

2011/2012 ANNUAL COMPLIANCE REPORT

METRO 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,¹ the Broadcasting Act,² the ICASA Act of 2000,³ and the Electronic Communications Act ("EC Act") of 2005⁴ 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 an account of Metro FM's performance for the 2011/2012 financial year. Aspects of compliance that are measured comprise of the Geographic Coverage Area, Language(s), Format, Local Content Obligations, General Programming Obligations, News and Current Affairs, Training and Skills Development Obligations, Finances, South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions and Universal Service and Access Fund Regulations.

2. BACKGROUND

Metro FM is an Individual Commercial Service Sound Broadcasting Service Licensee of the South African Broadcasting Corporation ("the SABC"). The Licensee's language of broadcast is English. 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 Provinces (*See broadcasting service licence and spectrum licence attached as Appendix A*).

¹ The Constitution No, 108 of 1996,

² The Broadcasting Act No,4 of 1999

³ The ICASA Act No, 13 of 2000,

⁴ The Electronic Communications Act No, 36 of 2005

3. COMPLIANCE ASSESSMENT

3.1 Ownership and Control

Clause 1.2 of the licence stipulates as follows:

"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"

Metro FM forms part of the commercial service of the SABC and is 100% owned by the State. The Licensee does not have persons from historically disadvantaged groups in its equity ownership.

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

3.2 Geographic Coverage

Clause 2 of the licence provides 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 covers the following areas: Gauteng, Free State, Western Cape, Northern Cape, Eastern Cape, North West, KwaZulu Natal, Mpumalanga and Limpopo. The Licensee confirms that its footprint has not changed.

The Licensee complies with clause 2 of its frequency spectrum licence.

3.3 Language(s)

Clause 3 of the licence provides that Metro FM's language of broadcast is as follows:

"Principal Language is English".

The Authority's monitoring confirmed that the Licensee's language of broadcast is English.

The Licensee complies with clause 3 of its licence.

3.4 Format

Clause 4.1 of the licence provides that:

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

Clause 4.2 of the licence provides that:

"The licensed service shall be a sound broadcasting service in an urban contemporary format".

Metro FM is categorised as a commercial radio station of the SABC and offers a service to its audience as outlined in the licence.

The radio station complies with clause 4.1 and clause 4.2 of its licence.

3.5 Local Content Obligations

Clause 5 of the licence provides that:

"In each 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".

According to the SABC, commercial radio stations are not required to submit the above information. Further, the SABC states that the original licences did not require the SABC commercial radio to report quarterly. This provision was erroneously carried over from the public broadcasting radio licences.

Commercial radio stations do not have quotas for programming genres to comply with other than news and music. To this end the SABC indicates that it was never the intention of the regulations on local content and music to prescribe reporting by a broadcaster on different genres of music, but it has always been about the principle of whether the music is foreign or local.

The SABC has further indicated that section 93 (1) of the ECA provides that the Authority cannot grant licences with less favourable terms when converting existing licences. Such an additional provision requiring quarterly reporting by commercial radio would be construed as less favourable to the SABC.

3.6 General programming obligations

3.6.1 General

Clause 6.1.1 of the licence provides that:

"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 Licensee broadcast a religious programme on Sunday mornings between 06h00 and 09h00. It is a Christian religious programme called the "Sacred Space" presented by Thami Ngubeni. The show features inspirational talks by invited guest from various Christian Denominations as well as gospel music and inspirational music both locally and internationally.

The Licensee complies with clause 6.1.1 of its licence.

Clause 6.1.2 of the licence further provides that:

"The Licensee must take reasonable steps to provide programming that reflects the cultural and tradition needs of its audience".

Clause 6.1.3 of the licence provides 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".

The programme line up of the radio station demonstrates the provisions of the above clauses. Criselda Kananda and Sakina Kamwendo present current affairs shows from 19h30 until 21h00 week days. The shows cover a wide range of topical issues such as political issues, socio-economic challenges, labour related matters, service delivery challenges, matters that are of interest to the African Continent, cultural differences and social challenges such as poverty. Also, phone-in programmes allow for participation by listeners.

The Licensee complies with clauses 6.1.2 and 6.1.3 of its licence.

3.6.2 News and Current Affairs

Clause 6.2.1 of the licence provides 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 under review, indicated that Metro FM broadcasts news bulletins every hour on the hour and headlines every half hour during weekday mornings as well as weekday afternoons. The duration of the news bulletins is five (5) minutes. This results in a total of more than ninety (90) minutes each day of news during the South African performance period.

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

- *"Health Minister Aaron Motsoaledi will release the results of the 2012 National anti-natal HIV and Syphilis survey. The health department says the survey is used to estimate the national prevalence of HIV and Syphilis infections amongst pregnant women. It says the surveys establishes HIV prevalence and estimates amongst the adult population of 15 – 49 years old. The study is expected to determine the geographical distribution pattern of the diseases";*
- *"Egyptians have turned in large numbers to vote in the mostly peaceful first ever parliamentary election. The vote is the first since President Hosni Sayyid Mubarak was toppled in February";*
- *"The Democratic Alliance says government should do everything possible to make sure that efforts to achieve a comprehensive climate change agreement remain on track. This as the country is hosting the Cop 17 Conference in Durban";*

- *"The U.S Justice department says it will press ahead with its case against the oil giant B.P., despite a settlement reached the company and thousands of people affected by the huge spill in the Gulf of Mexico nearly two (2) years ago"; and*
- *"The man dubbed the "birthday rapist" Mlungisi Mtshali will be transported to Johannesburg after his premature release. Mtshali was dubbed "the birthday rapist" because of his modus operandi and was released by mistake after serving a minor sentence. He was rearrested in Pietermaritzburg. The thirty (30) year old was awaiting trial for another hundred and twenty eight (128) charges.*

Metro FM complies with clause 6.2.1 of its licence.

Clause 6.2.2 of the licence provides that:

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

- (i) Exercise full editorial control in respect of 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;*
- (v) independent from governmental, commercial or other interference; and*
- (vi) Provide a reasonable opportunity for the public to receive a variety of points of view on matters of public concern".*

The SABC's editorial policies indicate that the Licensee exercises full editorial control in respect of contents of its programming. The editorial policies further indicate that the Licensee endeavours to meet the highest standards of journalistic professionalism. Furthermore, it provides fair, unbiased and impartial coverage independent from government, commercial or other interference (*See SABC's Editorial Policy extract attached as Appendix B*).

Monitoring of the radio station's recordings confirmed that the radio station broadcasts a current affairs programme every weekday in the form of a sports programme. "The Discovery Sports Centre" presented by Robert Marawa is broadcast weekdays from 18h00 until 19h30. The show covers a wide range of sporting codes, interviews with sport personalities, updates, analysis, phone-ins and sports commentary.

Metro FM's news bulletins and current affairs programmes are reflective of matters of international national, regional and local significance. Editorial Policies form part of the SABC's Charter and monitoring of Metro FM's news and current affairs programmes not only demonstrated compliance with clause 6.2.2 of its licence but the Charter as enunciated in the Broadcasting Act of 1999.

The Licensee complies with the clause 6.2.2 of its licence.

3.7 Training and Skills developments Obligations

Clause 7 of the Licence provides that:

"7.1 The Licensee must adopt and implement equal opportunity employment practice.

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*

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 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. The Licensee submits that it has exceeded most of the quotas prescribed by licence conditions. The Licensee further submits that it intends to adhere to its BBBEE obligations and remains committed to contributing to the growth of the South African Economy through the empowerment of previously disadvantaged individuals (*See Skills and Development report attached as Appendix C*).

The Licensee has complied with the provisions of clause 7 of its licence.

3.8 Provisions of Audited financial statements

Clause 8 of the licence provides 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 ground shown apply to the Authority for extension".

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

The Licensee complies with clause 8 of its licence.

4. REGULATIONS

4.1 The South African Music Content Regulations

Regulation 3.2 of the Regulation 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 broadcasts in the performance period consist of South African music and that such music is spread reasonably evenly throughout the said period" (See South African Music Content Regulations attached as Appendix D).

Metro FM plays a significant amount of South African music. The music genres range from Gospel, Kwaito, RnB, Jazz, to Hip hop and House. The local music played by the radio station includes among others, *"Take it easy"* by Suger Spice, *"It's a lovely day"* by Nathi Nice, *"Ilolo"* by Simphiwe Dana, *"Jika izinto"* by Zonke, *"Bosso ke mang"* by HHP, *"Wrong for you"* by Loyiso, *"Imoto"* by Professor, *"Bum Bum"* by Zakes Batwini, *"Nguye lo"* by Too Fresh, *"I love Music"* by Lebo Mathosa, *"Noma yi superstar"* by Nomsa Mazwai, *"Nokwazi wa muhle"* by B.O.P, *"The Music"* by Boki & Proverb, *"It's a beautiful day"* by Nathi nice, *"So hot"* by JR featuring T.P, *"Sweety ma baby"* by Bricks, *"Believer"* by Lira, *"Nenzeni"* by DJ S'bu & Nhlanhla, *"La vida"* by Micasa, *"I'll be back"* by 340 ml featuring Shimza, *"Feelings"* by Zonke and *"Learn to fly"* by Tamara Dey, *"Just a guy"* by Nondumiso Thembe, *"Thinking about you"* by Zonke and *"Ngim'tholile"* by Theo.

On average Metro FM plays 30% South African music on a daily basis.

Metro FM complies with the 25% local music content quota, as prescribed by the South African Music Content Regulations.

4.2 Regulations Regarding Standard Terms and Conditions for Individual Broadcasting Licences.

Section 6 (1) of the Regulations Regarding Standard Terms and Conditions for Individual Licences requires the Licensee to broadcast services for twenty four (24) hours (*see Standard Terms and Conditions attached as Appendix E*).

The radio station broadcasts for twenty four (24) hours and thus is in compliance with the Regulations Regarding Standard Terms and Conditions.

During the period under review, the Authority did not identify any other non-compliance by Metro FM with the standard terms and conditions for individual licences.

4.3 Universal Service and Access Regulations

Regulation 3 of the USAF Regulations provides 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 Broadcasting Service 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 F)*

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 Regulations in respect of the Universal Service and Access Fund.

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.

Metro FM is part of the SABC's Commercial Broadcasting Services and is exempted from paying licence fees.

5. CONCLUSION

Metro FM was granted an individual sound broadcasting licence by the Authority to provide a public service in an Urban Contemporary format to its audience.

Metro FM has, for the period under review, complied with the requirements as set out in its licence and relevant legislation.

6. APPENDICES

Appendix A: Metro FM Commercial Sound Broadcasting Radio Service and Frequency Spectrum Licence;

Appendix B: Editorial policies;

Appendix C: Skills and Training Development Report;

Appendix D: South African Music Content Regulations of 2006;

Appendix E: Regulations Regarding Standard Terms and Conditions; and

Appendix F: Universal Service Obligation Fund.