 23 March 2016 stipulates that:

"Every holder of a commercial sound broadcasting licence must ensure that after eighteen (18) months from the date of gazetting of these Regulations, a minimum of 35% 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".

During the year under review, the monitoring exercise revealed that 94.7 Highveld Stereo played an average of 35% of South African Music spread reasonably evenly throughout the Performance Period. The South African artists featured included among others, *Spirit by Kwesta, Jika by Micasa, Sun in My Pocket by Locnville, Baddest by AKA ft. Burna Boy, Khuli Chana, Yanga.*

The Licensee complies with regulation 3.2 above.

4.3 Standard Terms and Conditions

During the year under review, the Authority identified instances of non-compliance by the Licensee with the Regulations regarding Standard Terms and Conditions for Individual Licences³. The Licensee did not provide the Authority with the relevant compliance information as per Regulation 9.

According to the Amendment Standard Terms and Conditions for Broadcasting Services Regulations, 2010 as amended, Schedule 1 Regulation 9(3) and 9(5), provides as follows:

(3) "Submission of information for the annual compliance report in line with the relevant guidelines and Licence Terms and Conditions."

(5) "In the event where the Licensee or its representative refuse or fail to provide the Authority with requested information in terms of sub regulation (1), the Authority may, after reasonable attempts, refer the matter to the Complaints and Compliance Committee."

The Licensee does not comply with the above regulations.

4.4 Regulations in respect of the Prescribed Annual Contributions of Licensees to the 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)⁴, as published in the Government Gazette, No. 31499 of April 2009, stipulates that:

³ Standard Terms and Conditions for Class Broadcasting & Electronic Communications Network Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010, as amended.

⁴ USAF Regulations, 2011 as published in *Government Gazette* No. 34010 dated, 10 February 2011.

"Every holder of a Licence granted in terms of Chapter 3 or converted in terms of chapter 15 of the Act, must pay an annual contribution of 0.2% of the annual turnover, derived from the licensee's licence activity, to the Fund (the Fund)".

Further, Regulation 3 (3) stipulates 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"

94.7 Highveld Stereo's financial year ends on 30 June. The Licensee paid its contribution to the Universal Service and Access Fund on 16 October 2018 and submitted proof of payment⁵ thereof, as required by the regulations.

The Licensee complies with the above regulations.

4.5 General Licence Fees Regulations

Regulation 3 (1) of the General Licence Fees Regulations⁶ provides that:

"The annual Licence fees prescribed in these regulations and as set out in schedule 2 apply to holders of individual and class ECS Licences, individual and class ECNS Licences and individual commercial Broadcasting Licences".

Schedule 2 of the Annual Licences Fees regulations provides for Licensees to pay an annual licence fee in accordance with their licensed revenue and to be calculated using the set formula, read with the applicable percentages.

Regulation 7(a), 7(b) and 7(c) of Schedule 3 provides that:

a) Are due annually based on the licensee financial year;

⁵ Proof of USAF contribution

⁶ General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013, as amended.

- b) Are due and payable within 6 months from the end of the end of the licensee's financial year;*
- c) May only be paid by way of an electronic transfer or via direct deposit into the Authority's bank account".*

94.7 Highveld Stereo's financial year ends on 30 June. The Licensee paid its licence fees on 27 September 2019 and submitted proof of payment⁷ thereof, as required by the Regulations.

The Licensee complies with the above regulations.

5. CONCLUSION

The Licensee has partially complied with its licence terms and conditions, for the period under review. The Licensee has failed to comply with clause(s) 7, 8.1, 8.2, 9.1, and 9.2 of the schedule to its licence terms and conditions. The Licensee also failed to comply with regulation 4.1 in respect to the Compliance Procedure Manual.

It is therefore concluded that with the above, the licensee having failed to provide compliance information in line with the standard terms and conditions, a contravention of the above-mentioned regulation has occurred, a matter that needs to be corrected as a matter of urgency.

6. TERMS OF REFERENCE

- 6.1 Appendix A: 94.7 Highveld Stereo's broadcasting service licence
- 6.2 Appendix B: 94.7 Highveld Stereo's frequency spectrum licence
- 6.3 Appendix C: SA Music Content Regulations
- 6.4 Appendix D: Regulations Regarding Standard Terms and Conditions for Individual Licences
- 6.5 Appendix E: Universal Service and Access Fund Regulations
- 6.6 Appendix F: Proof of USAF Contribution
- 6.7 Appendix G: General Licence Fees Regulations
- 6.8 Appendix H: Proof of Licence Fees Payment

⁷ Proof of Licence Fees payment