

COMPLIANCE REPORT

94.7 Highveld Stereo FM

Licence Period : 17 December 2008- 16 December 2018

1. PREFACE

The Independent Communications Authority of South Africa (“the Authority”) has a statutory mandate in terms of the Constitution^[1], the ICASA Act^[2] and the Electronic Communications Act^[3] (“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 legislation.

The following report is intended to give account of 94.7 Highveld Stereo’s compliance with the terms and conditions set out in its licence for the period January 2009 – December 2009 in line with the Licensee’s licence year. Aspects of compliance that are measured comprise of geographic coverage, format, local content obligations, general programming obligations, training and skills development obligations community related obligations, South African music content regulations and standard terms and conditions. It is to be noted that during the period under review the Authority did not conduct its own monitoring exercise to ascertain compliance by 94.7 Highveld Stereo FM with its programming obligations.

^[1] The Constitution of the Republic no 108, 1996

^[2] ICASA Act no 13 , 2000 as amended

^[3] Electronic Communications Act no 36, 2005

Recordings could not be obtained by the Authority as the period fell outside the 60 day period stipulated in section 53 (1) of the Electronic Communications Act (ECA) which provides as follows:

“A broadcasting service licensee must-

(a) on demand by the Authority , produce to the Authority any recording of every programme broadcast in the course of his or her broadcasting service for examination or reproduction, within 60 days from the date of broadcast;”.

Consequently, the information contained in this report under general programming obligations is based on 94.7 Highveld Stereo’s compliance report submitted to the Authority for the period under review as captured under 3.4 below.

2. BACKGROUND

In December 2008, the Authority issued Primedia (hereinafter referred to as “the licensee”) with a commercial sound broadcasting service licence and a radio frequency spectrum licence in terms of the Electronic Communications Act (EC Act) of 2005. The licensee’s licence is valid for ten (10) years and expires on 16 December 2018.

94.7 Highveld Stereo provides a talk-based format to the audience of Southern Gauteng (see *Highveld Stereo’s licence attached as Appendix A*).

3. COMPLIANCE ASSESSMENT

3.1 Shareholding Ownership and Control

Clause 1.1 of the service licence provides that:

“The licence is issued to Primedia”

The Licensee is Primedia (Proprietary) Limited, thus the radio station is in compliance with clause 1.1 of the service licence.

Clause 1.2 of the service licence provides that:

*“Shareholders: Mine Workers Investment Company (32%)
Kirsh Consortium (27.9%)
Primedia Management (20.1%)
Brait SA – Entities (20%)”.*

The radio station has reported that subsequent to the Authority issuing the converted licence to Primedia in 2008, there were changes in Primedia’s shareholding and the Authority was duly notified in this regard. The shareholding as per the notification is as follows:

Mine Workers Investment Company	(49.1)
Kirsh Consortium	(25.1%)
Brait Entities	(19.8%)
Titan	(3%)
Sabvest, BPESAM 1 Ltd and BPESAM II Ltd	(1.0%)
KV & GR Direct	(2%)

Clause 1.3 of the service licence provides that:

“Ownership held by persons from historically disadvantaged groups: 38.6%”

The radio station has confirmed that Mineworkers Investment Company (Pty) Ltd Trust whose beneficiaries are blacks from the mining and construction sectors hold 49.1% Equity Shareholding.

During the period under review the radio station has complied with clause 1.3 of its licence (see *Appendix B extrapolated from the licensee's report submitted to the Authority*).

3.2 Geographic Coverage Area

Clause 2 of the schedule to the licence provides that:

“Southern Gauteng, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence.”

The radio station complies with clause 2 above.

3.3 Broadcast Language

Clause 3 of the schedule to the licence provides that:

“Principal Language: English”.

The radio station has confirmed that its principal language of broadcast is English. Although the Authority did not conduct a monitoring exercise in respect of 94.7 Highveld Stereo's programming profile, the radio station broadcasts its programming activities in English.

The radio station complies with clause 3 of its licence.

3.4 Format

Clause 4 of the schedule to the licence provides that:

“The Licensee shall have a programming format of talk and music in an adult contemporary format, providing a mix of music and information (including coverage of community affairs)”.

94.7 Highveld Stereo maintains that its day to day programming is comprised of an adult contemporary music with a mix of talk and information. The radio station’s log sheet attached as appendix C of this report attests to the above format.

The radio station complies with clause 4 of the licence.

3.5 Local Content Obligations

Clause 5 of the radio station’s schedule to the licence provides that:

“The Licensee shall promote at least eight (8) local music concerts per annum and allocate airtime for the broadcast thereof”.

Highveld Stereo maintains that during the period under review it promoted 10 local music concerts, among which, was the well publicised two day Raw Rocks concert on Friday 19 June and Saturday 20 June 2009. The breakdown of the concerts promoted by 94.7 Highveld Stereo is reflected in the table below:

Concert	Date of Concert	Featured artists
Jesse Clegg Concert	12, 13 and 14 May 2009	Jesse Clegg
Raw Rocks Concert	19 and 20 June 2009	Kurt Darren and Arno Jordaan
94.7 Joburg Day	17 October 2009	Jesse Clegg and Sasha Lee
Christmas Wish	9 December 2009	Jody Williams and Garth Taylor
Three Concerts (no specific details/names)	17,18 and 19 December 2009	Voodoo Child and Stealing Love Jones, Holly and the Woods, Broadway Screamer and Krimineel, Cool Runnings and Tings and Times.

Based on the information above the radio station has complied with clause 5 of its schedule to the licence during the period under review.

In terms of the second requirement regarding the allocation of airtime the radio station argues that it has proved difficult to obtain recording rights from the record companies as it is not possible to guarantee the sound quality to the required specifications and the record companies will only allow broadcast of music, if and only if, the recording is to their standards. To this end the radio station maintains that based purely on the intellectual property rights attached to the musical works, it has been difficult for it to achieve this.

The Authority is aware that the radio station has brought this matter to its attention however, for the period under review, the radio station has not complied with the requirement in terms of allocation of airtime for the broadcast of local music concerts.

3.6 General Programming Obligations

Clause 6.1 of the schedule to the licence provides that:

“The Licensee shall broadcast a minimum of thirty (30) minutes of news per day between 05h00 and 23h00 during weekdays”.

The radio station maintains that it broadcasts a total of 35.5 minutes of news during weekdays between 05h00 to 23h00. The duration of each news bulletin excluding headline bulletins is approximately four (4) minutes.

Clause 6.2 of the schedule to the licence provides that:

“The source(s) of all news material (other than news sourced from the Licensee) shall be disclosed during the news broadcast”.

The radio station has indicated and maintained that whenever it reports on news that it has obtained from other sources other than its journalists, such sources are disclosed during the relevant news bulletin.

In the absence of recordings no verification was done and therefore no conclusion could be drawn on compliance with clause 6.1 and 6.2 above.

3.7 Training and Skills Development Obligations

Clause 7 of the schedule to the licence provides that:

“The Licensee shall over its licence period, allocate R350 000 (three hundred and fifty rands) per annum to training and development, particularly of staff from historically disadvantaged groups”.

During the period under review the radio station has reported that it has spent R2 279 359.66 on training and skills development for its seventy four (74) or (66%) staff members. Of the seventy four people trained, forty nine (49) were black and twelve were white females.

The radio station has complied with clause 7 of its licence.

3.8 Community-Related Obligations

Clause 8.1 of the schedule to the licence provides that:

“The Licensee shall:

8.1.1 raise at least R250 000 (two hundred and fifty thousand Rand) in cash and goods annually, and

8.1.2 provide airtime worth R250 000 (two hundred and fifty Rand) annually, towards supporting community organisations such as those benefiting:

- (a) People infected or affected by HIV and Aids;*
- (b) The terminally ill and/or the elderly;*
- (c) Schools;*
- (d) Women;*
- (e) Children; and/or*
- (f) Animal welfare”.*

The radio station has reported that during the period under review goods and cash to the value of R4 631 488.40 was raised by the radio station for charity groups and by charity groups through initiatives organized by 94.7 Highveld Stereo. Moreover, initiatives spearheaded by 94.7 Highveld Stereo mostly would provide some charity organizations with a platform to raise funds.

A community organisation called ‘CHOC House’ raised R2 213 000.00 in a 94.7 Cycle Challenge steered by Highveld Stereo in partnership with Momentum. According to the radio station this event took place in November 2009. The table below shows a schematic representation of the projects which benefitted the communities during the period under review:

Tabular A: Projects which benefitted communities- January to December 2009

NAME OF EVENT	PARTNERS	BENEFITING GROUPS	VALUE
Stationery Drive	Mimmos	Underprivileged Schools (see Appendix 3)	R375 500.00
94.7 RAW Cruise	94.7 Highveld Stereo	Matla-a-Bana and Homeless Talk	R285 488.40
Random Acts of Kindness	Dis-Chem Foundation	1) Aqua School for Autism 2) The Hope Village 3) Reach for a Dream 4) Little Noni	R725 000
Christmas Wish	94.7 Highveld Stereo	Various	R3 245 500

According to Highveld Stereo, the radio station flighted Public Service Announcements (PSAs) amounting to three million, four hundred and one thousand, nine hundred and forty three rand (R3 401 943.00) during the year under review. In the first quarter of the 2009 Calendar year alone, 94.7 Highveld Stereo spent R648 473.00 worth of airtime on public service announcements. The radio station further maintains that in the same year the money that was spent on social responsibility interviews reached R9 022 710.00. This amount is broken down, to quarterly intervals (see *Appendix D*).

Based on the above, the radio station has complied with clause 8.1.1 and 8.1.2 of its licence.

Clause 8.2 of the schedule to the licence provides that:

“The Licensee shall train staff from community sound broadcasting services in its geographic coverage area in the areas of: programme presenting and production, news, sales, marketing and sound engineering through mentoring and on-the-job training that is, having such staff “shadow” 94.7 Highveld Stereo presenters, [producers, news reporters, sales representative, marketing staff and sound engineers while at work.”

In its submission to the Authority, the Licensee has indicated that while 94.7 Highveld Stereo did not hold any community radio workshops for the period under review, Primedia as the Licensee has, however, complied with clause 8.2 of the schedule to the licence through the actions of the Station Manager and the Programmes Manager of Talk Radio 702 as follows:

In July 2009 the station manager held a training session for students at AIJ on how to programme for a talk radio station.

In October 2009, the programmes manager participated in training for community radio stations run by the Voice of Wits and the Wits radio department. The training was about how the radio station is programmed.

The radio station has complied with clause 8.2 of its licence.

4. REGULATIONS

4.1 South African Music Content Regulations

Regulation 3.2 of the Regulations on South African Music Content as published on 31 January 2006 provides that:

“Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that 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 evenly throughout the said period” (See Regulations on South African Music Content attached as Appendix D) .

The radio station has confirmed that it complies with the regulation on South African music content however no verification was done and conclusions drawn as recordings were unavailable (*See Appendix D 94.7 Highveld Stereo’s Local content output*).

4.2 Regulations regarding Standard Terms and Conditions for individual broadcasting licences

During the year under review, the Authority did not identify any non compliance by the Licensee with the standard terms and conditions for individual licensees (*See Regulations regarding Standard Terms and Conditions for Individual Licences attached as Appendix E*).

5. CONCLUSION

During the period under review 94.7 Highveld Stereo adequately complied with its licence terms and conditions and applicable regulations. Notwithstanding the fact that the radio station has indicated that it proved difficult to obtain recording rights from the record companies, there is still room for improvement in terms of clause 5 of the licence.

6. APPENDICES:

Appendix A: Licence Conditions

Appendix B: Shareholding (as extrapolated from the Licensee's submission).

Appendix C: Highveld Stereo general log sheet

Appendix D: Information on airtime provided to support community organisations

Appendix E: Highveld Stereo's Local content output and Regulations on South African Music Content

Appendix F: Regulations regarding Standard Terms and Conditions for Individual Licences