



THOBELA FM

ANNUAL

COMPLIANCE REPORT

MARCH 2022

2020/2021 ANNUAL COMPLIANCE REPORT

SOUTH AFRICAN BROADCASTING CORPORATION (SABC) BROADCASTING AS THOBELA 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.

Further, 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

Thobela FM is an Individual Sound Broadcasting Service Licensee of the South African Broadcasting Corporation (SABC). The radio station's mandate is to provide a full spectrum service to the geographic areas⁶ of Gauteng; Mpumalanga and Limpopo. The radio station is in Polokwane, Limpopo province. For the period 2020/2021, there was no audience measurement report from the Broadcast Research Council of South Africa (BRC). However, for the licensee, the listenership figures for the previous reporting period was 2, 963 000⁷.

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: 100%*

1.3 *Ownership by persons from historically disadvantaged groups: N/A*

For the period under review, there were no changes in the name and shareholding of the Licensee. Thobela FM forms part of the public service division of the SABC and continues to be fully owned by the State.

The Licensee complies with clauses 1 of its licence.

3.2 Geographic Coverage Area

Clause 3 of the Schedule to the licence states that:

"The geographic coverage area is as defined in the map attached to the radio frequency spectrum licence".

The radio frequency spectrum licence outlines the radio station's coverage areas to be in Gauteng, Mpumalanga, and Limpopo Province. The Licensee's transmitter sites are stationed in *Blouberg; Dullstroom; Ga-Mabula;*

⁶ Frequency Spectrum Licence

⁷ <https://brcsa.org.za/brc-ram-listenership-report-jan19-dec19/>

Haenertsburg; Hoedspruit; Johannesburg; Kwaggafontein; Louis Trichardt; Middleburg; Nylstroom; Potgietersrus; Pretoria; Thabazimbi; Tolwe and Tzaneen. The Licensee maintains that its coverage area is as defined in the frequency spectrum licence and no changes to the coverage area have been reported.

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

3.3 Language(s)

Clause 4 of the licence states that the language of broadcast is as follows:

"Principal Language: Sepedi".

The Authority's monitoring exercise confirmed that Thobela FM's principal language of broadcast is Sepedi. This is applicable on all programmes including news, sports, advertisements, and other general programming.

The Licensee complies with clause 4 above.

3.4 Format

Clause 5.1 of the Schedule to the licence states that:

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

On 03 July 2020, the SABC released to the public, the revised SABC Editorial Policies after a public consultation process. The policies, which were initially launched in 2004 are, according to the Licensee, a much-needed refresh that takes into account the changes in the broadcasting environment, public interest obligations and evolving content consumption patterns, among others.

The principle of editorial independence is entrenched in the SABC's Editorial Code, which states that *"The scope of the public service mandate means that the SABC has to provide consistent, relevant, useful and high-quality content, including information and analysis"*.

The Licensee is consistent in providing up to date news and information that is delivered in an unbiased manner, whilst providing a platform for the public to participate and air their different views.

Clause 5.2 stipulates that:

"The licensed service shall be a full-spectrum service".

The monitoring exercise found that the Licensee is consistent in its provision of content that covers a wide range of audience from school-going children to a retired grandparent at home. This is evident in its broad selection of programmes as well as the music selection.

The Licensee complies with clause 5.1 and 5.2 of the Schedule to 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 did exempt Licensees from submitting quarterly reports as stipulated in their licence terms and conditions, during the period under review. However, Licensees were required to keep the information and submit to the Authority upon request. The SABC submitted Thobela 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.

3.6 General programming obligations

3.6.1 General

Clause 7.1.1 stipulates that:

"The Licensee shall ensure that its programming adequately reflects the diversity of South Africa's Religions".

The SABC's Editorial Policy on Religious Content⁸ stipulates that:

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

The Licensee strives to cater for religious content that is, broadly speaking, unbiased and representative of the radio station's public interest mandate. Further, the various religious content available on the programme line-up, be it music or general content, is one that is in keeping with the regional demographics of the station.

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 tradition needs of the audience".

The monitoring exercise found diverse programming that seeks to address the diversity of traditions and cultures enjoyed by the licensee's target audience. The long-standing show of *Mekgolokwane* is an example of a celebratory experience of traditional weddings practiced in African cultures. The show is rooted in family values that are shared amongst a wide group of people. The show airs every Saturday morning between 09:00 – 10:00.

The Licensee complies with clause 7.1.2 of its licence.

Clause 7.1.3 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".

⁸ An extract from the Licensee's Editorial Policy

For the period under review and in line with the ICT COVID-19 National Disaster Regulations, the performance period was shortened by a period of at least four (4) hours, which resulted in some programmes not airing as per regular programming schedule.

Notwithstanding the above, the Licensee continues to demonstrate considerable amount of care in its selection of programmes that cater to the above stated categories of health and gender issues. The monitoring exercise found the show *Sedibeng* (weekdays between 09:00 – 12:00), discussing gender-based violence and other social ills that affect society and ways of reporting such occurrences.

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".

For the period under review and in line with the ICT COVID-19 National Disaster Regulations, the performance period was shortened by four (4) hours, which resulted in some programmes not airing as per regular programming schedule. However, the few news extracts that were found by the monitoring exercise, were the following:

- *"Mokgahlo wa bashumi, elego NUM, o tshoshetsa go thoma boipelaetso kgahlanong le di company tsa meepo elego DeBeers; Exxaro le Petra Diamonds, morago ga gore di therishano tsa megolo di bethe kota go monamudi CCMA. NUM ere e hweditse lengwalo la go e dumelela go ipelaetsa, efela ere etla tsibisha gore eya go ipelaetsa neng. NUM e re e nyaka hlatlosho ya percente tse seswai fegelwana hlano, mola company e shishinya percente tse nne. William Mabapa elego mma ditsela wa NUM ore gase ba sepela botse mo ditherishanong tseo, gomme bona ba eme ka la gore ba nyaka hlatlosho ya di percente tse seswai fegelwana hlano*
- *Komishene ya go ikema ya dikgetho IEC ka Afrika Borwa ere e itukisheditse go ruma ka boingwadisho bja dikgetho lehono le gosasa, dikgethong tsa tlaleletso mebasepaleng ye masome tshela go rala ne naga. Dikgetho tseo dia go swarwa kgwedi yeo etlago ka la lesome tee.*

Go le bjalo go sa lebeletswe gore batho baa dikete tse makgolo tshela ba ingwadishetse go vouta dikgethong tseo. Mohlankedi phethishi wa IEC Sy Mamabolo ore ba paletswe ke go swara dikgetho go tloga kgwedding ya Hlakola lenyaga.

- *Mosekaseki wa dipolotiki Somadoda Fikeni o re go golela godimo ga boleng bja masheleng ao a shomishitswego komisheneng ya di nyakishisho tsa go goga ga mmusho ka nko kamo Afrika Borwa, ekaba gona go bakilego di kgolego tsa bao ba latofatswago ka bo fora le bo menetsa go ralla le naga. Maloko a ANC go akaretswa leloko la pele la Palamente Vincent Smith le meyara wa pele wa Mangagung Oli Mlamleli le bo rragwebo ba bangwe ba golegilwe matsatsing a go feta. Fikeni ore ma Afrika Borwa a nyaka go bona ba sekishwa gomme toka e phethagatswa.*
- *Tirelo ya poloko ya Lt Col Charl Kinnier ea kgatlampana ka Cape Town. Mo Comandara yoo wa lekala la go lwantsha bosinyi ba di gongwana tsa bosinyi, o thuntshitswe ale ka ntlong ya gagwe ka Bishop Levies kgwedding ya go feta.*
- *Pego yeo e latelelago e na le diteng tsa go shiisha, ge o shia, tloga kgauswi le seya le moya: Maphodisa provinseng ya Free State a sa nyakana le mogonolelwa malebantsha le polao ya molaodi wa polase ya Die Rots ka Paul Roux. Mmoleledi wa maphodisa Mantanti Makhele o re maphodisa a hweditse setopo sa Brendan Horner wa mengwaga ye masome pedi tee maabane mesong, se bofilwe paleng.”*

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".

For the period under review and in line with the ICT COVID-19 National Disaster Regulations, the performance period was shortened by a period of at least four

(4) hours, which resulted in some programmes not airing as per regular programming schedule.

The monitoring exercise however, found "*Hlokoa La Tsela: Ntshebele motho o sebela ke wagabo*" as well as *Tabakgolo* airing on weekdays in the morning and evening.

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".*

Following the recent review of the SABC's Editorial Policies in July 2020, the Licensee placed great emphasis on protecting the editorial process at the public broadcaster. The Licensee has maintained an unbiased reporting that the public can rely on. The monitoring exercise found *Hlokoa la Tsela* (weekdays between 06:00 – 07:00), a current affairs programme to be objective, engaging and informative to the audience. On this programme, the issue of the then planned strike by labour union COSATU and its affiliates, was discussed. Listeners were given a balanced view of all information related to the strike and why it would be necessary to embark on this process. The packaging of this and other programmes offered by the Licensee demonstrates editorial independence that can be relied upon.

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 Programming targeted at Children

Clause 7.3.1 of the licence stipulates that:

"The Licensee shall, in the provision of the licensed service, broadcast at least one (1) hour programming targeted at children (as contemplated in section 10(1) (g) of the Broadcasting Act) per week during the South African performance period".

For the period under review and in line with the ICT COVID-19 National Disaster Regulations, the performance period was shortened by a period of at least four (4) hours, which resulted in some programmes not airing as per regular programming schedule.

However, the monitoring found among others, *Lesang Bana*, which is a children-oriented programme that is not only entertaining but educational for its target audience.

The Licensee complies with clause 7.3.1 of the schedule to its licence.

Clause 7.3.2 stipulates that:

"In the production of its children's programming, the Licensee shall ensure that children's programming is:

- (i) broadcast at the times in the day when children are available to listen;*
- (ii) Targeted at and appropriate for children between the ages of nought (0) to six (6) years and seven (7) to twelve (12) years respectively; and*
- (iii) educational and is made from a children's point of view".*

The monitoring exercise confirmed that the children's programmes are provided from a point of view of children.

The Licensee complies with clause 7.3.2 of its licence.

3.5.4 Educational Programming

Clause 7.4 of the licence stipulates that:

"The Licensee shall broadcast at least five (5) hours of educational programming (as contemplated in section 10(1) (e) of the Broadcasting Act) per week within the South African performance period".

For the period under review, and in line with the ICT COVID-19 National Disaster Regulations, the performance period was shortened by a period of at least four (4) hours, which resulted in some programmes not airing as per regular programming schedule.

However, on the programme *Mofahloshi* which is developed in conjunction with SABC Education had *hlogo poledishano* or topic of the increased number of school dropouts by a worrying number of learners. Experts from the education sector were invited to provide their opinions on the matter, including Marola Rasethaba from the education department and other stakeholders such as the unions, SADTU and the PSA.

Further, the Licensee, in partnership with the Department of Education, embarked on a matric exam preparation drive where learners were assisted in Sepedi on some of their subjects. This was in line with COVID related provisions which put lockdowns on regular school attendance, which naturally affected school going children.

The Licensee complies with clause 7.4 of its licence.

3.5.5 Drama

Clause 7.5 of the licence stipulates that:

"The Licensee shall broadcast at least two and a half (2 ½) hours of drama per week within the South African performance period".

For the period under review and in line with the ICT COVID-19 National Disaster Regulations, the performance period was shortened by a period of at least four (4) hours, which resulted in some programmes not airing as per regular programming schedule.

The long-standing radio drama, *Mahlakung*, airs weekdays in the evenings and is repeated just before midday.

Further, throughout the day, the monitoring exercise found that the programme is previewed at regular intervals in between shows. This is a popular drama that talks about social issues. It is entertainment for young and old, for anyone who understands the language of Sepedi.

The Licensee complies with clause 7.5 of its licence.

3.5.6 Informal Knowledge-Building Programmes

Clause .6 of 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".

For the period under review and in line with the ICT COVID-19 National Disaster Regulations, the performance period was shortened by a period of at least four (4) hours, which resulted in some programmes not airing as per regular programming schedule.

The monitoring exercise found among other shows, *Mahlale Pepeneneng* (weekdays between 21:30 – 22:00), discussing various information sharing and educational topics such as role of drivers in road safety and other tips for ensuring compliance with roadworthiness.

The Licensee complies with clause 7.6 of its licence.

3.6 Training and Skills Development Obligations

Clause 8 of the schedule to SABC 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 to the Authority, its Employment Equity and Transformation plan⁹ report and its Training and Skills Development, within 30 days of the end of the financial year. The report provides a detailed breakdown of its compliance with the above requirements for the period under review¹⁰.

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.

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.

⁹ Appendix D: SABC Employment Equity and Transformation: Report to ICASA, Reporting period: 1 April 2020 – 31 March 2021.

¹⁰ Appendix D: Skills and Development Report.

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 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 within the regulatory timeframes.

The Licensee complies with clause 9 of its licence

4. REGULATIONS

4.1 ICT COVID-19 National Disaster Regulations

Following the government’s declaration of the National State of Disaster under the Disaster Management Act, 2002, the Authority published the ICT COVID-19 National Disaster Regulations in April 2020, and its subsequent Amendments. The purpose of the regulations was, amongst others to prescribe minimum standards for Licensees in line with the National State of Disaster. The regulations generally provided for the relaxation of some obligations for Licensees under prevailing circumstances. The exemptions and/or suspensions for Broadcasting Licensees include:

- *The performance period was shortened from 05h00 – 23h00 to 07h00 – 21h00;*
- *The requirement for licensees to submit programming logs and recordings to the Authority quarterly was suspended;*
- *Television broadcasting service Licensees were exempted from compliance with the local television content quotas and specific advertising and programming requirements in terms of licence conditions during the National State of Disaster;*
- *Sound broadcasting service Licensees were exempted from compliance with specific programming requirements and promises of performance in terms of licence conditions during the National State of Disaster; and*

- *Sound broadcasting service Licensees to comply with the local content music quotas.*

There were no incidents of non-compliance with the ICT COVID-19 National Disaster Regulations for the period under review.

The Licensee complies with the ICT COVID-19 National Disaster Regulations.

4.2 ICASA South African Music Content Regulations

Regulation 3 (1) of the South African Music Content¹¹ 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."

The monitoring exercise reflects adherence to the 70% minimum requirements of the South African Music Content. The Licensee's playlist is a balanced combination of almost all genres related to African pop, kwaito, house, jazz, gospel and blues. Audiences, young and old are catered for in the diverse programme schedule. Artists found on the playlist include *Mr Dilo Tsaka and Ben 10; Straight Talk; Msaki; Buhle; Josiah De Disciple; The Movers; Caiphus Semanya; Judith Sephuma; Neyi Zimu; Takie Ndou; Thinah Zungu; DJ Cupachino & Motlanalo, Master KG* and others.

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

4.3 Regulations regarding Standard Terms and Conditions for individual licences

¹¹ South African Music Content Regulations

During the Authority's monitoring exercise, no incidents of non-compliance with the Standard Terms and Conditions for Individual Licences could be found for the period under review.

The Licensee complies with the Regulations on Standard Terms and Conditions for Individual Licensees.

4.4 Universal Service and Access Fund Regulations

Regulation 3 of the USAF Regulations¹² 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".*

A confirmation of the Licensee's annual contribution to the MDDA was received from the Licensee and this was done within the stipulated timeframes.

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

4.5 COMPLAINTS

Form 12A: Complaints Report of the Compliance Procedure Manual Regulations read with the Code of Conduct for Broadcasters require that broadcasters complete the form bi-annually in accordance with the Licensees' Financial Year.

The Licensee is affiliated to the National Association of Broadcasters ("NAB"), and any complaint related to this Licensee, is administered through the Broadcasting Complaints Commission of South Africa ("BCCSA"). For the period under review, there were no complaints escalated to ICASA.

¹² Universal Service and Access Fund Regulations

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.

The Licensee has broadly complied with its licence terms and conditions and related Regulations for a public broadcasting service, during the period under review.

6. TERMS OF REFERENCE

Annexure A	: Thobela FM's Broadcasting Service Licence
Annexure B	: Thobela FM's Frequency Spectrum Licence
Annexure C	: Extract from the Licensee's Revised Editorial Policy (2020)
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	: Proof of SABC's Contribution to USAF

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