



# **LOTUS FM**

# **ANNUAL COMPLIANCE**

# **REPORT**

**MARCH 2020**

# **2018/2019 ANNUAL COMPLIANCE REPORT**

## **SOUTH AFRICAN BROADCASTING CORPORATION (SABC) BROADCASTING AS LOTUS FM**

**Licence Period: 18 December 2018 - 17 December 2028**

### **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 2018/2019 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 and Universal Service and Access Fund (USAF).

### **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

---

<sup>1</sup> The Constitution of the Republic of South Africa Act, 1996 (Act 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

located in Durban, in the KwaZulu-Natal Province. According to the Broadcast Research Council of South Africa (BRC), the listenership figures for the last quarter of the period under review was 181 000<sup>5</sup>, down 3,2% 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 schedule 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.

---

<sup>5</sup> <https://brcsa.org.za/brc-ram-listenership-report-oct18-mar19/>

**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, Gujarati and Telegu".*

The Authority's monitoring exercise confirmed that Lotus FM's principal language of broadcast is English, with alternates between Hindi, Tamil, Urdu, Gujarati 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 provide 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 clauses 4.1 and 4.2 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 submitted Lotus FM's quarterly reports for the period under review in line with the Compliance Procedure Manual Regulations.

**The Licensee complied with clause 5 of its licence.**

### **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 that between 17h00 and 21h00 on Sundays, the radio station broadcasts religious and devotional programmes that cater for different religions. Discourse is held on various spiritual topics, devotional music from different religions is also played. The shows that are broadcast during this period include *Gospel Hour* which plays Christian devotional music and *Deenyat* which plays Islamic devotional.

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

---

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

Clause 6.1.2 of the licence stipulates that:

*"The Licensee shall take reasonable steps to provide programming that reflects the cultural and traditional 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:

- *The Connection*: A lifestyle programme touching interesting topics affecting people in general. The show is broadcast on Saturdays between 17h00 and 19h00.
- *Walk the Talk*: A daily talkshow dealing with various social issues, including health matters. One of the topics during the monitoring exercise was on cancer awareness, with expert advice from Dr Gregory Landis, who is an Oncologist. The show is broadcast on weekdays between 19h00 – 20h00.

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 monitoring exercise identified that Lotus FM broadcasts news bulletins every hour from 06h00 to 20h00. The news bulletins are approximately five (5) minutes and all the news bulletins are broadcast in English.

The following were among the news stories covered:

- *"The Durban University of Technology will remain closed until further notice after the death of a student who was shot during a protest at the institution's Steve Biko campus yesterday. It is alleged that security officers opened fire on students after a scuffle broke out between students and campus protection services. Four people have been arrested in connection with the shooting. The university's spokesperson, Alan Khan, says there will be an investigation to determine why live ammunition was used.*
- *Economists say they remain extremely worried about the recent rotational load shedding announced by Eskom. Eskom has announced stage 3 load shedding from this morning until 11 o'clock tonight, after implementing stage 4 rotational load shedding yesterday. Econometrix's economist, Azar Jamine says the power cuts are damaging any prospects of attracting investment, either locally or internationally.*
- *ANC National Executive Committee member, Nomvula Mokonyane, has broken her silence after some witnesses testified before the Commission of Inquiry into State Capture, that she had been receiving bribes and gifts from Bosasa. The former COO of the facility and management company, Angelo Agrizzi, told the Commission that this was in exchange for the protection of Bosasa. In a letter to the Commission Chairperson, Deputy Chief Justice Raymond Zondo, Mokonyane's lawyers criticised the Commission for not giving their client notice that she would be implicated in Agrizzi's testimony".*

**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 ninety (90) minutes of current affairs programming per day on week days during the South African performance period and hundred and twenty (120) minutes on weekends.

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

- *Newsbreak*: A Current Affairs programme between 06h00 and 07h00 on weekday mornings.
- *The Lunch Break*: There is a Current Affairs slot between 13h00 and 13h30 during this programme on weekdays.
- *Newsbreak: Weekends*: Current Affairs lunch time talkshow between 13h00 – 14h00 on Saturdays and Sundays.

**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 regional, 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 fifty (150) minutes (2 hours and 30 minutes) of drama programming per week during the performance period.

The Authority's monitoring exercise found that the radio station broadcasts the drama *Bottled Up* on weekdays at 09h45 to 10h00 in the mornings and repeated at 21h45 to 22h00 in the evenings.

**The Licensee complies with 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 six hundred and twenty (620) of informal knowledge building programming per week.

Programmes such as *The Lotus Lounge* on weekends between 07h00 – 10h00 as well as *Walk the Talk*, which broadcasts between 19h00 – 20h00 weekdays, are examples of informal knowledge building content in that a diverse range of topics

are discussed on these shows, with listener interactions. Different careers from the SANDF, SAAF and South African Navy were profiled on the “*The Lotus Lounge*” during the monitoring exercise.

**The Licensee complies with clause 7.4 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 Licensee is in its third year of its three (3) year employment equity plan. During the period under review, the Licensee submits that it successfully implemented employment equity and transformation objectives in line with the relevant legislation which ensured that diversity and inclusion is managed in a non-discriminatory environment.

The Licensee implemented various initiatives that were aligned to its employment equity plan and were intended to create awareness, to educate and to challenge employees' understanding on different topics relating to diversity and inclusion.

The Licensee submitted its Employment Equity and Transformation report for the period under review. The report indicated that the Licensee made significant progress against its employment equity targets and goals as set out in the employment equity plan<sup>7</sup>.

The Licensee during the period under review achieved a level two (2) BBBEE status and received a total score of 19,61 out of 20 for its Management Control/Employment equity element.

The Licensee delivered 2534 training interventions to 1567 employees during the period under review. Of the 1567 employees, 1088 was trained in accordance with the Workplace Skills Programme and 479 were trained based on operational requirements.

The Licensee submitted that 88% of employees that were trained were from the designated groups (Black, Coloured, Indian). 54,56% were females and 2,55% were employees with disabilities.

The Licensee submitted its Training and Skills Development that provides a detailed breakdown of its compliance with the above requirements, for the period under review, to the Authority for the period under review<sup>8[2]</sup>.

### **The Licensee complied 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 six (6) months of the end of the*

---

<sup>7</sup> Appendix C: SABC Employment Equity & Transformation Report

*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 2018/2019 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, 2016**

On 23 March 2016, the Authority published the ICASA South African Music Content Regulations.

Regulation 3 (1) of the South African Music Content<sup>9</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."*

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, with special conditions. However, this exemption is not applicable to the period under review and will only be effective in the next review period.

The SABC's quarterly reports indicated that Lotus FM played an average of 40% South African music during the performance period.

The monitoring conducted by the Authority revealed that the Licensee plays at least 35% South African music during the performance period. The Licensee tried

---

<sup>9</sup> ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016.

to comply with the South African Music content by also featuring artists like Shay, Marcus Melanin, Sandhya, Lenny Naidoo, Kinx, Lungi Naidoo and AP Krish.

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

#### **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, 2011<sup>10</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>11</sup> to the Authority.

**The Licensee complied with the regulations in respect of Universal Service and Access Fund.**

---

<sup>10</sup> Published in *Government Gazette* No. 34010 dated, 10 February 2011.

<sup>11</sup> Proof of SABC's contribution to the USAF.

#### **4.4 COMPLAINTS**

A Licensee is required, in terms of the Compliance Procedure Manual Regulations, 2011<sup>12</sup>, to submit a Form 12A<sup>12</sup>: ECN/S and BS Complaints Reporting form, which a Licensee should complete with details of all complaints received in each 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                   |

---

<sup>12</sup> Provided for in the ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.