

# **2011/2012 ANNUAL COMPLIANCE REPORT**

## **LOTUS 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,<sup>1</sup> the Broadcasting Act,<sup>2</sup> the ICASA Act of 2000,<sup>3</sup> and the Electronic Communications Act ("EC Act") of 2005<sup>4</sup> to regulate broadcasting activities in South Africa in the public interest. The Authority is tasked with ensuring compliance by broadcasters with the ICASA Act, the EC Act, the terms and conditions of their licence and any relevant legislation and regulations.

The following report is intended to give account of Lotus FM's performance for the period 2011/2012 financial year. Aspects of compliance that are measured comprise of Format, Local Content Obligations, General Programming Obligations, Training and Skills Development Obligations, Finances, South African Music Content Regulations and the Standard Terms and Conditions, Universal Service Fund Obligations and Licence Fee Regulations.

### **2. BACKGROUND**

Lotus FM forms part of the public service division of the South African Broadcasting Corporation ("the SABC"). The radio station was licensed to provide a full spectrum service to the Greater Kwa Zulu-Natal Province and parts of Gauteng Province (*See broadcasting service licence and spectrum licence attached as Appendix A*).

---

<sup>1</sup> The Constitution No, 108 of 1996,

<sup>2</sup> The Broadcasting Act No,4 of 1999

<sup>3</sup> The ICASA Act No, 13 of 2000,

<sup>4</sup> The Electronic Communications Act No, 36 of 2005

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Ownership and Control**

Clause 1.1 of the licence stipulates that:

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

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

*"Shareholders: The State: 100%"*

Clause 1.3 of the licence stipulates that:

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

Lotus FM forms part of the public service of the SABC and is 100% owned by the State.

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

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

Clause 2 of the schedule to the licence stipulates 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 area is Durban, Durban North, Glencoe, Johannesburg, Ladysmith, Pietermaritzburg, Port Elizabeth, Port Shepstone, Sunnyside, The Bluff and Tygerberg (See *broadcasting service licence and spectrum licence attached as Appendix A*). The Licensee confirms that its coverage area has not changed.

The radio station complies with clause 2 of its frequency spectrum licence.

### **3.3 Language(s)**

Clause 3 of the schedule to the licence stipulates for Lotus FM to broadcast its content as follows:

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

The Authority's monitoring exercise confirmed that Lotus FM broadcasts its programmes principally in English, however the radio station alternates between Hindi, Tamil, Urdu, Gujarati and Telugu during some of the specialist programmes.

The radio station complies with clause 3 of its licence.

### **3.4 Format**

Clause 4.1 of the schedule to the licence stipulates that:

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

Clause 4.2 stipulates that:

*"The licensed service shall be a full-spectrum service".*

Lotus FM is categorised as a public radio station 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.

The Licensee complies with clause 4.1 and clause 4.2 of its licence.

### **3.5 Local Content Obligations**

Clause 5 of Lotus FM's schedule to the licence stipulates that:

*"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:*

*Clause 5.1 different genres; and*

*Clause 5.2 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 5h00 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.*

Although the SABC submitted its quarterly reports for the period under review, the reports are reflective of a week's sample for each quarter. The SABC is of the view that it is unlikely that programming would change in a week.

The figures below show a breakdown of Lotus FM's compliance with the quotas set out by the Authority. These figures were verified during the Authority's monitoring exercise, as detailed under paragraph 3.5 of the report.

*First Quarter April – June 2011*

<b>Content/ Genre</b>	<b>ICASA Quota</b> (Minutes Daily/Weekly)	<b>LOTUS FM's Provision</b> (Minutes Daily/Weekly)	<b>LOTUS FM's Compliance (%)</b>
<i>News</i>	<i>60 min (Daily)</i>	<i>75min (Weekdays) 70min (Saturday) 70min (Sundays)</i>	<i>125% 116% 116%</i>
<i>Current Affairs</i>	<i>60min (Daily)</i>	<i>85min (Weekdays) 60min (Saturday) 60min (Sundays)</i>	<i>141% 100% 100%</i>
<i>IKB</i>	<i>180min( Weekly)</i>	<i>620min (Weekly)</i>	<i>344%</i>
<i>Drama</i>	<i>150min (Weekly)</i>	<i>190min (Weekly)</i>	<i>126%</i>

*Second Quarter July – September 2011*

<b>Content/ Genre</b>	<b>ICASA Quota</b> (Minutes Daily/Weekly)	<b>LOTUS FM's Provision</b> (Minutes Daily/Weekly)	<b>LOTUS FM's Compliance (%)</b>
<i>News</i>	<i>60min (Daily)</i>	<i>75min (Weekdays) 70min (Saturday) 70min (Sunday)</i>	<i>125% 116% 116%</i>
<i>Current Affairs</i>	<i>60min (Daily)</i>	<i>85min (Weekdays) 60min (Saturday) 60min (Sunday)</i>	<i>141% 100% 100%</i>
<i>IKB</i>	<i>180min (Weekly)</i>	<i>620min (Weekly)</i>	<i>344%</i>

<i>Drama</i>	<i>150min (Weekly)</i>	<i>190min (Weekly)</i>	<i>126%</i>
--------------	------------------------	------------------------	-------------

*Third Quarter October – December 2011*

<b>Content/ Genre</b>	<b>ICASA Quota</b> <i>(Minutes Daily/Weekly)</i>	<b>LOTUS FM's Provision</b> <i>(Minutes Daily/Weekly)</i>	<b>LOTUS FM's Compliance (%)</b>
<i>News</i>	<i>60min (Daily)</i>	<i>75min (Weekdays)</i> <i>70min (Saturday)</i> <i>70min (Sunday)</i>	<i>125%</i> <i>116%</i> <i>116%</i>
<i>Current Affairs</i>	<i>60min (Daily)</i>	<i>60min (Weekdays)</i> <i>60min (Saturdays)</i> <i>60min (Sundays)</i>	<i>100%</i> <i>100%</i> <i>100%</i>
<i>IKB</i>	<i>180min (Weekly)</i>	<i>615min (Weekly)</i>	<i>341%</i>
<i>Drama</i>	<i>150min (Weekly)</i>	<i>190min (Weekly)</i>	<i>126%</i>

*Fourth Quarter January 2012 – March 2012*

<b>Content/ Genre</b>	<b>ICASA Quota</b> <i>(Minutes Daily/ Weekly)</i>	<b>LOTUS FM's Provision</b> <i>(Minutes Daily/ Weekly)</i>	<b>LOTUS FM's Compliance (%)</b>
<i>News</i>	<i>60min (Daily)</i>	<i>75min (Weekdays)</i> <i>70min (Saturdays)</i> <i>70min (Sundays)</i>	<i>125%</i> <i>116%</i> <i>116%</i>
<i>Current Affairs</i>	<i>60min (Daily)</i>	<i>85min (Weekdays)</i> <i>60min (Saturdays)</i> <i>60min (Sundays)</i>	<i>141%</i> <i>100%</i> <i>100%</i>
<i>IKB</i>	<i>180min (Weekly)</i>	<i>605min (Weekly)</i>	<i>336%</i>
<i>Drama</i>	<i>150min (Weekly)</i>	<i>190min (Weekly)</i>	<i>126%</i>

The above quarterly submissions indicate compliance by Lotus FM with the set quotas during the 2010/2011 fiscal year.

### **3.2 General programming obligations**

#### **3.2.1 General**

Clause 6.1.1 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 stipulates 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).*

Clause 6.1.2 of the schedule to the licence stipulates that:

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

The Authority's monitoring exercise identified a programme called "*Bhakti Sangeet*" presented by Deena Lakhsman. The programme is broadcast every Sunday for two hours, and it deals with Christian, Hindu devotional music and discourse amongst others. It is followed by one hour of Gospel Hour and an hour of "*Deenyat*", which is an Islamic devotional music show.

The above is indicative of the fact that Lotus FM programming content caters for the language, cultural and preferences of its audience (*See Programme schedule attached as Appendix C for further details*).

The Licensee complies with clauses 6.1.1 and 6.1.2 of its licence

Clause 6.1.3 of the schedule to 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 society and shall provide programming on health related issues, gender issues relevant to all age groups".*

Lotus FM's programme content consists of a diversity of content that caters for the interest of all South Africans from social, economic and political issues to health and gender issues. "Walk The Talk" with Zakhir Ahmed discussed ways of taking care of the skin during the summer and holiday period, and other ways to promote healthy life style.

The Licensee complies with clause 6.1.3 of its licence

### **3.2.2 News and Current Affairs**

Clause 6.2.1 of 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".*

According to quarterly reports submitted by the SABC, Lotus FM broadcasts seventy five (75) minutes news every weekday and seventy (70) minutes news on Saturdays and Sundays.

The Authority's monitoring exercise indicate that Lotus FM broadcasts sixty-five (65) minutes of news during weekdays and sixty (60) news minutes of news on weekends. News is broadcast every hour on the hour from 06h00 to 20h00. Headline news is broadcast every half hour.



The following are examples of news stories identified during the period under review:

- *"A new national strategic plan on HIV Aids and TB will be released by President Jacob Zuma today. The plan will be a guide on how to tackle the pandemic over the next 5years. Various sectors under the national aids council have contributed to the plan";*
- *"The African bloc on the Durban climate change talks, say the need up to 5 trillion rand to pay for measures to mitigate and adapt to climate change. The amount is six times more than the 800 billion rand agreed to in Cancun last year for the Green Climate Fund. The fund is supposed to help developing countries"; and*
- *"The suspended president of the youth league, Julius Malema says without the vocal youth league, the youth of this country are facing a bleak future. He has appealed to youth league leaders to rise up and save the league".*

The Licensee complies with clause 6.2.1 of its licence.

Clause 6.2.2 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast at least sixty (60) minutes of current affairs programming each day during the South African performance period".*

According to quarterly reports submitted by the SABC, Lotus FM broadcasts a minimum of sixty (60) minutes of current affairs programming on weekdays, sixty (60) minutes on Saturdays and Sundays.

The Authority's monitoring exercise confirmed that Lotus FM broadcasts current affairs programmes. One of the programmes identified was *"Walk The Talk"* presented by Zakhir Ahmed. The topic of discussion was COP 17, an environmental conference dealing with climate change. Seventy- eight (78) minutes of current affairs programming was monitored.

The Licensee complies with clause 6.2.2 of its licence.

Clause 6.2.3 of the schedule to the licence stipulates as follows:

*"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) meets the highest standards of journalistic professionalism;*
- (iv) provide fair, unbiased, impartial and balanced coverage independent from governmental, commercial or other interference*
- (v) 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 confirmed that Lotus FM broadcasts matters of international, national, regional and local significance. In its current affairs broadcast, the radio station provides an opportunity for the public to receive a variety of points of view from different analysts and experts on matters of public concern. During a current affairs programme called "News Break", various topics were monitored. These included high tariffs proposed by Eskom; Grain

Storage Company appearing before the Competition Tribunal and Chatsworth Youth Centre doing their environmental duties.

The SABC's Editorial Policies form part of the SABC's Charter and monitoring of Lotus FM's news and current affairs programmes for the period under review demonstrated compliance with clause 6.2.3 of its licence and the Charter as contained in the Broadcasting Act of 1999.

The radio station complies with clause 6.2.3 of its licence.

### **3.2.3 Drama**

Clause 6.3 of the schedule to the licence stipulates that:

*"The Licensee shall broadcast at least two and a half (2 ½) 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 ninety (190) minutes (3hours 10 minutes) of drama programming per week during the performance period.

The Authority's monitoring exercise revealed that the radio station broadcasts the drama Lollypop Lane weekdays at 09h45 to 10h00 as well as in the evening at 20h30 to 20h45.

In total, two (2) hours thirty (30) minutes of drama programming per week was monitored.

The radio station complies with the clause 6.3 of its licence.

### **3.2.4 Informal Knowledge Building**

Clause 6.4 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, a minimum of 605 minutes (10 hours and 5 minutes) of informal knowledge building programming per week.

The topic about Mac Maharaj maintaining his innocence to claims that he was involved in the arms deal was identified during the Authority's monitoring exercise.

In total, five hundred and forty (540) minutes (9 hours) of informal knowledge building programming per week was monitored during the South African performance period.

The radio station complies with clause 6.4 of its licence.

### **3.3 Training and Skills development Obligations**

Clause 7 of the schedule to the licence stipulates as follows:

*"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 takes 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*

*7.4 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 SABC submitted a skills development and training report of the entity as a whole, indicating that its management and staff are representative of South African society. The SABC submits that it is in the process of vetting information which relates to its implementation of equal opportunity employment practices.

This information will detail the SABC’s management and control structures and procurement allocations. The information will be submitted as soon as the process is complete.

The Licensee further submits that Skills Development is not only a national priority, but that of the SABC at large. The Licensee submits that the technological landscape that keeps on evolving calls for the SABC to continually equip its employees with the necessary skills in order to remain competitive and sustainable. The Licensee states that in the year 2011/12, there have been a number of positive developments in response to the myriad challenges posed by the change in technology (migration from analogue to a digital space). The SABC submits that more than half of the total SABC employee population (2049) was trained in the respective divisions/clusters. Furthermore, its total expenditure on training amounted to twenty two million, nine hundred and eight thousand, seven hundred and sixty three rand (R22, 908, 763) spread across various divisions for 4612 interventions which included Learnerships/Internships. Of the 2049 employees that were trained, 47% are females and 53% are males.

Further, the SABC states that a total of 93 new bursaries were awarded in 2011/2012, bringing a total number of bursaries to 231, which includes bursaries awarded under the SABC foundation. According to SABC, the amount invested to maintain these new and existing bursaries was three million two hundred thousand rand (R3, 200 000); and were awarded in line with the critical and scarce skills identified within the broadcast industry (*See Skills and Development report attached as Appendix D*).

The radio station complies with clause 7 of its licence.

### **3.4. Provision of Audited financial statements 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, provided that the licensee may on good cause apply to the Authority for extension".*

The SABC submitted its Audited Financial Statements for the 2011/2012 financial year within the stipulated time frame.

The radio station has complied with clause 8 of 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:

*"All public sound licensees must play a minimum 40% South African music".*

The monitoring conducted by the Authority indicated that the radio station plays approximately 20% South African music. The SABC submissions by the SABC

for the period under review confirmed that the radio station does not meet the 40% requirement. The SABC submits that local Indian music is difficult to acquire. Further, the SABC applied for exemption from complying with the minimum requirement for of 40% local music content quota, and this was approved by the Authority as follows:

- 10% South African Music for 2003/2004
- 15% South African Music for 2004/2005
- 20% South African Music for 2005/2006.

Lotus FM was further required to undertake the following initiatives in developing South African Indian music:

- Continue to create four bi-annual lyric writing competitions;
- Continue to record religious music to fulfil the religious programming needs;
- Continue to coordinate workshops for South African artists with visiting overseas artists;
- Offer special package to South African artists who want to promote their albums on Lotus FM;
- Make a concerted effort to promote local concerts through publicising them in the station's community news slots;
- Profile at least one local artist/ group per month;
- Encourage local music producers to participate in competitions where they will submit completed works as part of a year-end South African Hit Makers programme;

- Offer local artists releasing news albums, interviews on the station to publicise the album;
- Give-away local CD's/ tapes as a way of increasing support among the audience for local music;

In an effort to comply with the above listed initiatives aimed at developing South African Indian Music, Lotus FM gets involved in various projects in a supporting role as well as sponsorship role. Some of the projects include:

- sponsoring the The Aryan Benevolent Home which hosted a dance group called Krishswamivel Dance Acadamey.
- In an effort to preserve Tamil arts and culture, Lotus FM Dj Mala Lutchmanan documented two books that come with an Audio CD aimed at educating the Tamil community of their heritage.
- Being part of Gospel of Dance talent search
- DJ Vijayluxmi Balakisten released a compilation of songs by various artists who include South African artists. The CD is targeted at the Telegu and Tamil communities.

Although from the above it is evident that Lotus FM endeavours to undertake initiatives to develop South African Indian music; it appears that the exemption in respect of the South African Content quota was up to 2006.

Based on the above, the radio station does not comply with the regulations on South African Music Content Regulations (*See Appendix E and F respectively*).



## **4.2 Standard Terms and Conditions for Individual Licences**

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

## **4.3 Universal Service Access Fund**

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".*

The Licensee paid its annual contribution fee of eight million fifty seven thousand, seven hundred and fifty two rand (R 8, 057 752. 00) to the fund and received confirmation of payment in a form of a Section 18A certificate from the MDDA. The Licensee submitted proof of payment to the Authority in March 2012.

The Licensee has complied with the USAF regulations.

## **4.4. General Licence Fees Regulations**

Regulation 4(b) of General Licence Fees Regulations provides for the exemption of Individual Licences for Public Broadcasting Services.

Lotus FM as part of Public Broadcasting Services is exempted from paying licence fees

## **5. CONCLUSION**

Lotus FM has generally complied with its licence terms and conditions and applicable regulations save for the forty percent (40%) requirement in respect of South African music.

## **6. APPENDICES**

Appendix A: Sound broadcasting service and frequency spectrum licences

Appendix B: SABC's editorial policy

Appendix C: Lotus FM programme Schedule

Appendix D: Skills Development Report

Appendix E: Regulations on South African Music Content

Appendix F: Correspondence from ICASA

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