



MULTICHOICE ANNUAL COMPLIANCE REPORT

MARCH 2022

ANNUAL COMPLIANCE REPORT 2020/2021

MULTICHOICE (PTY) LTD BROADCASTING AS DSTV

Licence Period : 07 August 2008- 06 August 2023

1. PREFACE

The Independent Communications Authority of South Africa (“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 performance for the period 2020-2021. 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 and the ICT Covid-19 National Disaster Regulations⁴ 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, 1996

² ICASA Act no 13, 2000 as amended

³ Electronic Communications Act no 36, 2005

⁴ The ICT COVID-19 National Disaster Regulations, 2020 as published in *Government Gazette* No. 43207 dated, 06 April 2020, as amended.

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 in Multichoice Africa (Pty) Ltd, is as follows: 33.33%.

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area⁵

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.

The Licensee complies with clause 2 of its licence *(See Appendix A).*

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".

⁵ Multichoice licence conditions

The Licensee confirms that the 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 communities. The Licensee has confirmed that its programmes and films are presented in different languages. English is the main language and other languages include Afrikaans, isiZulu, Portuguese, Indian languages for the Indian bouquet as well other foreign 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 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 Obligations⁶

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 female employees.

(b) Leadership Development and Coaching

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 (65%) of the total amount was spent on female employees.

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

The Licensee reports to have spent 80% of its Leadership Development budget on the development of historically disadvantaged groups. Sixty percent (65%) of the total amount was spent on females.

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

3.6 Staff Development and Equity Plan ⁷

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".

⁷ Staff Development and Equity Plan Report

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 as follows:

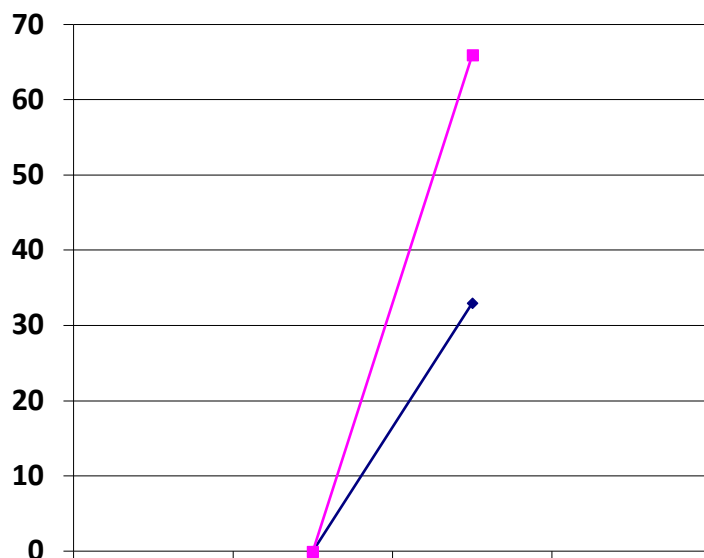
(A) Female

Occupational level	African	Coloured	Indian	White
Top management	4	1	0	2
Senior management	3	1	0	0
Professional and Mid management	7	0	0	1
Skilled and Junior management	1	1	0	1
Semi-skilled	1	0	0	1
Grand total	16	3	0	5

(B) Male

Occupational level	African	Coloured	Indian	White
Top management	1	0	0	0
Senior management	0	0	2	1
Professional and Mid management	4	0	0	3
Skilled and Junior management	3	0	1	0
Semi-skilled	0	0	0	0
Grand total	8	0	3	4

The figure below represents the Licensee's overall gender breakdown of employment equity for the period under review:



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.

3.8 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 36% ownership from historically disadvantaged groups.

The Licensee complies with clause 9 of its licence.

3.9 Financial Year End

Clause 10.1 of the licence provides that:

"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 dates 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.

3.10 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 has demonstrated Compliance with the above clause through various initiatives through its MultiChoice Talent Factory. The programme aims to develop the next generation of African storytellers. It includes a 12-month filmmaking internship programme, masterclasses for training and upskilling industry professionals and a Pan-African digital networking portal for creatives. The internship programme includes producing films for broadcast on M-Net local channels and Showmax.

The Licensee has reported that in the period under review the MultiChoice Talent Factory South Africa achieved the following:

- 14 students graduated from the Academy.
- Students produced 4 movies which were broadcast on Mzansi Magic on DStv.
- 17 bursaries were awarded in January 2021 to students pursuing television and filmmaking qualifications.
- 12 students were selected in January 2021 and R240k was spent on this initiative.

The total value of these initiatives is R7.7million.

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:

⁸ ICASA, 2008, Must Carry Regulations, published in Government Gazette no. 31500 dated, 10 October 2008.

"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 per 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 Regulations.

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"

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".

⁹ Subscription Broadcasting Services Regulations.

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 EC Act 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 Electronic Communications Act, 2005 in that, the revenue derived from subscription fees, far exceeds revenue derived from advertising.

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

4.3 Licence Fees Regulations¹⁰

According to Schedule 2 of the General Licence Fees Regulations as published in the Government Gazette, no 36323 on 28 March 2013:

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 2021.

The Licensee complies with the Licence Fees Regulations.

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

4.4 Universal Service and Access Fund Regulations¹¹

Regulation 3(1) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund ("USAF") as published in the Government Gazette No. 34010 on 10 February 2011, provides that:

"Every holder of the licence granted in terms of Chapter 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of the annual turnover, to the Fund".

Further, Regulation 3(2) provides that:

"A BS Licensee who has paid an annual contribution to the Media Development and Diversity Agency (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 of the same financial year."

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.

4.5 South African Television Content Regulations¹²

Regulation 6(1) of the ICASA Local Television Content Regulations published in the Government Gazette No. 39844, on 23 March 2016 provides that:

"A subscription television broadcasting licensee must ensure that within twenty-four (24) months of gazetting of these regulations in the case of existing licensee or within 24 months of issuing of a licence to a new licensee or within such longer period as the Authority may determine, a minimum of 15% of their annual content acquisition budget is spent on local television content programming".

¹¹ Universal Service and Access Fund ("USAF") as published in the Government Gazette No. 34010 on 10 February 2011

¹² ICASA Local Television Content Regulations published in the Government Gazette No. 39844, on 23 March 2016

Further, Regulation 6(2) provides that:

"A subscription broadcasting service licensee that acquires channels must ensure that, a minimum of 15% of their total annual channel acquisition budget, measured across its service as a whole, is spent on channels with local television content that are compiled and up linked from South Africa".

Furthermore, Regulation 6(3) states that:

"The broadcasting by a subscription television broadcasting licensee of licensed free-to-air public television broadcasting services, licensed free-to-air commercial television broadcasting services and licensed community television broadcasting services will not count towards its compliance."

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

The Licensee complies with the above Regulations.

4.6 Standard Terms and Conditions for individual broadcasting licensees Regulations, 2016¹³

During the year under review, the Authority could not find 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:

¹² Standard Terms and Conditions for Individual 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, 7 November 2007

"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:

- (i) Improve and/or increase subtitles and sign language;*
- (ii) Expand knowledge on various adjustments such as induction loops, Minicom/text phones and alternatives computer software;*
- (iii) Access to programme support such as fact sheet;*
- (iv) Website to offer a range of formats (such as electronic versions, Braille and audiotape);¹⁴*
- (v) Use of spoken languages where economic indicators, weather details, telephone numbers and addresses or details of goods and services are ¹⁵shown on-screen;*
- (vi) 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 submits that all its M-Net channels and programmes have subtitles. established partnerships with Deaf SA and members of the Deaf community to better understand the needs of hearing-impaired (HI) 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 offers 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 (Channel 105); M-Net Movies All Stars (Channel 111) and KykNET (Channel 144).

The Licensee further submits that it has included for the first time, live voice to text technology on Sky News channel, (channel 402), making it the first live news channel in South Africa to offer this feature. The subtitles are inserted via "voice-to-text" technology which allows the subtitles to be delivered, without delay during a live broadcast.

➤ *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 Regulations¹⁶

Regulation 9 (1) of the Sports Broadcasting Services Amendment Regulations, 2021 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

¹⁶ Sports Broadcasting Services Amendment Regulations, 2021

the publication of these regulations and after every year from the date of the first filing”.

The Licensee submitted records of its broadcasts as per Regulation 9(1) above. Therefore, the Licensee complies with the above-mentioned Regulation.

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. On the whole, Multichoice has complied with its licence conditions and the relevant Regulations during the year under review.

6 TERMS OF REFERENCE:

Appendix A: Multichoice licence conditions

Appendix B: Staff Development and Equity Plan Report

Appendix C: Must Carry Regulations

Appendix D: Subscription Broadcasting Services Regulations

Appendix E: General Licence Fees Regulations

Appendix F: USAF Regulations, 2011

Appendix G: South African Television Content Regulations, 2016

Appendix H: Standard Terms and Conditions for Individual Broadcasting & Individual Electronic Communications Services, 2016

Appendix I: Code on People with Disabilities

Appendix J: Sports Broadcasting Rights Regulations, 2021

Appendix K: The ICT COVID-19 National Disaster Regulations, 2020 as amended.