



# **TRU FM ANNUAL COMPLIANCE REPORT**

**MARCH 2022**

# **2020/2021 ANNUAL COMPLIANCE REPORT**

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

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

### **1. PREFACE**

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution<sup>1</sup>, the ICASA Act<sup>2</sup>, the Electronic Communications Act<sup>3</sup> ("ECA") and the Broadcasting Act<sup>4</sup> to regulate broadcasting activities in South Africa in the public interest. Among the responsibilities of the Authority is the task to ensure compliance by broadcasting service licensees with the terms and conditions of their licence and any relevant legislation and/or regulations.

This report seeks to give an account of Tru FM's compliance with the terms and conditions, as set out in its license, in the financial year that ended March 2021. Aspects of compliance that are measured in the report, will be different to the norm. The deviation from the norm was brought about by the introduction of the ICT Covid-19 Regulations in April 2020<sup>5</sup>, following the proclamation of the State of National Disaster.

The Regulations considered the envisaged effect of the National Lockdown on the Broadcasting Sector and therefore, Licensees were exempt from compliance with most of their obligations. Apart from the exemptions provided by the ICT Covid-19 Regulations, the shortened South African Performance Period could distort the licensees' programming output when measured against the licence obligations.

Consequently, therefore, this report will measure and conclude on lesser aspects of compliance compared to ordinary annual compliance reports.

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<sup>1</sup> The Constitution of the Republic of South Africa, No 108 of 1996

<sup>2</sup> Act No. 13 of 2000, as amended

<sup>3</sup> Act No. 36 of 2000

<sup>4</sup> Act No. 4 of 1999

<sup>5</sup> ICT Covid-19 Regulations as amended

## **BACKGROUND**

Tru FM – as part of the SABC – was issued with an Individual Sound Broadcasting Service licence which provides for an Urban Contemporary Music format, to East London, King Williams Town and Queenstown.

### **3. COMPLIANCE ASSESSMENT**

#### **3.1. Geographic Coverage Area**

Clause 3 of the schedule to Tru FM's license provides that the radio station must provide service to:

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

Tru FM's frequency spectrum licence<sup>6</sup> provides that the radio station covers the following areas: East London, King Williams Town and Queenstown. The SABC confirms that its coverage area is as defined in its frequency spectrum licence.

In the year under review, the Authority did not receive any complaints alleging that the Licensee is in contravention of its frequency spectrum licence.

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

#### **3.2. Language(s)**

Clause 4 of the schedule to the licence stipulates that Tru FM's language split is as follows:

*"Principal Language: 60% English and 40% isiXhosa".*

The Authority's monitoring exercise found that the main languages of broadcast on Tru FM, are English and isiXhosa, with English dominating the schedule.

**The Licensee complies with clause 4 of the schedule to its licence.**

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<sup>6</sup> Tru FM's Frequency Spectrum Licence

### 3.3 Format

Clause [5].1 of the schedule to the licence stipulates that:

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

Further, clause [5].2 of the schedule to the licence stipulates that:

*"The licensed service shall provide a service with an Urban Contemporary Music Format".*

A monitoring exercise carried out on TRU FM's programming profile confirmed that the radio station is a public radio station of the SABC and offers a full-spectrum service with an Urban Contemporary Music format to its audience, as outlined in the licence.

**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 sets out the following obligation:

*"In each licence year, the Licensee shall, within thirty (30) days of end of the quarter, submit to the Authority written records indicating the extent of:*

*6.1 different genres; and*

*6.2 South African Music Content, in programme material broadcast on 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. However, Licensees were required to keep the information and submit to the Authority upon request. The SABC submitted Tru FM's quarterly reports for the period under review in line with the ICT Covid-19 National Disaster Regulations.

The Reports indicated their compliance with different genres, the South African music content and programming material for the period under review.

### **3.5 GENERAL PROGRAMMING OBLIGATIONS**

Hereon further, this report will outline the findings on TRU FM's performance, based on the monitored recordings for the period under review. It is to be noted that the Licensee's performance may possibly be affected by the Lockdown Level 5, in response to the Covid-19 outbreak in the country.

#### **3.5.1 General**

Clause 7.1.1 of the schedule to the licence stipulates that:

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

The SABC's editorial policy<sup>7</sup> makes the following provision:

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

TRU FM's religious programming was identified as reflecting the religions of the isiXhosa speaking community in the Eastern Cape and is mostly based on Christianity.

The Authority's monitoring exercise found the following programmes which contained religious content that is suited for the isiXhosa speaking community.

- "Hlalani Kum Nam ndihlale kuni" broadcast between Monday and Sunday – except Saturdays – in the three hours starting 19h00 until 22h00.
- "Isingqi seZulu" goes to air on Sundays between 06h00 and 09h00 and is a gospel music show which features local and international gospel musicians.

**The Licensee complies with clause 7.1.1 of the schedule to its licence.**

Clause 7.1.2 of the schedule to the licence stipulates that:

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<sup>7</sup> An Extract from the Licensee's Editorial Policy

*"The Licensee shall take reasonable steps to provide programming that reflects the cultural and tradition needs of its audience".*

The Authority's monitoring exercise found that, TRU FM's programming carries content that is reflective of the cultures and traditions of the people living in the Eastern Cape.

The programme, *"The Nest"* was identified as having elements of cultural programming on Tru FM. *"The Nest"* goes to air on Sundays between 09h00 and 12h00.

**TRU FM complied with clause with clause 7.1.2 of the schedule to the licence.**

Clause 7.1.3 of the schedule to the licence provides as follows:

*"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 monitoring exercise found that the Licensee's programming profile caters for the interests of all sectors of the South African society – within the Eastern Cape community. The programmes that were identified as catering for all sectors of the South African society and featured programmes on health and gender related issues relevant to all age groups, were the following:

- *"Incoko"* – every weekday 30-minute insert between 18h30 and 19h00. This show tackles different lifestyle and everyday life issues. The topics offered would cater for different sectors in that the show is not focused on just one sector of the society.
- *The Midday Frequency* – a weekday feature that provides informative segments that would serve to equip those seeking employment and discussions on other factors within the society.
- *"The Avenue"* – educational content for small children and teenagers alike. The show was identified between 15h00 and 17h00 and 15h00

during week-days. All aspects of growing up from classroom to being teenager were identified as topical issues during this programme.

- "Hlalani Kum, Nam ndihlale kuni" – catering and carrying content that addresses the Christian believer of all ages and physical orientation;
- "TruSport"– catering and carrying content that speaks to the sports lover within the listenership.
- "After Hours" – on Sunday evening programme that focuses on the overall family but mostly focused on the learners and providing insight into life in tertiary.

**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 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 SABC's quarterly reports indicate that Tru FM broadcasts at least 65 minutes of news each day during within the South African performance period.

The ICT Covid-19 Regulations did exempt Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause and no conclusion will be drawn.

Clause 7.2.2 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast at least thirty (30) minutes of current affairs programming each day during the South African performance period".*

The SABC's quarterly submission suggests that the radio station broadcasts at least 72 minutes (averaged out over 7 days to cater for the "each day" provision) of Current Affairs Programming each day, during the South African performance period.

**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 7.2.3 of the licence stipulates that:

*"The Licensee shall in the production of its news and current affairs programming:*

- i. Exercise full editorial control in respect of 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 a reasonable opportunity for the public to receive a variety of points of view on matters of public concern".*

The Licensee's editorial policies indicate that the Licensee exercises full editorial control in respect of contents of its programming. The editorial policies further indicate that the Licensee endeavours to meet the highest standards of journalistic professionalism. Further, the editorial policies provide for fair, unbiased and impartial coverage independent from government, commercial or other interference. The Licensee's Editorial Policies form part of the SABC's Charter.

**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.**

### **3.5.1 Programming targeted at Children**

Clause 7.3.1 of the schedule to the licence stipulates that:

*"The Licensee shall in the provision of the licensed service, broadcast at least thirty (30) minutes of programming targeted at children (as contemplated in section 10 (1) (g) of the Broadcasting Act) per week during the South African performance period".*



Clause 7.3.2 of the schedule to the licence stipulates that:

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

- (i) broadcast at times of 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;*
- (iii) educational and is made from children's point of view".*

The Licensee's quarterly reports indicate that TRU FM broadcasts at least 60 minutes of children's programming per week during the South African performance period.

### **3.5.2 Educational Programming**

Clause 7.4 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast at least two (2) hours of educational programming (as contemplated in section 10 (1) (e) of the Broadcasting Act) per week within the South African performance period".*

The Licensee's quarterly submission report that TRU FM provides eight (8) hours of educational programming, per week, during the South African performance period.

### **Informal Knowledge Building Programmes**

Clause 7.6 of the schedule attached to the licence stipulates that:

*"The Licensee shall broadcast at one (1) hour of informal knowledge-building programming per week within the South African performance period".*

TRU FM reports to have aired an average weekly output of at least 22 hours of Informal Knowledge Building programming per week during the South African performance period.

**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.**

### **Training and Skills Development Obligations**

Clause 8 of schedule attached to the licence stipulates as follows:

- 8.1 *"The licensee must adopt and implement equal opportunity employment practices;*
- 8.2 *The licensee must ensure that its management and staff are representative of South African society and that its human resource policies takes 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 with written information regarding its compliance with the above requirements".*

The Licensee submitted to the Authority, its Employment Equity and Transformation plan 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 review.

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, the training interventions confirm that the Licensee's policies considers seriously, the development of managerial, production, technical and other skills and expertise, particularly with regard to 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 its training and skills developments obligations.**

### **3.7 Provision of Audited Financial statements to the Authority**

Clause 9 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 annual financial statements.

**The Licensee complies with clause 9 of the schedule to its licence.**

## **4. REGULATIONS**

### **4.1 Compliance Procedure Manual – Form 12A**

The Licensee has an obligation, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A<sup>8</sup> which reports on all complaints received in each financial year. The SABC submitted its complaints report in accordance with the Compliance Procedure Manual Regulations.

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<sup>8</sup> SABC Form 12A

According to the above-mentioned submission, there were no complaints received against TRU FM in the year that ended March 2021.

#### **4.2 ICASA South African Music Content Regulations**

Regulation 3 of the ICASA South African Music Content Regulations 2016<sup>9</sup> stipulates that:

"A holder of a public sound broadcasting 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 such South African music is spread evenly throughout the performance period."

The Licensee's music play list is dominated by works of South African musicians. TRU FM's music content is made up of approximately 80% South African Music. The following music artists enjoy airtime on TRU FM's music play list: Zakes Bantwini, Makhadzi, Prince KB, Nomcebo Zikode, Sjava, Master KG, Nandi Mngoma, Casper Nyovest, Proverb, AKA, Ricky Rick, Thandiswa Mazwai, Busiswa, Big Zulu, Mafikizolo, Something Soweto, Micasa, Lebo Sekgobela, Malibongwe Gcwabe, Kelly Khumalo, Hlengiwe Mhlaba, Amadodana aseWesile, Sifiso Ncwane and many other artists whose music ticks the "South African Music" box requirements.

**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 Standard Terms and Conditions for individual broadcasting licences**

Regulation 11 (3) of the standard terms and conditions<sup>10</sup> stipulates that:

*"A station must clearly identify itself at intervals of not more than thirty (30) minutes."*

The Licensee's jingles/announcement were identified frequently during the period under review and these broadcasts were at intervals of not more than ten (10) minutes apart. The jingles/announcement always carried the name and frequency

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<sup>9</sup> ICASA South African Music Content Regulations

<sup>10</sup> Regulations regarding the Standard Terms and Conditions for Individual Licensee's

location of the Licensee. Further, no non-compliance with the standard terms and conditions for individual licences, was found.

**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 Regulations<sup>11</sup> stipulates that:

- (1) "Every holder of a licence granted in terms of Chapters 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of its Annual Turnover to the Fund".*
- (2) "A BS licensee who has paid an annual contribution to the MDDA must set off that contribution against its USAF Contribution, provided that the MDDA contribution and the USAF contribution against which it is set off are for the same financial year".*

The SABC made the prescribed payment and submitted proof thereof to the Authority.

**Tru FM complied with Regulation 3 of the 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.

## **6. TERMS OF REFERENCE**

**Appendix A:** ICT Covid-19 Regulations as amended

**Appendix B :** TRU FM's Broadcasting Service Licence

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<sup>11</sup> Universal Service and Access Fund Regulations

**Appendix C :** TRU FM's Frequency Spectrum Licence

**Appendix D :** SABC Editorial Policy (An extract)

**Appendix E :** SABC's Employment Equity Report

**Appendix F :** SABC's Skills and Development Report

**Appendix G :** SABC's Form 12A

**Appendix H:** Local Content Regulations

**Appendix I :** Standard Terms and Conditions Regulations

**Appendix J :** Universal Service and Access Fund Regulations

**END**