



LOTUS FM

ANNUAL COMPLIANCE

REPORT

MARCH 2022

2020/2021 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 Constitution¹, the ICASA Act², the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ 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 2020/2021 financial year. Aspects of compliance that are measured comprise of Format, Local Content Obligations, General Programming Obligations and Training and Skills Development.

Furthermore, the report will measure compliance with regulations that include South African Music Content, Standard Terms and Conditions for Individual Licensees, Universal Service and Access Fund, General Licence Fee, Code of Conduct for Broadcasters, and the ICT Covid-19 National Disaster Regulations⁵ first published in April 2020 and the subsequent amendments following the proclamation of the State of National Disaster.

The ICT Covid-19 National Disaster Regulations as amended have introduced exemptions with specific service licence conditions and/or revised quotas and such will be reflected in the body of the report accordingly.

¹ The Constitution of the Republic of South Africa Act, 1996 (Act No 108 of 1996)

² Act No. 13 of 2000, as amended

³ Act No. 36 of 2005

⁴ Act No. 4 of 1999

⁵ The ICT COVID-19 National Disaster Regulations, 2020 as published in *Government Gazette* No. 43207 dated, 06 April 2020, as amended.

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 broadcasting service 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 based in Durban, in the KwaZulu-Natal province.

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 broadcasting service of the SABC and it is 100% owned by the state.

The Licensee complies with clauses 1 of its licence.

3.2 Geographic Coverage Area

Clause 3 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 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.

The Licensee complies with clause 3 of its licence.

3.3 Language(s)

Clause 4 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 radio station's specialist programmes.

The Licensee complies with clause 4 above.

3.4 Format

Clause 5.1 of the licence states that:

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

Clause 5.2 stipulates that:

"The licensed service shall provide a full spectrum service".

Lotus FM forms part of the public service radio 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 radio station engages in different topical issues of national interest across its programming offerings.

The Licensee complies with clauses 5.1 and 5.2 of its licence.

3.4 Local Content Obligations

Clause 6 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 6.1 different genres; and

Clause 6.2 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 ICT Covid-19 National Disaster Regulations exempt Licensees from submitting quarterly reports as stipulated in their licence terms and conditions. However, Licensees were required to keep the information and submit all that to the Authority upon request.

The SABC submitted Lesedi FM's quarterly reports for the period under review in line with the ICT Covid-19 National Disaster Regulations. The Reports indicated the different genres, the South African music content and programming material for the period under review.

3.5 General programming obligations

3.5.1 General

Clause 7.1.1 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 policy⁶ stipulates that:

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

Lotus FM broadcasts religious and devotional programmes that cater for different religions. Devotional music from different religions is played across different programmes on Sunday evenings. *Bhakti Sungheet* from 17h00 to 19h00 is dedicated to Christianity and *Deenyat*, from 20h00 to 21h00, that is dedicated to the Islam religion. The shows also hold discourse on various religious topics.

The Licensee complies with clause 7.1.1 of its licence.

Clause 7.1.2 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 7.1.2 of its licence.

⁶ An extract from the Licensee's Editorial Policy

Clause 7.1.3 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 Breakfast Express* offers listeners a platform to discuss different topics such as sport, lifestyle, the economy and politics. It also analyses leading stories that are happening in the country. Experts on different topics are interviewed.
- *Life and Style* on weekdays between 10h00 and 12h00 is a lifestyle programme with listener interaction. It discusses a variety of topics including health matters, cooking, disability matters and issues affecting women and children. During the monitoring period, there was a discussion about challenges that affect the elderly in communities. Listeners were given the platform to interact with the expert who was invited to shed light on the health of the elderly.
- *Beyond the Game* is a sports and lifestyle show that caters to listeners of all ages. It is broadcast on Saturdays between 15h00 and 18h00. Different kinds of sports are discussed and analysed and there is also listener interaction.

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

The Licensee complies with clause 7.1.3 of its licence.

3.5.2 News and Current Affairs

Clause 7.2.1 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 quarterly reports submitted by the SABC show that Lotus FM broadcasts approximately sixty (60) minutes of news programming daily.

The following were among the news stories covered:

- *The Hawks say they will make more arrests related to Covid-19 corruption tomorrow. The Hawks, alongside the Special Investigating Unit and the National Prosecuting Authority, appeared before the Parliament standing committee on public accounts to give an update on investigations around Covid-19 related corruption matters. The head of the Hawks, Godfrey Lebea, said six cases are on the court roll, as cooperation between the law enforcement agencies begins to positive results.*
- *The City of Cape Town's Health Department says it's seeking legal protection to prevent land invaders from occupying a tract of land meant for a new clinic in Khayelitsha. Mayoral committee member for Health, Zahid Badroodien, says the need for a new clinic to replace the existing Zakhele Clinic in Langelethu West, was identified in 2009. He said unlawful land occupations have been rampant recently.*
- *KwaZulu-Natal police have arrested two suspects in connection with the fire at the Oval student residence at the University of KwaZulu-Natal Westville campus in Durban, earlier this week. Police spokesperson Nqobile Gwala says the suspects will soon appear in court on charges of arson and malicious damage to property.*
- *A victim of gender-based violence at a woman and child shelter in Phoenix, Durban says she became homeless after she decided to walk out of her abusive marriage. The shelter has seen an increase in the number of women and children seeking refuge from abuse during the Corona virus lockdown. In a recent incident, the burnt bodies of a woman and a teenage girl were found at kwaDabeka outside Pinetown.*
- *The bail hearing of Pastor Timothy Omotoso has been to Monday. Earlier today Omoto's legal team members took to the stand in the High Court in Port Elizabeth. There was focus on his arrest as KwaZulu-Natal Attorney, Bongani Cele took to the stand to explain how he apprehended Omotoso at the airport in April 2017. Cele said Omotoso was manhandled by heavily armed members of the Tactical Response Team and put in the police vehicle. Cele says he had made arrangements for the provincial head of the Hawks, Lieutenant-Colonel Brenda Magwaqa to accompany Omotoso to her office to interview him regarding human trafficking reports. The defence is expected to call Omotoso's wife, Taiwa, to the stand on Monday, while the State will call the Lieutenant-Colonel."*

Sound broadcasting Licensees were exempt from compliance with specific programming requirements and promises of performance during the National State of Disaster. Therefore, findings on compliance with this clause of the licence were not made/determined.

Clause 7.2.2 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 sixty (90) minutes of current affairs programming daily on weekdays and sixty (60) minutes daily on weekends. It broadcasts *Newsbreak* from 12h00 to 13h00 on weekends and from 06h00 to 7h00 on weekdays. There is also a half-hour current affairs slot during *The Lunch Break* on weekdays from 13h00 to 13h30.

The Licensee complies with clause 7.2.2 of its licence.

Clause 7.2.3 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 the content of its programming. The editorial policies further indicate that the Licensee endeavours to meet the highest standards of journalistic professionalism. Further, 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.

Sound broadcasting Licensees were exempt from compliance with specific programming requirements and promises of performance during the National State of Disaster. Therefore, findings on compliance with this clause of the licence were not made/determined.

3.5.3 Drama

Clause 7.3 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 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 confirmed that the radio station broadcasts the drama, *Through the Shadows* on weekdays at 09h45 to 10h00 in the mornings and repeated at 20h45 to 21h00 in the evenings, which amounts to one hundred and fifty minutes a week.

The Licensee complies with clause 7.3 of its licence.

3.5.4 Informal Knowledge Building

Clause 7.4 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 *Life and Style*, *Sunday Masala* on Sundays between 06h00 – 09h00 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. An example is the 'Mind your language' insert on *Sunday Masala* which translates Zulu phrases into English. Interviews with experts from different fields were heard on *Walk the Talk* during the monitoring exercise, including psychologists, biologists, community leaders and publishers.

The Licensee complies with clause 7.4 of its licence.

3.5.5 Training and Skills Development Obligations

Clause 8 of the Schedule to Lotus FM's licence stipulates that:

"8.1 The Licensee must adopt and implement equal opportunity employment Practice.

8.2 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.

8.3 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*

8.4 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 submitted its Employment Equity and Transformation plan⁷ report and its Training and Skills Development that provides a detailed breakdown of its compliance with the above requirements, for the period under review⁸.

The reports indicate that the Licensee has adopted and implemented equal opportunity employment practices and showed that the Licensee has remained committed to diversity and inclusion in the workplace. Its workforce represents the different groups of South African society.

The report further shows that the licensee delivered 765 training interventions for 690 employees. Of the total 690 employees, 491 were Africans, 67 were Coloureds, 41 were Indians, 91 were whites and 14 employees living with disabilities. The Licensee further endeavours to ensure that females are empowered and therefore 53,62% of the total employees trained were female.

Thus, confirming that the Licensee’s policies consider the development of managerial, production, technical and other skills and expertise, particularly regarding the historically disadvantaged persons.

⁷ Appendix B: SABC Employment Equity and Transformation: Report to ICASA, Reporting period: 1 April 2020 – 31 March 2021.

⁸ Appendix C: Skills and Development Report.

Fair and reasonable participation by historically disadvantaged persons is evident at all occupational levels and in decision-making positions.

The Licensee complies with the entirety of clause 8 of the Schedule of its Licence.

3.5.6 Submission of audited financial statements to the Authority:

Clause 9 of the service licence provides 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 Licensee's financial year, provided that the Licensee may on good cause apply to the Authority for an extension."

The Licensee submitted its audited annual financial statements to the Authority within the prescribed period.

The Licensee did comply with clause 9 of the schedule to 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 Content⁹ 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.

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

The SABC's quarterly reports indicated that Lotus FM played an average of 35% South African music during the performance period, supplemented by interviews with South African artists.

Some of the artists featured during the monitoring period were: *Mahendra Shamapersad, Veerasha Lactman, Imran Kamar, Louis Pillay, Yugesh Singh, Preven Moodley and Karolin Govender.*

The monitoring exercise has taken into consideration the impact of the reduced performance period on compliance with this clause and therefore, findings of compliance with this clause of the licence were not made.

4.2 Special Conditions Regarding South African Music Content

Clause 10.1 of the schedule to the licence states the following:

"10.1. In line with the exemption granted in terms of Regulation 44.1-3 of the 2016 Music Regulations, the Licensee shall broadcast 35% of local music and further do the following:

10.1.1 Create four (4) bi-annual lyric writing competitions;

10.1.2 Record religious music to fulfil the religious programming needs;

10.1.3 Co-ordinate workshops for South African artists with visiting overseas artists;

10.1.4 Offer special package to South African artists who want to promote their albums on Lotus FM;

10.1.5 Promote local concerts through publicising them in the station's community news slots;

10.1.6 Profile at least one local artist/group per week;

10.1.7 Encourage local music producers to participate in competitions where they will submit completed works as part of year-end South African Hit Makers programme;

10.1.8 Offer local artists releasing new albums interviews on the station to publicise the album;

10.1.9 Give away local CDs/tapes as a way of increasing support among the audiences for local Indian music;

Sound broadcasting Licensees were exempt from compliance with specific programming requirements and promises of performance during the National State of Disaster. Therefore, findings on compliance with this clause of the licence were not made.

4.3 Regulations regarding Standard Terms and Conditions for Individual Broadcasting Service Licensees

During the period under review, the Authority could not find any non-compliance by the Lotus FM with the Standard Terms and Conditions for individual Licensees.

4.4 Universal Service and Access Fund Regulations

Regulation 3 of the USAF Regulations, 2011¹⁰ 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 Licensee made the prescribed payment and submitted proof thereof to the Authority.

The Licensee complies with Regulation 3 of the USAF Regulations

4.5 Complaints

A Licensee is required, in terms of the Compliance Procedure Manual Regulations, 2011, to submit a Form 12A¹¹ 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.

¹⁰ Published in *Government Gazette* No. 34010 dated, 10 February 2011.

¹¹ Provided for in the ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

5. CONCLUSION

The exemptions and suspensions imposed on Licensees due to the National State of Disaster have been lifted for the next review period. Complete monitoring of compliance with licence conditions and Regulations will be conducted in the next review.

6. TERMS OF REFERENCE

Annexure A : Lotus FM's Service and Spectrum Licences;

Annexure B : Training & Skills Development Report;

Annexure C : Regulations on Standard Terms and Conditions for Individual Broadcasting & Individual Electronic Communications Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010, as amended;

Annexure D : USAF Regulations 2011, published in *Government Gazette* No. 34010 dated, 10 February 2011;

Annexure E : Processes and Procedures Regulations for Individual licences published in *Government Gazette* No. 33293 dated, 14 June 2010, as amended;

Annexure F : ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016;

Annexure G : Proof of SABC's Contribution to USAF; and

Annexure H :The ICT COVID-19 National Disaster Regulations, 2020 as published in *Government Gazette* No. 43207 dated, 06 April 2020, as amended.

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