

# **2011/2012 ANNUAL COMPLIANCE REPORT**

## **JOZI FM**

**LICENCE PERIOD: 24 October 2008 to 23 October 2013**

### **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> and the Electronic Communications Act<sup>3</sup> (“ECA”) 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 (“ECA”), the ICASA Act, any relevant legislation and regulations.

The following report is intended to give account of Jozi FM’s compliance with the terms and conditions as set out in its licence for the 2011/2012 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 and Universal Service and Access Fund (USAF).

### **2. BACKGROUND**

Jozi FM is a Class Sound Broadcasting Service Licensee broadcasting in Soweto and surrounding areas. The radio station’s mandate is to provide a service to the geographic community in its broadcasting area (*See Appendix A*).

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

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

<sup>3</sup> Electronic Communications Act No 36 of 2005

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Control Structure**

Clause 1 of the schedule to the licence stipulates that:

*"The Licence is issued to:*

*1.1 Name of Company/Entity: Jozi FM.*

*1.2 Control of the Licensee: Control shall vest in the Board of Directors of a Section 21 Company known as Soweto Media Resource Centre".*

There were no changes reported by the Licensee to its company name and control structure during the period under review.

The Licensee complies with clauses 1.1 and 1.2 of its licence.

Clause 1 of the schedule to the licence stipulates as follows:

*"Name of the radio station: Jozi FM".*

The radio station's name is Jozi FM as stipulated in the licence.

The Licensee complies with clause 1 of the schedule to its licence.

#### **3.2 Geographic Coverage Area**

Clause 2 of the schedule to the licence stipulates that Jozi FM's coverage area is as follows:

*"Geographic Coverage Area is Soweto and surrounding areas in the Gauteng Province as set out in the Licensee's radio frequency spectrum licence".*

The Licensee confirms that it provides a service to Soweto and surrounding areas in the Gauteng Province as set out in the Licensee's frequency spectrum licence.

The Licensee complies with the clause 2 of the licence.

### **3.3 Community**

Clause 3.1 of the schedule to the licence stipulates that:

*"The Licensee should provide services to a community residing within the geographic coverage area specified herein".*

Jozi FM broadcasts from Dube, in Soweto, and provides its services to the geographic community residing within its coverage area.

The Licensee complies with clause 3.1 of the schedule to the licence.

Clause 3.2 of the schedule to the licence stipulates that:

*"The Licensee shall provide for the participation of community members in the affairs of the station in the following ways:*

*3.2.1 "The Licensee shall hold at least two (2) meetings annually with its community on programming and programme related matters for the selection and provision of programmes;*

*3.2.2 "The Licensee shall furnish the Authority with proof of such meetings as well as the attendance thereof by members of the community;*

Further, clause 3.2.2.1 stipulates that:

*"The Licensee shall hold an Annual General Meeting (AGM) for the following purposes:*

*3.2.2.2 To provide feedback on the Licensee's compliance with licence conditions,*

*3.2.2.3 To provide feedback on the Licensee's operational and financial performance, and*

*3.2.2.4 To elect members of the controlling structure e.g. Board of Directors, Trustees etc. subject to the licensee's founding documents.*

The Licensee convened an elective Annual General Meeting (AGM) on 24 September 2011. The purpose was to elect an Interim Board of Directors which was mandated to serve for eighteen (18) months and arrange an AGM to elect a permanent Board. Subsequently, the Licensee submitted minutes and the names of the newly elected interim board members.

According to the Licensee and the information submitted to the Authority, the AGM provided feedback with regards to the Licensee's compliance with licence conditions, operational and financial performance. The reports presented by the Interim Chairperson of the Board and the Station Manager which included the Audited Financial Report were duly adopted by the members present at the AGM.

The AGM of 24 September 2011, elected the following members as the interim Board of Directors:

Mr Rapitse Montsho (Interim Chairperson);  
Ms Buhle Myeza;  
Dr Thulani Mhlongo;  
Mr Ray Nxumalo Raisibe Thomo;  
Mrs Yise Molokomme;  
Mr Collin Hans; and  
Mr Mpho Mhlongo (Ex officio) (See Appendix B).

The Licensee has complied with clause 3.2.2.1 of the schedule to its licence.

Clause 3.3 of the schedule to the licence stipulates that:

*"The Licensee shall establish and maintain a forum that is made up of a range of organisations from Soweto which must advise the Licensee and inform its broadcasting policies and participate in the election of its board".*

The Licensee has established and maintained a forum made up of the following organisations from Soweto:

1. Soweto Hospice;
2. Ekukhanyeni Project;
3. Soweto Care 4 the Aged;
4. Soweto Taxi Association;
5. Lungisa Community Project;
6. Antioch Apostolic Church;
7. Jabavu Tholimpilo Care; and
8. Gauteng Traditional and Faith Medical Practitioners (*See Appendix C*).

The Licensee complies with clause 3.3 of the schedule to its licence.

### **3.4 Programming**

Clause 4.1 of the schedule to the licence stipulates that:

*"The Licensee shall provide programming as follows:*

#### *4.1.1 Format:*

*"60% talk and 40% music".*

Jozi FM submits that it broadcasts 60% talk and 40% music comprising a variety of programme genres which are reflective of the demographic nature of the coverage area.

The monitoring exercise confirmed that the Licensee's format is 60% talk and 40% music.

The Licensee complies with clause 4.1.1 of the schedule to its licence.

Clause 4.1.2 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast 48 minutes of news per day, which shall consist of 12 hourly news bulletins of four (4) minutes duration each".*

The Licensee submits that it complies with the above clause.

The monitoring exercise conducted for the period under review indicated that Jozi FM broadcasts news bulletins every hour on the hour and news headlines at the bottom of the hour. The duration of the news bulletins is four (4) to five (5) minutes. Approximately fifty (50) minutes of news per day was monitored. Jozi FM broadcasts its news in isiZulu, Sesotho and English.

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

1. *"Abahlali bemijondolo yaseHolomisa bathi banethemba lokuthi umhlangano wabo uzohamba kahle";*
2. *"Amaphoyisa eSoweto afuna abasolwa abangaziwa nokusolokala ukuthi babambe inkunzi iveni eliphatha imali";*
3. *"Tema ya kaho ya kliniki tikolohong ya Slovoville e tlile ho kenngwa temeng haufinyana, se na se boletswe ke leloko le tswang kantorong ya Meyara Fapheng la Phelo bo bottle le Kaho ya Sechaba, eleng Nonceba Molwele";*
4. *"Sepolesa sa Gauteng se kene temeng ya diphuputso mabapi le phumaneho ya banna ba ba ikarabelang ho thunngweng ha maloko a mabedi a sepolesa mo mmileng wa N2 Johanesburg thapameng ya maobane";*

5. *"Braamfischer Extension 2 residents are up in arms to this afternoon to what they call poor service delivery. Residents are gathered at an open space area and are busy toytoying"; and*
6. *Meadowlands Zone 5 Councillor, Simphiwe Mbongo, says he is aware of an open space that is worrying residents in the area. This follows an enquiry which was forwarded to his office by Jozi FM news, regarding an open space that has become a hunting space for criminals to innocent learners of a nearby school and the community at large.*

The Licensee complies with clause 4.1.2 of the schedule to its licence.

Clause 4.1.3.1 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast South African music content of 70%".*

The Licensee submits that it broadcasts a minimum of 70% of South African music.

Monitoring exercise confirmed that the Licensee broadcasts 70% local content music, including interviews with local musicians and music by new local musicians.

The Licensee complies with clause 4.1.3.1 of the schedule to its licence.

Clause 4.1.3.2 of the schedule stipulates that:

*"The Licensee shall ensure that at least 90% of its programming is within South Africa".*

The Licensee submits that all its programmes are produced in South Africa, this was confirmed during the Authority's monitoring exercise.

The Licensee complies with clause 4.1.3.2 of its licence.

Clause 4.1.4 of the schedule to the licence stipulates that the languages of broadcast are as follows:

- (a) 60% English
- (b) 25% isiZulu
- (c) 10% Setswana
- (d) 5% Tshivenda".

The Licensee submits that it complies with the above requirement.

The Authority's monitoring exercise identified programmes in English, isiZulu and Setswana as outlined in the licence. No programmes were identified in Tshivenda instead Sesotho was identified during the monitoring period.

The Licensee does not comply with clause 4.1.4 of the schedule to its licence.

Clause 4.1.5 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast for 24 hours a day"*

The Licensee submits that it broadcasts for 24 hours a day.

The monitoring exercise confirmed that the Licensee broadcasts its programmes for 24 hours a day.

The Licensee complies with clause 4.1.5 of the schedule to its licence.



## **4. REGULATIONS**

### **4.1 South African Music Content Regulations**

The Regulations on South African Music Content as published on 31 January 2006 stipulate that:

*“Every holder of a community sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 40% 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 Appendix C).*

Jozi FM broadcasts a significant amount of South African music. The radio station broadcasts a variety of music genres including Jazz, RnB, kwaito, House, Hip Hop, reggae and gospel music. The local music played by the radio station includes among others: “Wawukhona” by Phuthuma, “Zwakala” by Stmela, “Patapata” Jonathan Butler, “Special” by DJ Terrence featuring Sarah D, “Remember me” by Lucky Dube, etc.

The monitoring exercise confirmed that Jozi FM plays 70% local music.

The Licensee complies with the South African Music Content Regulations.

### **4.2 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences**

During the year under review, the Authority did not identify instances of non-compliance by the Licensee with the standard terms and conditions for class licensees (*See Regulations regarding Standard Terms and Conditions for Class Licences, attached as Appendix D*).

### 4.3 Universal Service and Access Fund Regulations

Regulation 3 of the USAF Regulations 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” (See USAF Regulations attached as Appendix E).*

The Licensee did not pay its annual contribution fee to the MDDA during the period under review.

Generally, community radio stations are of the view that they get their funding from the same body they are required to contribute USAF fees to. However the Authority does not have the requisite authority to exempt anybody from the payment of USAF Fees to be able to exempt community Licensees, we would require an amendment of section 89 of the ECA which provides as follows:

*“(1) Subject to subsection (3) every holder of the licence granted or considered to have been granted in terms of Chapter 3 must pay, in addition to any other fees contemplated in this Act or the related legislation, the prescribed annual contributions of the licensee’s licensed activity to the Universal Service and Access Fund.*

The does not comply with the USAF regulations.

## **5. CONCLUSION**

Jozi FM has complied with some of its licence terms and conditions and regulations except for clause 4.1.4 of the licence and USAF regulations.

## **6. APPENDICES**

Appendix A: Jozi FM's broadcasting service licence and frequency spectrum licence

Appendix B: Jozi FM's Control structure and AGM minutes

Appendix C: Jozi FM's list of Forum members

Appendix D: Standard Terms and Conditions Regulation for Class licences

Appendix E: USAF Regulations

Appendix F: Audited Financial Statements