



5 FM ANNUAL COMPLIANCE REPORT

FEBRUARY 2017

2015/2016 ANNUAL COMPLIANCE REPORT

5 FM

Licence Period: 18 December 2008 - 17 December 2018

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution, the ICASA Act, the Electronic Communications Act (ECA) and the Broadcasting Act to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority, is to ensure compliance by broadcasters with the terms and conditions of their licence, and any relevant legislation and regulations.

The purpose of the report is to give an account of 5 FM's compliance with the terms and conditions as set out in its license for the 2015/2016 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Community Participation, Programming, Format, News and Information, Local Content Obligations, Language(s), South African Music Regulations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund (USAF) and Complaints.

2. BACKGROUND

5 FM is an Individual Commercial Sound Broadcasting Service Licensee of the South African Broadcasting Corporation ("the SABC"). The radio station's mandate is to provide a full spectrum service to the geographic areas of Gauteng, Free State, Western Cape, Northern Cape, Eastern Cape, North West, Kwazulu-Natal, Mpumalanga and Limpopo

COMPLIANCE ASSESSMENT

3.1 Ownership and Control

Clause 1.1 of the licence states that:

"Name of the Company/Entity: The South African Broadcasting Corporation"

Clause 1.2 of the licence states that the shareholders are as follows:

"Shareholders: The State: 100%"

Clause 1.3 of the licence states as follows:

"Ownership held by persons from historically disadvantaged groups: NA"

5 FM forms part of the commercial service of the SABC and is 100% owned by the State through the SABC.

The Licensee complied with clauses 1.1, 1.2 and 1.3 of its licence.

3.2 Geographic Coverage

Clause 2 of the schedule to the licence states that:

"The 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 is in the provinces as follows: Gauteng, Free State, Western Cape, Northern Cape, Eastern Cape, North West, Kwazulu-Natal, Mpumalanga and Limpopo.

The Licensee complied with clause 2 of the schedule of its licence.

3.3 Language(s)

Clause 3 of the schedule to the licence states that the language of broadcast is as follows:

"Principal Language: English".

The radio station's principal language of broadcast is English.

The Licensee complied with clause 3 above.

3.4 Format

Clause 4.1 of the schedule to the licence states that:

"The licensed service shall be a sound broadcasting service in a Contemporary Hit Radio format".

The radio station provides a Contemporary Hit Radio format to its audience. This is evident in the shows on the station's line-up such as *Weekend Breakfast* hosted by Thomas Msengana; *Power After Hours* hosted by Linda Mbuso and *Hamman Time* hosted by Nick Hamman. These are some of the examples of a contemporary radio format featured on the station.

The Licensee complied with clause 4.2 of the schedule to its service licence.

Clause 4.2 of the schedule to the licence states that:

"The format may not deviate by no more than fifteen percent (15%) from the above format".

The Authority's monitoring exercise confirmed that there was no deviation from 5 FM's Contemporary Hit Radio format. Shows such as *The Infintite Playlist* with Marika Marais and *5FM Top 40* confirm the station's contemporary hit radio format. The shows play contemporary hits that the audience know and enjoy

The Licensee complied with clause 4.2 of the schedule to its licence.

Clause 4.3 states that:

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

5 FM is categorised as the commercial radio station of the SABC as outlined in the licence. This was also confirmed in the Licensee's completion of Form 9A of the Compliance Procedure Manual Regulations.

The Licensee complied with clause 4.3 of the schedule to its licence.

3.5 General programming obligations

3.5.1 General

Clause 6.1.1 of the schedule to its licence states that:

"To the extent that licensee provides programming of a religious nature, the Licensee shall ensure that its programming adequately reflects the diversity of South Africa's Religion".

The Licensee's editorial policies in terms of religious diversity provide that:

'Religious programmes should take account of regional factors, target audiences, language and cultural preferences, and the devotional needs of specific groups'. (See an extract on SABC's editorial policy attached as Appendix B)

The monitoring exercise did not find content of a religious nature. This might be explained by the fact that the radio station falls under the commercial radio station category and not the public radio category.

The Licensee complied with clause 6.1.1 above.

Clause 6.1.2 of the schedule to the licence further provides that:

"The Licensee shall during the South African performance period provide 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 Authority's monitoring exercise for the month of March 2016 (18 March 2016 - 30 March 2016), confirmed that 5 FM caters for all sectors of South African society in terms of the different types of topics often discussed. For example, in one of the weekend shows with Thomas Msengana, there was a crossover to the cricket that was being played and a detailed report of the Proteas performance was discussed at length. This caters for sports fanatics too on a predominantly music station. Furthermore, the show discussed the South African Film and Television Awards

(SAFTA) and interviewed one of the nominees of the awards, who is Sara Blecher. She is the director of two films named *Ayanda* and *Dis Ek*. This proves that the station provides content for the interests of all sectors of South African society.

The Licensee complied with the clause 6.1 of the schedule to its licence.

3.5.2 News and Current Affairs

Clause 6.2.1 of the schedule to the licence states that:

"The Licensee shall broadcast at least 30 minutes of News per day during the South African Performance Period".

The monitoring exercise conducted for the period of 2015/2016, found that 5 FM broadcasts news bulletins every hour on the hour from 06h00 to 18h00, and headlines every half hour. Programming starting from the performance period (05:00) begins with the national anthem every day.

The duration of a typical news bulletin is approximately four (4) minutes. This amounts to an average of around forty-eight (48) minutes per day of news, during the South African performance period.

The following were among the news items covered for the period under review:

- *"The African National Congress (ANC) is expected to tackle what is being termed 'state capture' by business, in particular the Gupta family, at its National Executive Committee (NEC) meeting starting in Irene outside Pretoria on Friday";*
- *"Two people have tested positive for Ebola in Guinea, the government said on Thursday, hours after the World Health Organization (WHO) declared neighbouring Sierra Leone's latest outbreak was over. Four people were tested and two of them were found to have Ebola, a government agency spokesman said";*
- *"KwaZulu-Natal Premier Senzo Mchunu has ordered an investigation into his so-called "blue light" VIP protection escort that was involved in an accident,*

killing two people on Friday evening, while police are also investigating the accident"; and

- *There are growing concerns of kidnapping incidents in Limpopo. In the past few weeks, three people, including a mother and daughter, have been kidnapped and ransom demanded by kidnappers at Nirvana in Polokwane and Tzaneen ".*

The Licensee complied with clause 6.2.1 of the schedule to its licence.

Clause 6.2.2 of the schedule to the licence states that:

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

- Exercise full editorial control in respect of contents of such programming;*
- Include matters of international, national, regional and where appropriate, local significance;*
- Meet the highest standards of journalistic professionalism;*
- Provide fair, unbiased, impartial and balanced coverage independent from governmental, commercial or other interference; and*
- Provide a reasonable opportunity for the public to receive a variety of points of view on matters of public concern.*

The SABC's editorial policy provides that the licensee must exercise full editorial control in respect of contents of its programming. The editorial policy further indicates that the licensee endeavours to meet the highest standards of journalistic professionalism. Further, the policy provides for fair, unbiased and impartial coverage independent from government, commercial or other interference. Furthermore, in its news and programming content it includes matters of international national, regional and local significance.

The Authority's monitoring exercise indicates that the radio station broadcasts matters of international, national regional and local significance. This is evident in the news clips stated above, where there's a mixture of national, regional and international news covered.

The Licensee complied with clause 6.2.2 of the schedule to its licence.

3.6 Training and Skills Developments Obligations

Clause 7 of the schedule to the licence states the following:

"7.1 The licensee must adopt and implement equal opportunity employment practices;

7.2 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;

7.3 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; and*

7.4 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 submits that it conducted several projects directed at achieving transformational targets and Employment Equity plan. Amongst others, the licensee implemented capacity building workshops for the National Disability Committee members to ensure that the members are able to perform their roles with regards to implementation of EE objectives of the SABC. This is an important step as the licensee still has not achieved its target of 2% for people with disabilities for the second successive year. The licensee must do better to achieve and exceed this target. The licensee continues to provide training for its employees with 87.54% having attended training.

Furthermore, the licensee embarked on a talent acquisition strategy to increase the number of females, in particular black female employees with disabilities. Projects such as the *Take A Girl Child To Work* were meant to give work exposure to young girls. Another project was *Man in the Making Day*, which was aimed at young boys with disabilities to be interested in working for the SABC. Lastly, the licensee submits that it embarked on the *SABC Techno Girl* programme. Its purpose was to expose young learners to the SABC Technology Division and align them to choose in-demand careers and skills in the ICT sector. (See *Skills and Development report attached as Attachment 4*).

The Licensee complied with clause 7 of its licence.

3.7 Provision of Audited Financial statements (AFS) 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 four (4) months of the end of the licensee's financial year, if the licensee may on good cause apply to the Authority for extension".

The SABC submitted its Audited Financial Statements for the 2015/2016 within the regulated timeframe. According to the AFS, the Licensee generated revenue of R7,978, 841 000. Of this amount, some of the expenses were on broadcast costs, signal distribution and linking costs, marketing costs, professional and consulting fees. The Licensee incurred a loss of R411, 605 000.

The Licensee complied with clause 8 of its licence.

4. REGULATIONS

4.1. ICASA South African Music Content Regulations

Regulation 3.2 of the South African Music Content¹ as published on 31 January 2006 stipulates that:

"Every holder of a commercial sound broadcasting license to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 25% of the musical works broadcast in the performance period consist of South African music and that such South African music is spread reasonably throughout the said period."

During the period under review, 5 FM's music content averaged at around 35% of South African Music, which includes interviews, promoting new tracks and live shows. Among South African artists that enjoyed air play on 5 FM were artists such as Kwesta; Fifi Cooper; Black Coffee; Nasty C; The Sweet Resistance; Johnny Apple and Kyla Nicole.

The Licensee complied with regulation 3 .2 of the South African Music Content Regulations.

4.2 Regulations regarding Standard Terms and Conditions for individual licences

Regulation 11 (3) of the standard terms and conditions² stipulates that:

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

5 FM's promos were identified frequently during the period under review and these were broadcast at intervals of not more than ten (10) minutes apart. The promos carried the name of the station and frequency details.

¹ South African Music Content Regulations

² Regulations regarding the Standard Terms and Conditions for Individual Licensee's

Furthermore, there was no incident of non-compliance with the standard terms and conditions for individual licenses found.

The Licensee complied with the regulations on Standard Terms and Conditions for Individual Licences.

4.3 Universal Service and Access Fund Regulations

Regulation 3 of the USAF Regulations³ 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 Authority received confirmation of payment in a form of a Section 18A certificate from the MDDA and the Licensee submitted proof of payment⁴ to the Authority.

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

4.4 Regulations on the Code for People with Disabilities

Form 7C: Code for People with Disabilities contained in the Compliance Procedure Manual Regulations requires broadcasting licensees to annually complete the form in accordance with the Licensee's financial year end.

³ Universal Service and Access Fund Regulations

⁴ Proof of SABC's contribution to the USAF

The SABC submitted its report on employee disability management as follows: Employees with disabilities represent 1.90% of the entire workforce. This was due to the fact that some employees left the organisation, which affected its target of 2%.

The licensee states that this area will remain a key focus for it. Of the 1.90% of employees with disabilities, 58% of those were female and 77% were black. Additionally, the licensee hosted the National Blind Buddy Day; Albinism Awareness; Deaf Awareness and Casual Day. These are some of the initiatives aimed at and encouraging disability self-disclosure by employees.

4.5 COMPLAINTS

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

During the period in review, the Authority did not institute any complaints against 5 FM regarding non-compliance compliance with its licence terms and conditions. No complaints were received from the public in this regard. The complaint/s lodged with the CCC regarding the SABC's revised editorial policy fall outside of this period and will be dealt with in the 2016/17 report.

5. CONCLUSION

During the period under review, the Licensee satisfactorily complied with its licence terms and conditions and related regulations that govern public broadcasters.

6. TERMS OF REFERENCE

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| 6.1 | Attachment 1 | : 5 FM's Broadcasting Service Licence |
| 6.2 | Attachment 2 | : 5 FM's Frequency Spectrum Licence |
| 6.3 | Attachment 3 | : Extract from the Licensee's Editorial Policy |
| 6.4 | Attachment 4 | : The Licensee's training report |
| 6.5 | Attachment 5 | : Regulations regarding the standard terms and condition |

- 6.6 Attachment 6 : Universal Service and Access Fund Regulations
- 6.7 Attachment 7 : Regulations on the code for people with disabilities
- 6.8 Attachment 8 : Proof of SABC's Contribution to USAF