



DSTV ANNUAL COMPLIANCE REPORT

MARCH 2020

ANNUAL COMPLIANCE REPORT 2018/2019

MULTICHOICE (PTY) LTD BROADCASTING AS DSTV

Licence Period : 04 August 2008- 03 August 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 ("EC Act") 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 License, the Electronic Communications Act ("EC Act"), the ICASA Act and any relevant Regulations.

The report is intended to give account of Multichoice's performance for the period 2018-2019. The report focuses on the following aspects: Geographic Coverage, Languages, Format, Training and Skills Development Obligations, Staff Development Equity Plan, Ownership and Control by Previously Disadvantaged Individuals, Finances, Contribution to the Broadcasting Sector, South African Television Content Regulations, Must Carry Regulations, Universal Service and Access Fund, Subscription Broadcasting Regulations, Licence Fees Regulations, Code on People with Disabilities, Sports Broadcasting Rights Regulations and Regulations on Standard Terms and Conditions.

2. BACKGROUND

On 04 August 2008, the Authority granted and issued a commercial subscription television and sound broadcasting service licence to Multichoice Africa (Propriety) Limited Multichoice. The shareholder as reflected in the licence is Multichoice South Africa Holdings (Pty) Ltd. The Ownership held by persons from historically disadvantaged groups is as follows: Multichoice Africa (Pty) Ltd: 33.33%.

¹ The Constitution of the Republic no 108, 1996

² ICASA Act no 13, 2000 as amended

³ Electronic Communications Act no 36, 2005

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area⁴

Clause 2 of the licence provides that:

"The Licensee shall provide a national coverage of its broadcasting services".

The Licensee confirms that it provides its service through satellite and therefore provides national coverage of its broadcasting service. (See Appendix A).

The Licensee complies with clause 2 of its licence

3.2 Encryption and signal and use of licensed electronic communications network service.

Clause 3.1 of the licence provides that:

"The Licensee must ensure that the output signal of its subscription broadcasting service is encrypted".

Clause 3.2 of the licence provides that:

"The Licensee shall use the licensed communications network service of a licence".

The Licensee confirms that its output signal of its subscription broadcasting service is encrypted. The Licensee has also confirmed that its network service provider is Orbicom (Pty) Ltd, which is a licensed communications network service provider.

The Licensee complies with clause 3.1 and clause 3.2 of its licence.

3.3 Language

Clause (4) of the licence provides that: *"This is left to the discretion of the Licensee".* A significant number of the Licensee's programmes are broadcast in English.

However, other programmes are broadcast in other languages such as Portuguese, Afrikaans and Indian languages. The Licensee has confirmed that its programmes and films are presented in different languages. English is the main language, other languages include

⁴ Multichoice licence conditions

Afrikaans, isiZulu, Portuguese, Indian languages for the Indian bouquet and other foreign and local languages.

The Licensee complies with clause 4 of its licence.

3.4 Format

Clause 5 of the licence provides that:

"The Licensee is licensed to provide a subscription broadcasting service aimed at the general public and niche markets".

The Licensee confirms that its service is aimed at both, the general public, through its general entertainment channels and niche market through its special interest channels.

The Licensee complies with clause 5 of its licence.

3.5 Training and Skills Development Obligations⁵

Clause 6.1 of the licence provides that:

"The Licensee shall ensure that training and development needs of its staff, with particular emphasis on individuals from historically disadvantaged groups, are identified on an annual basis and are reflected in its workplace skills plan".

The Licensee submitted its workplace skills plan for the period under review. The Licensee maintains that learning and development initiatives of its employees with particular emphasis on individuals from historically disadvantaged groups were implemented and addressed as follows:

(a) Business Skills Training and Job Specific Training

The Licensee dedicated seventy-five percentage (75%) of its training budget to develop its employees on business and job specific training. Seventy percent (70%) of the total spent amount was dedicated to developing the previously disadvantaged persons. Eighty percent (80%) was spent on females.

(b) Management and Leadership Development

The above training included New Management Programme, Leading Women, Catalyst Programme and Strategic media Leadership Program.

The Licensee spent 85% of its Leadership Development budget on the development of historically disadvantaged groups. Sixty percent (60%) of the total amount was spent on females.

(c) Talent Management

A total number of 4 employees were identified for succession development in 2018/19 financial year. The identified employees are receiving executive coaching in line with future general management needs.

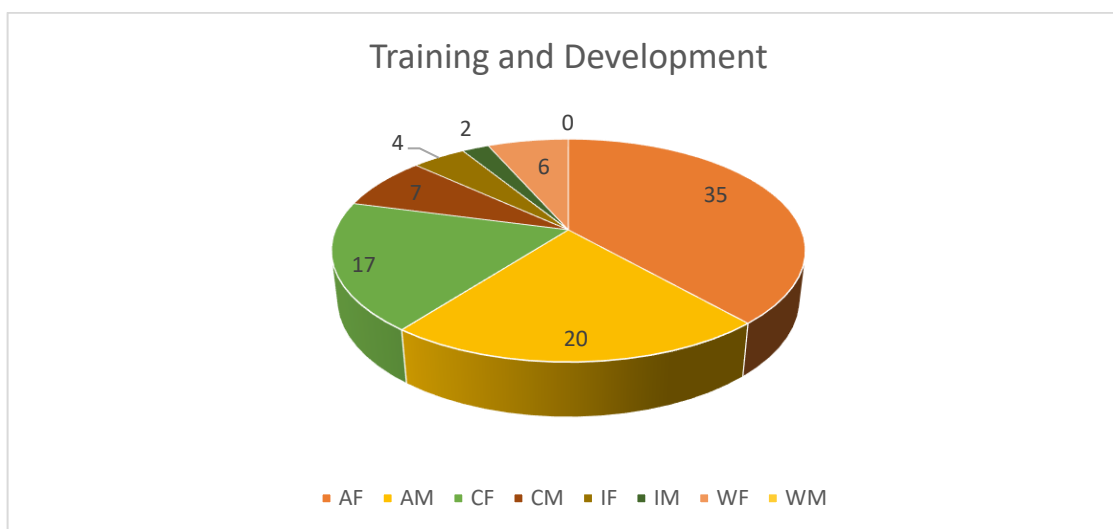
There were nine (9) other employees who completed the "Management Advancement Programme" and six (6) were historically disadvantaged employees and four (4) were female.

(d) Bursaries for Senior Managers

There were 54 bursaries awarded to senior employees from historically disadvantaged background during the year 2018/19. These were awarded as per table 1m, below.

Table 1: Details of employee bursaries awarded

African Females	Coloured Females	White Females	Indian Females	African Males	Indian Males	Coloured Males	Indian Males
34	9	0	0	8	0	3	0



Abbreviations used: AF=African Female; AM=African Male; CF=Coloured Female; CM=Coloured Male; IF= Indian Female; IM=Indian Male; WF=White Female; WM=White Male.

Figure 1: Training and development programme statistics

The above pie chart in figure 1 above, demonstrates that training and development was focused on persons from previously disadvantaged backgrounds.

The Licensee complies with clause 6.1 of its licence.

Clause 6.2 of the licence provides that:

"The Licensee shall submit its workplace skills plan to the Authority within a month of issuing of this licence and thereafter by the 30th of June each year".

The Licensee submitted its workplace skills plan to the Authority in accordance with the requirement thus in compliance with clause 6.2 of its licence.

Clause 6.3 of the licence provides that:

"The workplace skills development plan shall report on and review a twelve-month period (April to March) and shall include targets in terms of race and gender".

Clause 6.4 of the licence provides that:

"The workplace skills plan shall reflect race and gender targets at all occupational levels, including senior and top-level management".

The Licensee submits that the training included New Management Programme, Leading Women, Catalyst Programme and Strategic media Leadership Program.

The Licensee reports to have spent 85% of its Leadership Development budget on the development of historically disadvantaged groups. Sixty percent (60%) of the total amount was spent on female employees.

The Licensee complies with clause 6.3 and clause 6.4 of its licence.

3.6 Staff Development and Equity Plan ⁶

Clause 7.1 of the licence provides that:

"The Licensee shall submit its five-year employment equity plan to the Authority within a month of the issuing of this licence".

The Licensee submitted its five-year plan to the Authority in line with clause 7.1 of its licence.

The Licensee complies with clause 7.1 of its licence.

Clause 7.2 of the licence provides that:

"This employment equity plan shall report on and review a twelve-month period (October to September), and shall include targets in terms of race and gender".

Clause 7.3 of the licence provides that:

"The employment equity plan shall reflect race and gender targets at all occupational levels, including senior and top- level management".

The Licensee submitted information in respect of clause 7.2 and clause 7.3 above. The report outlines targets at occupational levels including senior and top -level management as well as targets in respect of race and gender per table2, below.

⁶ Staff Development and Equity Plan Report

Table 2: General Employee breakdown

Occupational Levels	Male				Female				Foreign Nationals		Total
	A	C	I	W	A	C	I	W	Male	Female	
Top management	5	0	1	5	3	0	0	4	0	0	18
Senior management	19	9	26	62	18	10	11	36	9	7	207
Professionally qualified and experienced specialists and mid-management	108	31	68	122	105	26	54	69	28	14	625
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	488	73	69	75	570	86	58	67	13	8	1507
Semi-skilled and discretionary decision making	349	19	9	2	807	50	11	5	0	1	1253
Unskilled and defined decision making	21	5	5	0	38	6	1	0	0	0	76
TOTAL PERMANENT	990	137	178	266	1541	178	135	181	50	30	3686
Temporary employees	275	37	9	0	798	63	3	7	2	1	1195
GRAND TOTAL	1265	174	187	266	2339	241	138	188	52	31	4881

Figure 2 below, shows the Licensee's overall gender breakdown of employment equity for the period under review.

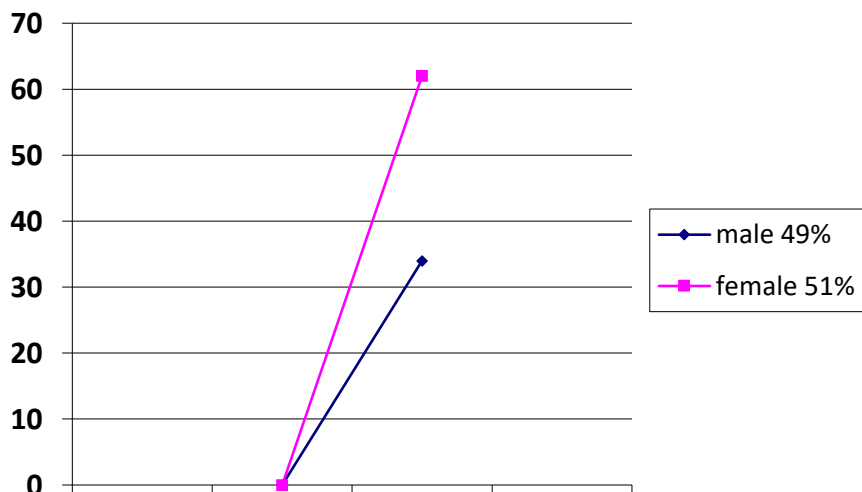


Figure 2: Gender employee breakdown at Multichoice

The Licensee has complied with clause 7.2 and clause 7.3 of its licence.

Clause 7.4 of the licence provides that:

"The Licensee shall submit an annual compliance report in the format prescribed by the Authority"

During the period under review the Licensee submitted its annual report.

The Licensee complies with clause 7.4 of its licence.

3.7 Target Market

Clause 8 of the licence provides that:

"Primarily LSM 2-10 as defined in the All Media Product Survey (AMPS) 2018".

The Licensee confirms that the target market is primarily LSM 2-10 as defined in the All Media Product Survey (AMPS) 2018.

The Licensee complies with clause 8 of its licence. Ownership by Individuals from Historically Disadvantaged groups

Clause 9 of the licence provides that:

"The Licensee shall have no less than 30% ownership by persons from historically disadvantaged groups".

The Licensee submits and confirms that it has more than 30% ownership from historically disadvantaged groups⁷.

The Licensee complies with clause 9 of its licence.

3.8 Financial Year End

Clause 10.1 of the licence provides that:

⁷ Appendix C: B-BBEE Verification Certificate

"The financial year end of the Licensee is 31 March".

Clause 10.2. of the licence provides that:

"If this date changes, the Licensee shall in writing notify the Authority thereof within seven (7) business days of the change".

The Licensee has confirmed that its financial year end is 31 March each year and this is reflected in the Licensee's Audited Financial Statements.

The Licensee complies with clause 10.1 and clause 10.2 of its licence.

3.9 Contribution to broadcasting sector

Clause 11.1 of the licence provides that:

"The Licensee shall promote and support the South African broadcasting industry to the value of R5 000 000.00 (five million Rand) per year, focusing predominantly to disadvantaged groups, SMMEs, students and youths from historically disadvantaged groups".

Clause 11.2 of the licence provides that:

"Within 3 months of its financial year end the Licensee shall deliver to the Authority a written report demonstrating compliance with this clause".

The Licensee submits that during 2018 it invested over R 50 000 000.00 in the MultiChoice Diski Challenge. In 2018, this programme provided revenue, intensive training and television exposure to five (5) community television personnel. The Film Skills development Programme implemented during the year under review had two parts each having a specific focus, and these are:

- (a) Technical Skills Enhancement: The Licensee also provides technical support and equipment to the channels to ensure that they are able to receive and make use of the content rights, and are able to improve the quality of their overall broadcast delivery.
- (b) The Community TV stations that received donations of Final Control Centres and training support are as follows:
 - Tshwane TV
 - 1KZN TV
 - Soweto TV

- Cape TV

During the period under review the Licensee demonstrated compliance with clause 11.1 and clause 11.2 of its licence.

4 REGULATIONS

4.1 Must Carry Regulations⁸

Regulation 4 of the ICASA Must Carry Regulations as published in the Government Gazette, no 31500, 10 October 2008 provides that:

"All Subscription broadcasting service licensees must carry the channels of the Public Broadcasting Service licensee, designated as must carry channels as part of the service offering, subject to Regulation 5" (See Regulations -Appendix D).

The Licensee has confirmed that it complies with this obligation as it carries all three channels of the South African Broadcasting Services (SABC).

Regulation 8 provides that:

"The subscription broadcasting service Licensee must submit a copy of the agreement within thirty (30) of such agreement being concluded and signed".

The Licensee submits that it has signed the Must Carry Agreement as required by Regulation 8, with the SABC. The Agreement was then amended and signed on 04 March 2015.

The Licensee complies with the requirements set out in the Must Carry Regulation

4.2 Subscription Broadcasting Services Regulations⁹

Regulation 3 (1) of the Subscription Broadcasting Regulations as published in the Government Gazette, no 28452, 31 January 2006 provides that:

"A subscription broadcasting service licensee may add a channel to its service unless the Authority, on application by the licensee, has authorised the channel."

⁸ ICASA, 2008, Must Carry Regulations, Gazette no 31500 October 2008

⁹ Subscription Broadcasting Services Regulations

The Licensee confirms that it submitted fifteen (15) applications for the Authority's authorisation in the previous financial year.

Regulation 5 provides that:

"A subscription broadcasting service shall, within 120 days after the end of its financial year of operation, submit to the Authority audited financial statements stating that, in the opinion of the auditor, the accompanying statements give a true and fair view of the licensee's subscription, advertising and sponsorship revenue derived from the provision of the subscription broadcasting service".

The Licensee has submitted its Audited Financial Statements to the Authority for the period ending 31 March 2019.

The Licensee complies with Regulation 5 above.

Section 60(4) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended ("ECA"), provides that:

"Subscription broadcasting services may draw their revenues from subscriptions, advertising and sponsorships, however, in no event may advertising or sponsorships or a combination thereof, be the largest source annual revenue".

The Audited Financial Statements show that the Licensee complies with s 60(4) of the ECA in that, the revenue derived from subscription far exceeds revenue derived from advertising.

The Licensee complies with Section 60(4) of the ECA.

4.3 Licence Fees Regulations¹⁰

According to Schedule 2 of the General Licence Fees Regulations as published in the Government Gazette, no 32084, 01 April 2009:

¹⁰ General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013, as amended.

Individual Commercial Broadcasting Service Licensees are required to pay annually to the Authority a licence fee of 1.5% of its gross profit.

Schedule 3 (4) (b) of the General Licence Fees 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 in September 2019.

The Licensee complies with the Licence Fees Regulations.

4.4 Universal Service and Access Fund Regulations

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:

"Every holder of the 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) provides that:¹¹

"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" (see USAF Regulations attached as Appendix F)

The Licensee paid its annual contribution fee to the fund, less contribution to the MDDA, to the Authority in September 2019. The Authority has confirmed same through the Licensee's AFS. The Licensee requested confidentiality in respect of AFS which was granted.

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

¹¹ USAF Regulations, 2011 as published in *Government Gazette* No. 34010 dated, 10 February 2011.

4.5 South African Television Content Regulations

Regulation 5.4 of the South African Television Content Regulations published in the government gazette No 28454, dated 31 January 2006 provides that:

"A subscription broadcasting licensee must spend a minimum of 10% of its content acquisition budget on acquisition of channels with local content which are compiled and uplinked from South Africa" (See Regulations- Appendix E).

The Licensee confirms that it has during the period under review spent in excess of 15% of its channel acquisition budget on channels with local content that are compiled and uplinked in South Africa.

The Licensee complies with the 10% stipulated under regulation 5.4.

4.6 Standard Terms and Conditions for individual broadcasting licensees Regulations ¹²

During the year under review, the Authority did not identify any non-compliance by the Licensee with the standard terms and conditions for individual licensees (see *Regulations attached as Appendix F*).

4.7 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, provides that:

"Broadcasting service licensees must ensure that their services are made available and are accessible to people with disabilities".

Clause 3.1 (b) provides that:

*"Options for making broadcasting services more accessible may include the following:
Improve and/or increase subtitles and sign language;*

¹² 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

¹³ Code on People with Disabilities as published in the *Government Gazette*, no 30441 dated, 7 November 2007

- (i) *Expand knowledge on various adjustments such as induction loops, Minicom/text phones and alternatives computer software;*
- (ii) *Access to programme support such as fact sheet;*
- (iii) *Website to offer a range of formats (such as electronic versions, Braille and audiotape);¹³*
- (iv) *Use of spoken languages where economic indicators, weather details, telephone numbers and addresses or details of goods and services are ¹⁴shown on-screen;*
- (v) *Use of non-scheduled services such as access via Personal Video Digital Recorders (PVR's) and TV anytime".*

Clause 3.1 (c) provides 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".

The Licensee submits that as part of its compliance with the Code, it has embarked on the following projects aimed at ensuring that its services are accessible to people with disabilities:

➤ **Hearing impaired individuals:**

The Licensee and M-Net have established partnerships with Deaf SA and members of the Deaf community in order to better understand the needs of hearing-impaired viewers. This has played a significant role in assisting with the development and growth of the service to the broader community. Today most of the M-Net channels carry HI subtitles.

The Licensee currently offer Hearing Impaired subtitles on content have increased to 9: Mnet Channel 101; M-Net City (Channel 115); M-Net Movies Premiere (Channel 104); M-Net Movies Action + (Channel 106); M-Net Movies Action (Channel 110); M-Net Movies Zone (Channel 139); M-Net Movies Smile (Channel105); M-Net Movies All Stars (Channel 111) and kykNET (Channel 144).

➤ **Visually Impaired:**

The Licensee and M-Net have steadily been increasing the offering of programming with Audio Descriptive (AD) Tracks. Previously the service was only offered on 4 of the M-Net channels but an additional Channel now carries Audio Descriptive soundtracks for world-class feature films and international series that have them available: M-Net (Channel 101); M-Net Movies Smile (Channel 105); M-Net Movies Action + (Channel 106); 1Magic (Channel 103) and M-Net Movies Premiere (Channel 104).

According to this submission, the Licensee complies with the Code on People with Disabilities.

4.8 Sports Broadcasting Regulations¹⁵

Regulation 9 (2) of the Sports Broadcasting Rights Regulation as published in the Government Gazette, no 33079, 7 April 2010 provides that:

"A broadcaster, who is involved in broadcasting national sporting events, shall file the records of its broadcasts one hundred and twenty (120) days from the date of the publication of these regulations and after every year from the date of the first filing".

The Licensee submitted to the Authority, records of broadcast, on 30 September 2019.

The Licensee complies with the Sports Broadcasting Regulations.

5 CONCLUSION

The Licensee was awarded its commercial subscription television and sound broadcasting service licence by the Authority in August 2008.

For the period 2018/2019 the Licensee has demonstrated compliance with its licence terms and conditions applicable legislation and Regulations.

¹⁵ Sports Broadcasting Rights Regulations, 2018

6 APPENDIXES

- 6.1** Appendix A: Multichoice licence conditions;
- 6.2** Appendix B: Staff Development and Equity Plan Report;
- 6.3** Appendix C: Must Carry Regulations;
- 6.4** Appendix D: Subscription Broadcasting Services Regulations;
- 6.5** Appendix E: Licence Fees Regulations;
- 6.6** Appendix F: USAF Regulations;
- 6.7** Appendix G: South African Television Content Regulations;
- 6.8** Appendix H: Standard Terms and Conditions Regulations;
- 6.9** Appendix I: Code on People with Disabilities; and
- 6.10** Appendix J: Sports Broadcasting Rights Regulations.