

ANNUAL COMPLIANCE REPORT 2011/2012

MULTICHOICE

Licence Period : 07 August 2008- 06 August 2023

1. PREFACE

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution¹, the ICASA Act² and the Electronic Communications Act³ ("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 regulations.

The following report is intended to give account of Multichoice performance for the period 2011- 2012. The report focuses on the following aspects: Geographic Coverage, Languages, Format, Training and Skills Development Obligations, Staff Development Equity Plan, Ownership and Control by Previously Disadvantaged Individuals, Finances, Contribution to the Broadcasting Sector, South African Television Content Regulations, Must Carry Regulations, Universal Service and Access Fund, Subscription Broadcasting Regulations, Licence Fees Regulations, Code on People with Disabilities, Sports Broadcasting Rights Regulations and Regulations on Standard Terms and Conditions.

2. BACKGROUND

On 04 August 2008, the Authority granted and issued a commercial subscription television and sound broadcasting service licence to Multichoice Africa (Propriety) Limited Multichoice. The shareholder as reflected in the licence is Multichoice South Africa Holdings (Pty) Ltd. The Ownership held by persons from historically disadvantaged groups is as follows: Multichoice Africa (Pty) Ltd: 33.33%.

¹ The Constitution of the Republic no 108, 1996

² ICASA Act no 13 , 2000 as amended

³ Electronic Communications Act no 36, 2005

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

Clause 2 of the licence provides that:

"The Licensee shall provide a national coverage of its broadcasting services".

The Licensee confirms that it provides its service through satellite and therefore provides national coverage of its broadcasting service.

The Licensee complies with clause 2 of its licence (*See Appendix A*).

3.2 Encryption and signal and use of licensed electronic communications network service.

Clause 3.1 of the licence provides that:

"The Licensee must ensure that the output signal of its subscription broadcasting service is encrypted".

Clause 3.2 of the licence provides that:

"The Licensee shall use the licensed communications network service of a licence".

The Licensee confirms that its output signal of its subscription broadcasting service is encrypted. The Licensee has also confirmed that its network service provider is Orbicom (Pty) Ltd, which is a licensed communications network service provider.

The Licensee complies with clause 3.1 and clause 3.2 of its licence.

3.3 Language

Clause (4) of the licence provides that:

"This is left to the discretion of the Licensee".

A significant number of the licensee's programmes are broadcast in English; however other programmes are broadcast in other languages such as Portuguese, Afrikaans and Indian communities. The Licensee has confirmed that its programmes and films are presented in different languages. English is the main language other languages include Afrikaans, isiZulu, Portuguese, Indian languages for the Indian bouquet and other foreign and local languages.

The Licensee complies with clause 4 of its licence.

3.4 Format

Clause 5 of the licence provides that:

"The Licensee is licensed to provide a subscription broadcasting service aimed at the general public and niche markets".

The Licensee confirms that its service is aimed at both the general public, through its general entertainment channels and niche market through its special interest channels.

The Licensee complies with clause 5 of its licence.

3.5 Training and Skills Development Obligations

Clause 6.1 of the licence provides that:

"The Licensee shall ensure that training and development needs of its staff, with particular emphasis on individuals from historically disadvantaged groups, are identified on an annual basis and are reflected in its workplace skills plan".

The Licensee submitted its workplace skills plan for the period under review. The Licensee maintains that learning and development initiatives of its employees

with particular emphasis on individuals from historically disadvantaged groups were implemented and addressed as follows:

(a) Business Skills Training and Job Specific Training

The Licensee submits that it spent 5.24 of its training spend (budget) to develop its employees on business and job specific. 87% of the total spent amount was dedicated to developing the previously disadvantaged persons. 53.9% was spent on females.

(b) Leadership Development and Coaching

The above training included Management Advancement Programme, Media Management Programme, New Management Programme, Executive Coaching, GIBS Women Leadership Development, Catalyst Programme and Stepping up to Management.

The Licensee spent 76.06% of its total training budget on the development of previously disadvantaged employees. 55.63% of the total amount was spent on females.

The Licensee has complied with clause 6.1 of its licence. *(For further details please refer to workplace skills plan attached as Appendix B)*

Clause 6.2 of the licence provides that:

"The Licensee shall submit its workplace skills plan to the Authority within a month of issuing of this licence and thereafter by the 30th of June each year".

The Licensee submitted its workplace skills plan to the Authority in accordance with the requirement thus in compliance with clause 6.2 of its licence (see *workplace skills plan attached as Appendix B*).

Clause 6.3 of the licence provides that:

'The workplace skills development plan shall report on and review a twelve month period (April to March), and shall include targets in terms of race and gender'.

Clause 6.4 of the licence provides that:

"The workplace skills plan shall reflect race and gender targets at all occupational levels, including senior and top level management".

According to the Licensee's workplace skills development plan, the targets in terms of race and gender were clearly set out. For example, seven (7) previously disadvantaged employees attended the *Media Management Programme*, 40% of which are black females.

The Licensee further reported that fifteen (15) people are currently attending *Management Advancement Programme* and 40% of which are black females.

Furthermore the Licensee reported that fourteen (14) employees are currently participating in the *Catalyst Mentorship Program*, and 84% of which are previously disadvantaged employees and 56% of which are females.

The Licensee has complied with clause 6.3 and clause 6.4 of its licence (see *Appendix B*).

3.6 Staff Development and Equity Plan

Clause 7.1 of the licence provides that:

"The Licensee shall submit its five year employment equity plan to the Authority within a month of the issuing of this licence".

The Licensee submitted its five year plan to the Authority in line with clause 7.1 of its licence.

The Licensee has complied with clause 7.1 of its licence.

Clause 7.2 of the licence provides that:

"This employment equity plan shall report on and review a twelve month period (October to September), and shall include targets in terms of race and gender".

Clause 7.3 of the licence provides that:

"The employment equity plan shall reflect race and gender targets at all occupational levels, including senior and top- level management".

The Licensee submitted information in respect of clause 7.2 and clause 7.3 above. The report outlines targets at occupational levels including senior and top-level management as well as targets in respect of race and gender as follows:

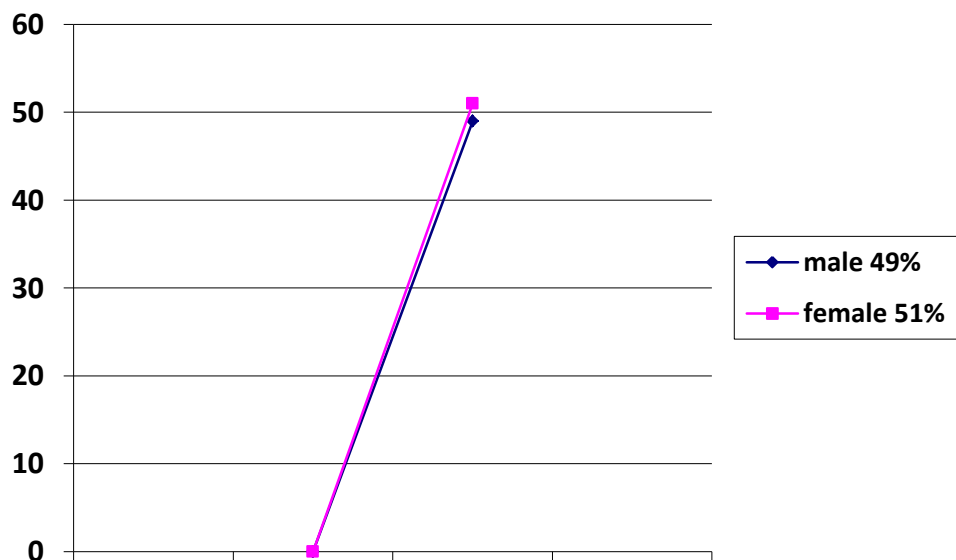
(A) Female

Occupational level	African	Coloured	Indian	White	Foreign National
Top management	0	0	1	2	0
Senior management	13	5	5	23	0
Professional and Mid management	31	14	17	31	2
Skilled and Junior management	578	112	49	56	8
Semi-skilled	36	10	3	6	0
Unskilled	301	23	3	0	0
Grand total	959	164	77	118	10

(B) Male

Occupational level	African	Coloured	Indian	White	Foreign National
Top management	4	1	1	4	0
Senior management	15	6	12	63	1
Professional and Mid management	60	16	29	80	2
Skilled and Junior management	418	97	73	66	9
Semi-skilled	31	3	1	6	0
Unskilled	239	19	5	3	0
Grand total	767	142	121	222	12

The figure below represents the Licensee's overall gender breakdown of employment equity for the period under review:



The Licensee has complied with clause 7.2 and clause 7.3 of its licence (*see staff development and equity plan report attached as Appendix C*).

Clause 7.4 of the licence provides that:

"The Licensee shall submit an annual compliance report in the format prescribed by the Authority"

During the period under review the Licensee submitted its annual report. Nevertheless it has to be noted that the Authority has not yet prescribed the format as envisaged in clause 7.4 of the licence.

The Licensee complies with clause 7.4 of its licence.

3.7 Target Market

Clause 8 of the licence provides that:

"Primarily LSM 2-10 as defined in the All Media Product Survey (AMPS) 2007".

The Licensee confirms that the target market is primarily LSM 2-10 as defined in the All Media Product Survey (AMPS) 2007.

The Licensee complies with clause 8 of its licence.

3.8 Ownership by Individuals from Historically Disadvantaged groups

Clause 9 of the licence provides that:

"The Licensee shall have no less than 30% ownership by persons from historically disadvantaged groups".

The Licensee confirms that it has more than 30% ownership from historically disadvantaged groups. (*See attached appendix D- BEE report from Empowerlogic*)

The Licensee complies with clause 9 of its licence.

3.9 Financial Year End

Clause 10.1 of the licence provides that:

"The financial year end of the Licensee is 31 March".

Clause 10.2. of the licence provides that:

"If this date changes, the Licensee shall in writing notify the Authority thereof within seven (7) business dates of the change".

The Licensee has confirmed that its financial year end is 31 March each year and this is reflected in the Licensee's Audited Financial Statements.

The Licensee complies with clause 10.1 and clause 10.2 of its licence.

3.10 Contribution to broadcasting sector

Clause 11.1 of the licence provides that:

"The Licensee shall promote and support the South African broadcasting industry to the value of R5 000 000.00 (five million Rand) per year, focusing predominantly to disadvantaged groups, SMMEs, students and youths from historically disadvantaged groups".

Clause 11.2 of the licence provides that:

"Within 3 months of its financial year end the Licensee shall deliver to the Authority a written report demonstrating compliance with this clause".

The Licensee submits that during 2011 it invested R 6 462 628.00 in the DSTV Film Skills Development Programme. In 2011, this programme provided intensive training for twenty six (26) up and coming filmmakers from previously disadvantaged communities. Thus far ninety (90) filmmakers have received training and development through this programme.

The Film Skills development Programme implemented during the year under review had two parts each having a specific focus and these are:

- (a) **Technical Skills Enhancement:** This part of the programme focuses on strengthening filmmaking core skills through the provision of advanced training in various disciplines that are key to the filmmaking process. The aim is to improve technical skills and to deepen industry as well as general business knowledge. Fourteen individuals benefited from this type of training.
- (b) **Advanced training for Procedures and Directors:** This part of the programme was born out of the local film industry's need to nurture and enhance the skills of those individuals that have displayed exceptional filmmaking talent. It is a mentorship and development intervention for producers and directors that have a high potential for success. During 2011, this opportunity was provided to three (3) producers and three (3) directors who received training that was customised to meet their own professional development needs.

During the period under review the Licensee demonstrated compliance with clause 11.1 and clause 11.2 of its licence.

4 REGULATIONS

4.1 Must Carry Regulations

Regulation 4 of the ICASA Must Carry Regulations as published in the Government Gazette, no 31500, 10 October 2008 provides that:

"All Subscription broadcasting service licensees must carry the channels of the Public Broadcasting Service licensee, designated as must carry channels as part of the service offering, subject to Regulation 5" (See Regulations -Appendix D).

The Licensee has confirmed that it complies with this obligation as it carries all three channels of the South African Broadcasting Services (SABC).

Regulation 8 provides that:

"The subscription broadcasting service Licensee must submit a copy of the agreement within thirty (30) of such agreement being concluded and signed".

The Licensee submits that it has signed the Must Carry Agreement as required by Regulation 8, with the SABC. The Agreement was signed on 14 April 2011 and was submitted to the Authority on 09 May 2011.

The Licensee complies with the requirements set out in the Must Carry Regulation.

4.2 Subscription Broadcasting Services Regulations

Regulation 3 (1) of the Subscription Broadcasting Regulations as published in the Government Gazette, no 28452, 31 January 2006 provides that:

"A subscription broadcasting service licensee may add a channel to its service unless the Authority, on application by the licensee, has authorised the channel"

The Licensee confirms that it applied and was granted by the Authority authorisation to add (nine) 9 channels in the previous financial year.

Regulation 5 provides that:

"A subscription broadcasting service shall, within 120 days after the end of its financial year of operation, submit to the Authority audited financial statements stating that, in the opinion of the auditor, the accompanying statements give a true and fair view of the licensee's subscription, advertising and sponsorship revenue derived from the provision of the subscription broadcasting service".

The Licensee has submitted its Audited Financial Statements to the Authority for the period ending 31 March 2012.

The Licensee complies with Regulation 5 above.

Section 60(4) of the EC Act provides that:

"Subscription broadcasting services may draw their revenues from subscriptions, advertising and sponsorships, however, in no event may advertising or sponsorships or a combination thereof, be the largest source annual revenue".

The Audited Financial Statements show that the Licensee complies with s 60(4) of the EC Act in that, the revenue derived from subscription far exceeds revenue derived from advertising.

The Licensee complies with Section 60(4) of the EC Act.

4.3 Licence Fees Regulations

According to Schedule 2 of the General Licence Fees Regulations as published in the Government Gazette, no 32084, 01 April 2009:

Individual Commercial Broadcasting Service Licensees are required to pay annually to the Authority a licence fee of 1.5% of its gross profit.

Schedule 3 (4) (b) of the General Licence Fees Regulations provides that:

"Annual payments are due and payable within 6 months from the end of the licensee's financial year".

The Licensee paid its annual licence fee to the Authority on 30 September 2011.

The Licensee complies with the Licence Fees Regulations.

4.4 Universal Service and Access Fund Regulations

Regulation 3 (1) of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF) as published in the Government Gazette, no 31499 of April 2009 provides that:

"Every holder of the licence granted in terms of Chapter 3 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2 % of the annual turnover, derived from the licensee's licence activity, to the Fund (the Fund)".

Further, Regulation 3 (3) provides that:

"A broadcasting service licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution

against its prescribed annual contribution to the Fund” (see USAF Regulations attached as Appendix F)

The Licensee paid its annual contribution fee to the fund, less contribution to the MDDA, to the Authority on 30 September 2011. The Authority has confirmed same through the Licensee’s AFS. The Licensee requested confidentiality in respect of AFS which was granted, the letter granting the confidentiality was sent to the Licensee on 6 August 2012.

The Licensee has complied with the regulations in respect of Universal Service and Access Fund.

4.5 South African Television Content Regulations

Regulation 5.4 of the South African Television Content Regulations published in the government gazette No 28454, dated 31 January 2006 provides that:

“A subscription broadcasting licensee must spend a minimum of 10% of its content acquisition budget on acquisition of channels with local content which are compiled and uplinked from South Africa” (See Regulations- Appendix E).

The Licensee confirms that it has during the period under review spent in excess of 10% of its channel acquisition budget on channels with local content that are compiled and uplinked in South Africa.

The Licensee has complied with the 10% stipulated under regulation 5.4.

4.6 Standard Terms and Conditions for individual broadcasting

licensees Regulations

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 attached as Appendix F).

4.7 Code on People with Disabilities

Clause 3.1 (a) of the Code on People with Disabilities as published in the Government Gazette, no 30441, 7 November 2007, provides that:

"Broadcasting service licensees must ensure that their services are made available and are accessible to people with disabilities".

Clause 3.1 (b) provides that:

"Options for making broadcasting services more accessible may include the following:

- (i) Improve and/or increase subtitles and sign language;*
- (ii) Expand knowledge on various adjustments such as induction loops, Minicom/text phones and alternatives computer software;*
- (iii) Access to programme support such as fact sheet;*
- (iv) Website to offer a range of formats (such as electronic versions, Braille and audiotape);*
- (v) Use of spoken languages where economic indicators, weather details, telephone numbers and addresses or details of goods and services are shown on-screen;*
- (vi) Use of non-scheduled services such as access via Personal Video Digital Recorders (PVR's) and TV anytime".*

Clause 3.1 (c) provides that:

"Broadcasting service licensees must monitor the effectiveness of their service through surveys as well as contact with organisations of and for people with disability and stakeholders".

The Licensee submits that as part of its compliance with the Code, it has embarked on the following projects aimed at ensuring that its services are accessible to people with disabilities:

➤ Subtitling for deaf people:

The Licensee together with M-Net as its content provider, have since 2007 investigated the possibility of introducing subtitles on their channels aimed at

improving viewing experience for deaf people or hard hearing people. Currently the Licensee provides subtitles to five (5) channels, namely; M-Net, M-Net Movies 1, M-Net Movies 2, M-Net Stars and M-Net Series. The Licensee is currently investigating the possibility of extending these services to other channels.

➤ Jumbo Remote:

The Licensee has in the past annual compliance reports indicated to the Authority that it was working on developing a special remote control for people who, due to disability find it difficult to use the normal remote. This may be due to disability involving sight or have other physical disabilities making it difficult for them to hold and operate a normal remote control.

On 4 October 2010, the Licensee launched the Jumbo Universal Remote and donated 100 of its new Jumbo Universal Remotes and manuals written in braille to Blind SA based in Mayfair. The Jumbo Universal Remote has fewer and larger buttons and an illuminated keypad. These buttons can perform all the usual functions on a PVR decoder e.g. play, pause, and rewind. The Licensee believes that the remote will significantly improve the viewing experience of subscribers who might struggle with the normal remote.

➤ Sight Impaired:

The Licensee and M-Net are currently investigating a possibility of offering audio descriptive tracks (ADT's) on movie channels which will make visual images accessible to people who have impaired sight. ADT's use words that are succinct, vivid and imaginative to convey the visual image that otherwise would not be accessible to a people with impaired sight.

M-Net and Multichoice will be running a test broadcast for a movie that has audio descriptive (AD) tracks for the sight impaired in August 2012. This will be done in conjunction with the Association of the Blind in order to have their input and advise on how to roll the service out further. Also to ensure that we cater for their needs as far as possible in all communication and project plans. The test will be done on M-Net HD (the channel). This service can only be made available

on HD channels owing to limited audio channels on the SD services (and owing to the fact that SD services are taken up by audio censoring for the family soundtrack). Depending on how the test broadcast is received and all the technical requirements are met, the service will be rolled out. It will be on selected titles only and will increase based on demand and/or availability of the AD tracks.

Based on the above submissions, the Licensee has complied with the Code on People with Disabilities.

4.8 Sports Broadcasting Regulations

Regulation 9 (2) of the Sports Broadcasting Rights Regulation as published in the Government Gazette, no 33079, 7 April 2010 provides that:

"A broadcaster, who is involved in broadcasting national sporting events, shall file the records of its broadcasts one hundred and twenty (120) days from the date of the publication of these regulations and after every year from the date of the first filing".

The Licensee submitted to the Authority, records of broadcast, on 30 September 2011.

The Licensee complies with the Sports Broadcasting Regulations.

5 CONCLUSION

The Licensee was awarded its commercial subscription television and sound broadcasting service licence by the Authority in August 2008. For the period 2011/2012 the Licensee has demonstrated compliance with its licence terms and conditions applicable legislation and regulations.

6 APPENDICES:

Appendix A : Multichoice licence conditions

Appendix B : Workplace Skills Plan

Appendix C : Staff Development and Equity Plan Report

Appendix D : Must Carry Regulations

Appendix E : Subscription Broadcasting Services Regulations

Appendix F : Licence Fees Regulations

Appendix G : USAF Regulations

Appendix H : South African Television Content Regulations

Appendix I : Standard Terms and Conditions Regulations

Appendix J : Code on People with Disabilities

Appendix K : Sports Broadcasting Rights Regulations