



LOTUS FM

ANNUAL COMPLIANCE

REPORT

MARCH 2023

2021/2022 ANNUAL COMPLIANCE REPORT

SOUTH AFRICAN BROADCASTING CORPORATION (SABC) BROADCASTING AS LOTUS FM

Licence Period: 18 December 2018 - 17 December 2028

1. PREFACE

The Independent Communications Authority of South Africa ("Authority") has a statutory mandate in terms of the Constitution¹, the Independent Communications Authority of South Africa Act (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 and Code of Conduct for Broadcasters and applicable sections of the ICT COVID-19 National Disaster Regulations⁵.

2. BACKGROUND

Lotus FM is an Individual Sound Broadcasting Service Licensee of the South African Broadcasting Corporation (SABC). The radio station forms part of the public broadcasting service of the SABC and is licensed to provide a full spectrum service to the Greater Kwa

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.

Zulu-Natal province and parts of Gauteng. The radio station is based in Durban, in the KwaZulu-Natal province.

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 shall hold one hundred (100%) percent of the shares of the Corporation*
- 1.3 Ownership by persons from historically disadvantaged groups: N/A*

There were no changes reported on the name and shareholding of the Licensee. Lotus FM forms part of the public broadcasting service of the SABC and it is 100% owned by the state.

The Licensee complies with clauses 1 of its licence.

3.2 Geographic Coverage Area

Clause 3 of the licence schedule states that:

"The geographic 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 area is Gauteng, KwaZulu-Natal and Cape Town. Its transmitter sites are in Durban, Durban North, Glencoe, Johannesburg, Ladysmith, Pietermaritzburg, Port Elizabeth, Port Shepstone, Sunnyside, The Bluff and Tygerberg. The Licensee maintains that its coverage area is as defined in the frequency spectrum licence.

The Licensee complies with clause 3 of its licence.

3.3 Language(s)

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

"Principal Language: English with specialist programmes in Hindi, Tamil, Urdu, Gujarati and Telegu".

The Authority's monitoring exercise confirmed that Lotus FM's principal language of broadcast is English, with alternates between Hindi, Tamil, Urdu, Gujarati and Telegu during some of the radio station's specialist programmes.

The Licensee complies with clause 4 above.

3.4 Format

Clause 5.1 of the licence states that:

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

Clause 5.2 stipulates that:

"The licensed service shall provide a full spectrum service".

Lotus FM forms part of the public service radio stations of the SABC and offers a full-spectrum service to its audience as outlined in the licence. This was confirmed during the Authority's monitoring exercise which found that the radio station engages in different topical issues of national interest across its programming offerings.

The Licensee complies with clauses 5.1 and 5.2 of its licence.

3.5 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 SABC submitted Lotus FM's quarterly reports for the period under review in line with the Compliance Procedure Manual Regulations; the reports indicated the different genres, the South African music content and programming material for the period under review.

The Licensee complies with clause 6 of the schedule to its licence.

3.6 General programming obligations

3.6.1 General

Clause 7.1.1 of the licence stipulates that:

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

The SABC's editorial policy⁶ stipulates that:

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

Lotus FM broadcasts religious and devotional programmes that cater for different groups. Devotional music from different religions is played across different programmes on Sunday evenings. *Bhakti Sungheet* between 17h00 and 19h00 is dedicated to the Hindu religion; *Gospel Hour* between 19h00 and 20h00 focuses on Christianity; and *Deenyat*, between 20h00 and 21h00, is dedicated to the Islam religion. These shows are very informative and also hold discourse on various religious topics.

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 traditional needs of the audience".

The Licensee's range of diverse program offerings demonstrates its commitment to reflect cultural and traditional diversity of its audiences. Shows such as *Qawali Hour*, which broadcasts Sufi music, *Gospel Hour*, *Deenyat* and *Bhakti Sungheet* are examples of programming that caters for cultural and traditional needs of Lotus FM's audience.

The Licensee complies with clause 7.1.2 of its licence.

Clause 7.1.3 of the licence 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

⁶ An extract from the Licensee's Editorial Policy

society and shall provide programming on health-related issues, gender issues relevant to all age groups”.

The content of certain programmes that were heard during the monitoring exercise, where various issues of interest to society were discussed, are set out below:

- *Walk the Talk* is a talk show that is broadcast weekdays between 19h00 and 20h00. It holds discussions on different issues that affect society. Different days have different topics and/or themes. On Medical Mondays, there were discussions with an Orthopaedic Surgeon in one week, and a Neurosurgeon was interviewed in another week. Listeners are given an opportunity to interact with these specialists and ask questions. Other days are dedicated to inspirational guests, law experts and entrepreneurs, among others.
- *The Breakfast Express* is an interactive show that offers listeners a platform to discuss different topics such as sport, lifestyle, and politics. It also analyses leading stories that are happening in the country and around the world, which were dominated by news about Covid-19 and issues related to it, such as its effect on the economy and vaccines.
- *The Weekend Lift Off* is a Saturday breakfast show that is broadcast between 06h00 and 09h00. It discussed fun topics that include cooking, fashion, quizzes, comedy and dedication.

The diversity of shows on the Licensee’s line-up confirms that it addresses various issues relevant to people of all age groups and genders.

The Licensee complies with clause 7.1.3 of its licence.

3.6.2 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”.

The quarterly reports submitted by the SABC show that Lotus FM broadcasts more than eighty (80) minutes of news programming daily.

The monitoring exercise revealed that the Licensee broadcasts approximately seventy (70) minutes of news daily.

The following were among the news stories covered:

- *A man has been gunned down at a taxi rank in Milnerton near Cape Town. The shooting comes hours after truce was announced by Transport Minister, Fikile Mbalula, including an immediate cease fire between warring associations CATA and CODETA. An arbitration process to finalise the months long feud is still under way. Police Spokesperson, Joe Swartbooi, says no arrest has been made as yet in connection with the latest shooting incident.*
- *The DA has appealed to the newly appointed Health Minister, Dr Joe Phaahla to prioritise the ramping of the country's vaccination rollout programme. The party says it will be writing to him with a number of proposals and how this can be achieved. The party's Health spokesperson, Siviwe Gwarube, says over the past several weeks it's been reported that the country averages 46 000 vaccinations a day, including on weekends. She says in the last couple of days, the country has fallen short of the 200 000 vaccinations per day without any explanation.*
- *Several Western countries including France, Germany and Canada have ended their evacuations of people from Afghanistan. It comes a day after as many as 90 people were killed in two militant bomb attacks at Kabul Airport. Seventy-two civilians, thirteen US service personnel and a number of Taliban members were killed in yesterday's bomb attack claimed by ISIS militants. The British Defence Secretary, Ben Wallace, has warned that the threat of further attacks will increase as Western troops continue leaving the country.*
- *NFP members who were close to the party's late President, Zanele Magwaza-Msibi say they are struggling to come to terms with her passing. She died at an Umhlanga hospital earlier this week, at the age of 59. Members of the NFP dressed in party regalia are in Ulundi waiting for Magwaza-Msibi's body to arrive at the Old Assembly Building for her funeral service. One of those who worked closely with her, Siphamandla Ntombela, says the best way of honouring Magwaza, was to make sure that the party grows."*

The Licensee complies with its news obligation.

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".

The Licensee's submissions indicate that Lotus FM broadcasts ninety-five (95) minutes of current affairs programming daily on weekdays and sixty (60) minutes daily on weekends. The Authority's monitoring revealed that the Licensee broadcasts eighty (80) minutes of current affairs programming daily on weekdays and fifty-five (55) minutes daily on weekends.

It broadcasts *Newsbreak* from 06h05 to 7h00 on weekdays and from 12h05 to 13h00 on weekends. There is also a current affairs slot during *The Lunch Break* on weekdays from 13h05 to 13h30.

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".*

The Licensee's editorial policies indicate that the Licensee exercises full editorial control in respect of the content of its programming. The editorial policies further indicate that the Licensee endeavours to meet the highest standards of journalistic professionalism. Further, it provides fair, unbiased and impartial coverage independent from government, commercial or other interference.

During the period under review, the monitoring exercise revealed that Lotus FM broadcasts matters of regional, national and international significance.

The Licensee complies with clause 7.2.3 of its licence.

3.6.3 Drama

Clause 7.3 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least two and a half (2½) hours of drama per week within the South African performance period".

According to quarterly reports submitted by the SABC, Lotus FM broadcasts one hundred and fifty (150) minutes (2 hours and 30 minutes) of drama programming per week during the performance period.

The Authority's monitoring exercise confirmed that the radio station broadcasts the drama, *The Manjaros* on weekdays from 09h45 to 10h00 in the mornings and repeated at 20h45 to 21h00 in the evenings, which amounts to two and a half (2½) hours a week.

The Licensee complies with clause 7.3 of its licence.

3.6.4 Informal Knowledge Building

Clause 7.4 of the schedule to 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".

According to quarterly reports submitted by the SABC, Lotus FM broadcasts five hundred and ninety-five(595) minutes of informal knowledge building programming per week.

The monitoring exercise identified programmes such as *Life and Style*, *Sunday Masala*, *The Weekend Lift-Off* as well as *Walk the Talk* as those that offer informal knowledge building content in that they offer discussions on a diverse range of informative topics, with interviews with experts and leaders in different fields. Discussions on family matters, education and careers, consumer rights, labour matters and marriage and relationships. There were also discussions on the psychological effects of Covid-19 on society and vaccines.

There are also *Language Shows* between 18h00 and 19h00 on weekdays, which broadcasts in the different Indian languages (Hindi, Telegu, Gujarati, Urdu and Tamil) and also teaches listeners these languages.

The Licensee complies with clause 7.4 of its licence.

3.6.5 Training and Skills Development Obligations

Clause 8 of the Schedule to Lotus FM's 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 revised its Employment Equity and Transformation plan⁷ during the 2021/22 financial year and submitted the updated plan and its Training and Skills Development that provides a detailed breakdown of its compliance with the above requirements to the Authority for the period under review⁸ within 30 days of the end of the financial year.

These 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. The SABC employment equity profile remains healthy, and all groups are well represented in the organisation. The SABC`s employment practices and non-discriminatory environment promote reasonable progress towards a fair and equitable representation from both a gender and race perspective at all occupational levels and in decision making positions. This is confirmed by the following statistics:

- Females represent 51.5% of the entire workforce and at Skilled level 53.18% of the workforce are females. At a Professional Qualified, Experience Specialist and Middle Management level females represent 50.33%; and
- Employees living with disabilities represent 2.35% of the entire workforce. These employees are employed across the organisation on different occupational levels and in all SABC provinces.

⁷ Appendix C: SABC Employment Equity and Transformation: Report to ICASA, Reporting period: 1 April 2021 – 31 March 2022.

⁸ Appendix D: Skills and Development Report.

Further, the SABC is well represented in the Black Executive Managers and Black Senior Managers as well as Female Black Middle Managers.

In terms of training and skills development, the SABC delivered 967 training interventions for 810 employees during the reporting period.

Statistically, the 810 employees who received training were 84.44% African, 6.81% Coloured, 4.24% Indian and 4.51% were White employees. Further, 56% of the employees who were trained were women and 2% were employees living with disabilities.

The Licensee complies with the entirety of clause 8 of the Schedule of its Licence.

3.6.6 Submission of Audited Financial Statements to the Authority

Clause 9 of the service licence provides 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 an extension."

The Licensee submitted its audited annual financial statements to the Authority within the prescribed period.

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

4. REGULATIONS

4.1 ICASA South African Music Content Regulations, 2016

On 23 March 2016, the Authority published the ICASA South African Music Content Regulations, 2016.

Regulation 3 (1) of the South African Music Content⁹ 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

⁹ ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016.

period, consist of South African music and that South African music is spread evenly throughout the performance period."

On 6 February 2019, the Authority approved the exemption request authorising Lotus FM to only broadcast 35% South African music content for their licence period, with special conditions.

The SABC's quarterly reports indicated that Lotus FM played an average of 35% South African music during the performance period, supplemented by interviews with South African artists.

Featured artists during the period under review include *Dr Victor and the Rasta Rebels, Mahendra Shamapersad, Yovani Naidoo, Yvonne Chaka Chaka, Veerasha Lactman, Imran Kamar, Louis Pillay and Lungi Naidoo.*

The Licensees complies with the ICASA South African Music Content Regulations.

4.2 Special Conditions Regarding South African Music Content

Clause 10.1 of the schedule to the licence states the following:

"10.1. In line with the exemption granted in terms of Regulation 44.1-3 of the 2016 Music Regulations, the Licensee shall broadcast 35% of local music and further do the following:

10.1.1 Create four (4) bi-annual lyric writing competitions;

The Licensee submitted that the competitions could not be held due to Covid-19 restrictions.

10.1.2 Record religious music to fulfil the religious programming needs;

The Licensee submitted that it recorded recitals during the holy months and religious festivals and these were flighted on the inspirations programme.

10.1.3 Co-ordinate workshops for South African artists with visiting overseas artists;

The Licensee reported that due to Covid-19 restrictions, no overseas artists had shows or visited the country.

10.1.4 Offer special package to South African artists who want to promote their albums on Lotus FM;

There was no submission on this sub-clause.

10.1.5 Promote local concerts through publicising them in the station's community news slots;

There was no submission on this sub-clause.

10.1.6 Profile at least one local artist/group per week;

The Licensee reported that local artists are regularly profiled on the station, especially during the Local Vocal show which is broadcast weekly on Saturday evenings. It submitted the names of some of the artists that have been featured on the show, which include *Sajjad Ali Sayed, Kem Chanlall, Avijay* and *Leon Ramsamy*, among others.

10.1.7 Encourage local music producers to participate in competitions where they will submit completed works as part of year-end South African Hit Makers programme;

The Licensee did not submit a report on its compliance with this sub-clause.

10.1.8 Offer local artists releasing new albums interviews on the station to publicise the album;

The Licensee submitted a list of local artists that were interviewed at the station during the period under review. These include *DJ Avesh, Neo, Bruce Pillay* and *Selvie Sivalingam*, among others.

10.1.9 Give away local CDs/tapes as a way of increasing support among the audiences for local Indian music;

The Licensee did not submit a report on this special condition.

Lotus FM was not fully compliant with the Special Conditions Regarding South African Music Content. Regulation 4 (8B) of the ICT COVID-19 National Disaster Regulations provided that Sound broadcasting Service Licensees were exempted from compliance with specific programming requirements and promises of performance in terms of licence and conditions during the National State of Disaster. This exemption was lifted by the deletion of sub-regulation (8B) in the ICT COVID-19 National Disaster Fifth Amendment Regulations, 2021 as published in *Government Gazette* No. 44631 dated, 28 May 2021.

The Compliance Department took into account that this amendment happened towards the end of the first quarter, which would have affected the Licensee's annual planning.

Therefore, findings on compliance with this clause of the licence were not made.

4.3 Regulations regarding Standard Terms and Conditions for Individual Broadcasting Service Licensees

During the period under review, the Authority could not find any non-compliance by the Lotus FM with the Standard Terms and Conditions for individual Licensees.

4.4 Universal Service and Access Fund Regulations

Regulation 3 of the USAF Regulations, 2011¹⁰ 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 Licensee made the prescribed payment directly to the MDDA and submitted proof thereof to the Authority.

The Licensee complies with Regulations 3(1) and 3(2) of the USAF Regulations.

4.5 Complaints

A Licensee is required, in terms of the Compliance Procedure Manual Regulations, 2011, to submit a Form 12A¹¹ ECN/S and BS Complaints Reporting form, which a Licensee should complete with details of all complaints received in each financial year.

The SABC submitted its complaints report in accordance with the Regulations regarding the Code of Conduct for Broadcasting Service Licensees, 2009¹².

¹⁰ Published in *Government Gazette* No. 34010 dated, 10 February 2011.

¹¹ Provided for in the ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

¹² Code of Conduct for Broadcasting Service Licensees, 2009 as published in *Government Gazette* No. 32381 dated, 06 July 2009.

5. CONCLUSION

For the period under review, the Licensee substantially complied with its licence terms and conditions and related Regulations that govern public broadcasting services.

6. TERMS OF REFERENCE

Annexure A : Lotus FM's Service and Spectrum Licences;

Annexure B : Training & Skills Development Report;

Annexure C : Regulations on Standard Terms and Conditions for Individual Broadcasting & Individual Electronic Communications Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010, as amended;

Annexure D : USAF Regulations 2011, published in *Government Gazette* No. 34010 dated, 10 February 2011;

Annexure E : Processes and Procedures Regulations for Individual licences published in *Government Gazette* No. 33293 dated, 14 June 2010, as amended;

Annexure F : ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016;

Annexure G : Proof of SABC's Contribution to USAF; and

Annexure H :The ICT COVID-19 National Disaster Regulations, 2020 as published in *Government Gazette* No. 43207 dated, 06 April 2020, as amended.

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