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[...]

APPLICATION FOR THE AMENDMENT OF AN INDIVIDUAL COMMERCIAL SOUND BROADCASTING SERVICE LICENCE BY OF HOT 1027 FM (PTY) LTD IN TERMS OF SECTION 10 OF THE ELECTRONIC COMMUNICATIONS ACT 36 OF 2005

REASONS FOR DECISION

JUNE 2026

1. INTRODUCTION

This document sets out the reasons for the decision of the Independent Communications Authority of South Africa ("the Authority") in relation to an application for the amendment of the Individual Commercial Sound Broadcasting Service ("I-CSBS") licence by Hot 1027 FM (Pty) Ltd t/a Hot 1027 FM ("the Applicant").

2. BACKGROUND

2.1. On 02 September 2024, the Authority received an application from the Applicant to amend it's I-CSBS licence.

2.2. The application was lodged in terms of section 10 (1) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the ECA") as amended, read with regulation 9 (1) (Form C) of the Processes and Procedures Regulations for Individual Licences, 2010 published in Government Gazette No. 33293 (Notice No. 522 of 14 June 2010[1] ("the Regulations").

2.3. A resolution of authority authorising DLA Piper Advisory Services (PTY) Ltd ("DLA") to lodge this application on behalf of the Applicant was duly submitted[2].

2.4. The Applicant did not request confidentiality in terms of section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act").

2.5. On 20 November 2024, the Authority published General Notice No. 713 (Government Gazette No. 51634), inviting interested persons to submit written representations in relation to the application within twenty-eight (28) working days from the date of publication of the notice.

2.6. On 09 December 2024, the Applicant and the Authority received written representation from the South African Broadcasting Corporation ("SABC" or "public broadcaster").

[1] As amended by Notices No. 522 of 14 June 2010, 154 of 30 March 2016, 767 of 5 December 2018 and 1720 of 30 March 2023.
[2] Appendix 5.2.

2.7. On 03 January 2025, the Applicant responded to the SABC's written submission.

2.8. On 14 May 2025, the Authority elected to hold public hearings with regards to the amendment application.

2.9. On 23 May 2025, the Applicant submitted written submissions in response to issues raised at the hearing which includes procedural matters, additional questions raised by the Authority at the public hearing and the representation made by the SABC.

2.10. On 10 November 2025, the Applicant was requested to further clarify certain information on its application and further conduct a survey with regards to the affected listeners of the Classical Music and provide the requested information by twenty-one (21) days[3].

2.11. The requisite information was received on 09 December 2025.

2.12. On 18 June 2026, the Authority partially approved the Applicant's amendment of it's I-CSBS licence application. The licence reflecting the amendments was issued on 29 June 2026.

3. PARTICULARS OF THE APPLICANT

3.1. The full name of the Applicant is Hot 1027 FM (Pty) Ltd, trading as Hot 1027 FM. The Applicant's principal place of business is Loft 16 Fancourt Office Park, Felstead Road, Northriding, Johannesburg, 2198. The postal address is Postnet Suite 525, Private Bag X3, Northriding, 2162.

3.2. The Applicant is a Private Company registered in terms of the Companies Act 2008, Act No. 71 of 2008 as amended, with the following registration number: M1996008632

[3] Letter addressed to the applicant for further inputs on the amendment application.

4. APPLICABLE LEGISLATIVE FRAMEWORK

4.1. This application was lodged in terms of the following legislative and regulatory provisions:

4.1.1. Section 10 (1) (a), (b), (c), (d) and (f) of the EC Act which states that:

"(1) the Authority may amend an individual licence after consultation with the licensee-

(a) to make the terms and conditions of the individual licence consistent with the terms and conditions being imposed generally in respect of all individual licences of the same type;

(b) for the purpose of ensuring fair competition between licencees;

(c) to the extent requested by the licensee provided it will not militate against orderly frequency management and will not prejudice the interests of other licensees;

(d) to the extent necessitated by technological change or in the interest of orderly frequency management; and

(f) where the Authority is satisfied that the amendment is necessary to ensure the achievement of the objectives of this Act;

4.1.2. Section 10(2) of the EC Act provides that:

"The provisions of section 9(2) to (6) apply, with the necessary changes, to the amendment of an individual licence."

4.1.3. Regulation 9 (Form C) of the Processes and Procedures Regulations for Individual Licences, 2010[4], as amended ("the Regulations") which states as follows:

[4] Notice No. 522, *Government Gazette* No. 33293 published on 14 June 2010.

"An application to amend a licence must be in the format as set out in Form C and it must be accompanied by the applicable fee."

4.2. Schedule 1 (Administrative Fees) of the General Licence Fees Regulations, 2012[5] as amended, provides that:

"The applicable fee for the amendment of an individual licence is R78 650.00."

4.3. The Applicant completed Form C and submitted proof of payment totalling an amount of Seventy-Eight Thousand Six Hundred and Fifty (R78 650.00).

5. ANALYSIS AND DISCUSSION

5.1. PROPOSED AMENDMENTS

In this application, the Applicant requests the approval from the Authority to amend its I-CSBS licence as follows:

5.1.1. Clause 5 – Format

Clause 5 of the Applicant's I-CSBS licence currently reads as follows:

"The Licensee shall provide 50% Classical Music and 50% Old Skool and R&B Music."

5.1.2. The Applicant requests the Authority to approve its proposal to remove 50% Classical Music and play 100% Old Skool and R&B Music. The Applicant proposes that Clause 5 of its I-CSBS licence read as follows:

"The Licensee shall provide 100% Old Skool and R&B Music."

[5] Government Gazette No. 36323 of 28 March 2013.

6. REASONS PROVIDED BY THE APPLICANT FOR THE PROPOSED AMENDMENTS[6]

6.1. The Applicant provides the following background facts and reasons for its proposed amendment:

6.1.1. In 2020, the Applicant applied for the transfer of its licences and the amendment of its format to remove Classical Music in its entirety. However, the Authority approved the amendment application as follows:

"The Licensee shall provide 50% Classical Music and 50% Old Skook Music and R&B Music."

6.1.2. The Applicant states that it has been complying with the above music split format as approved by the Authority for the past three years. According to the Applicant, this has adversely affected its listenership growth, the ability to attract advertisers and to increase its revenue. In that regard, the Applicant seeks the approval of the Authority to remove Classical Music in its entirety and provide only Old Skool and R&B Music.

6.1.3. The Applicant states that its listeners prefer Old Skool and R&B Music as opposed to Classical Music. The current format, according to the Applicant, is an impediment to its success because its listeners and advertisers have less interest in the current music format.

6.1.4. The Applicant acknowledges that listeners of Classical Music would no longer be able to access Classical Music on an analogue radio station if this application is approved. However, the Applicant states that the listeners of Classical Music in the Gauteng province are few and there is insufficient demand for Classical Music, irrespective of the time periods within which the Classical Music is playing, that is, between 19h00 and 05h00.

6.1.5. The Applicant believes it would be on equal footing with other broadcasters in the commercial sector if this application would be approved by the Authority.

[6] Page 14 – 15 of the application.

6.1.6. The Applicant states that, because of the lower listenership at night, advertisers are not willing to place adverts during the Classical Music slot and that as a matter of fact, only (one) 1 advertiser, namely Tele sure, is willing to advertise during this period. The Applicant states that the only reason Tele sure places adverts during this night slot is because of the discounted advertising rate during this period afforded to Tele sure.

6.1.7. The Applicant further states that, although listenership is generally less at night across all radio stations, which results in advertising usually being more limited than in the day, the Applicant's situation is, however, very different. This is because the drop in the Applicant's audience is much more pronounced at night as compared to the other radio stations due to Classical Music being played during this time. Although there is a drop in listenership across all radio stations at night, the Applicant states that, at nighttime, radio stations are able to add value for advertisers. They do this by offering advertisers discounted and more competitive rates, thus further incentivising them to advertise at night.

6.1.8. In addition, the Applicant states that, while other radio stations are able to add this value, the Applicant is unable to do so as it simply cannot give advertisers the reach and return on investment that it is after due to its low listenership at night. Consequently, advertisers remain largely unwilling to advertise during the Classical Music slot due to the particularly low listenership associated with this format.

6.1.9. According to the Applicant, advertisers' sentiments are that the Classical Music segment is perceived as commercially restrictive, totally disconnected from the rest of the Applicant's offering, and incompatible with their target audiences. Further, many describe Classical Music as a niche genre that causes audience to "tune-out" precisely when their high-value consumers are most reachable during the critical post-work, prime-time window. As a result, brands are avoiding the Classical Music slot altogether, despite being highly supportive of the Applicant's daytime performance when Old Skool and R&B music is playing.

6.1.10. The Applicant states that advertisers also stress the impact on campaign continuity and media planning efficiency. According to the Applicant, several advertisers indicate that the format change interrupts the audience journey from day to night, weakening brand engagement and making the Applicant less competitive in securing nighttime advertising budgets. Furthermore, many advertisers express a strong interest in increasing their investments if the Applicant were to adopt a full-time Old Skool and R&B format, which they view as better aligned with listener preferences and capable of sustaining engagement across fully across the day and night.

6.1.11. The Applicant emphasises that the audience is considerably small when it plays Classical Music compared to the time it plays Old Skool and R&B Music. As such, it is difficult to source advertising when it plays Classical Music, except with alcohol brands that are only able to advertise after 19:00.

6.1.12. The Applicant states that, unlike its competitor radio stations, it is unable to offer a value-add in the form of reduced rates for advertisers when it plays Classical Music.

6.1.13. The Applicant further states that Classical Music has a dwindling listenership which negatively impacts its advertising revenues, and it is detrimental as advertising is the primary source of revenue for commercial sound broadcasters.

6.1.14. Furthermore, the Applicant states that for the past three years, since implementing the obligatory music split, they came to a realisation that a change is needed and that the split format is an impediment to its success. The Applicant is of the view that a consistent format is what listeners and advertisers want, and Old Skool and R&B music format is more attractive to its listeners and advertisers who want to sell their products and services.

EVENTS LEADING UP TO APPLICANT'S CURRENT POSITION[7]

6.1.15. The Applicant states that its first licences were issued by the then Independent Broadcasting Authority ("IBA") to Classic FM, with a 100% Classical Music format.

6.1.16. The Applicant further states that on 27 September 2019, Classic FM was placed under voluntary business rescue, as it was not financially viable to continue operating. According to the Applicant, one of the reasons it underwent business rescue was because of the Classical Music format, which was no longer attractive to

[7] Page 16 – 20 of the application.

its listeners, and, as a result, advertisers were not interested in advertising with the Applicant.

6.1.17. The Applicant came out of business rescue after new investors took over. The Applicant subsequently filed a transfer application and an amendment application of its licence conditions with the Authority in 2020.

6.1.18. In the amendment application, the Applicant requested that the Authority approve 100% R&B and Old Skool. As stated above, the Applicant's format was approved by the Authority to be split 50/50 between Classic and R&B/Old Skool Music.

6.1.19. Although the Applicant's amendment application was approved as mentioned above, the Applicant states that it still has not been able to attract much of the listeners because of the Classical Music offering.

6.1.20. The Applicant states that the practical implication of the 50/50 format is that listeners are confused, and advertisers are paid at a lower rate to invest in the radio station and, as a result, the brand and business suffer. While listeners are enjoying their preferred music of Old Skool and R&B, it is abruptly disturbed by the changes to Classical Music at 19h00.

6.1.21. The Applicant further states that there is a significant decrease in the number of listeners when Classical Music is playing as opposed to when Old Skool and R&B music plays. The Applicant acknowledges that radio listenership drops after 19:00, and the Applicant is of the view that listeners are not interested in the Classical music which starts to play at 19h00, hence the drop in listenership. The Applicant again emphasises that its listeners tune into the radio station to listen to Old Skool and R&B music, and not Classical Music there little to no demand for Classical music regardless of the time of day.[8]

6.1.22. Accordingly, the Applicant is of the view that it would be able to attract listeners and advertisers if it would be allowed to exclusively broadcast R&B and Old Skool Music.

6.1.23. In support of the argument that advertisers are not keen on advertising with the Applicant during the times the Applicant plays Classical music, the Applicant has

[8] Page 17 – paragraph 22(c) of the application.

attached letters from three of the key media agencies; Cinevation, Park Advertising and Ultimate Media that contribute 34% in aggregate to the Applicant's revenue. Basically, these agencies are in support of the Applicant's request to remove Classical music to attract listeners and advertisers.

6.1.24. The Applicant has also included more agencies/companies that express less interest in advertising during the Classical Music slot. These advertisers include, amongst others, Tsogo Sun, Vodacom, Frequent Media, FNB, Ti Auto Investment (Tiger Wheel and Tyre, WWP Media) and Omnicom Media.

PROCESS SUGGESTED BY THE APPLICANT TO BE FOLLOWED BY THE AUTHORITY WITH REGARDS TO THIS PROPOSED AMENDMENT APPLICATION[9]

6.1.25. The Applicant suggests that the Authority should consider section 51 of the EC Act, which relates to an application for a new commercial broadcasting licence. Although the Applicant suggests that the Authority should consider section 51 of the EC Act, it is of the view that the Authority should not precisely follow the same process of a new licence application but rather of an existing licensee with a reputable track record like it.

6.1.26. The Applicant notes that section 51 requires the Authority to investigate two key points before granting a commercial broadcasting service licence. The first is whether there is a demand for the proposed broadcasting service within the proposed Licence area, and, secondly, whether there is need for the proposed broadcasting service within the licenced area.

6.1.27. The Applicant further states that it does not see a need for the Authority to publish its amendment application, as their competitors would not have anything further to add as they did in the previous amendment application in 2020. The Applicant proposes that if the Authority publishes its amendment application for comments, only new or updated comments that were not submitted in the previous amendment application process should be considered.

[9] Page 21 of the application.

6.1.28. The Applicant further states that the Authority should consider the objects of the EC Act, which require the Authority to promote competition within the ICT sector, promote the development of public, commercial and community broadcasting services which are responsive to the needs of the public, and promote stability in the ICT sector.

6.1.29. Although the Applicant is of the view that the Authority should consider section 51 of the EC Act when processing its amendment application, the Authority's position is that it would not be able to do so. On the reading of section 51, it explicitly states that the consideration of the factors listed are for "the grant of a *new* commercial broadcasting service licence". This means that the use of section 51 is strictly for purposes of considering factors for the grant of a new licence as opposed to an already existing one. By the Applicant's own admission, it is applying for an amendment of an existing licence, which then falls outside the bounds of section 51 of the EC Act. On this basis, the Authority cannot consider section 51 when analysing the Applicant's application.

6.1.30. Again, the Applicant refers to provisions of the IBA's Position Paper which are exclusively applicable to new entrants. Consequently, the reference to these specific provisions within the Position Paper and section 51 of the EC Act renders them irrelevant to this application. This is an application for an amendment application for a licence that has been in operation for 28 years and not a new application.

THE AUTHORITY'S REASONS FOR PARTIALLY GRANTING THE PREVIOUS AMENDMENT APPLICATION

6.1.31. The Applicant states that, when it applied for the amendment to remove Classic music in totality in 2020, the Authority acknowledged its arguments in respect of the following submissions, that:

6.1.31.1. public taste in music has changed significantly over time, including the ways in which the public accesses music, which necessitated a format amendment;

6.1.31.2. Classical Music is no longer appealing to listeners as such; listenership and revenue were negatively affected by its format;

6.1.31.3. a new format would make the station more appealing to advertisers and result in new investments and make the station profitable again; and

6.1.31.4. that preference for Classical Music was limited mainly to white, middle-aged and older males, as supported by an independent competition analysis report submitted in relation to the music preferences by the public. Thus, not representative of the broader demographic profile in the Gauteng province, or of the audience the Applicant was targeting.

6.1.32. The Applicant indicates that, despite the above points, the Authority argued that removing the obligation to play Classical Music entirely would *"prejudice its loyal listeners across the racial and cultural spectrum who may not necessarily have the means to tune in on the online platforms but are dependent on the traditional platform"; and*

6.1.33. *despite the decline, the "regular ... Classical music listener ... must not be isolated but still catered for on the traditional platform*."

6.1.34. The Applicant states that the reality is that Classical Music may well have stood out at the time that Classic FM's licence was first granted 26 years ago, however, people's taste in music changed, and Classical Music has declined significantly.

6.1.35. The Applicant submits that a commercial broadcaster should not be compelled to provide niche content that does not allow it to operate on a commercially viable basis. Further, if the niche content is considered to be important and serving the public interest, this should be provided by the public broadcaster.

6.1.36. The Applicant emphasises that the 50/50 music split between Classic and Old Skool/R&B restricts it to build a strong brand and it is accordingly competing on an uneven play field with other commercial broadcasters who are broadcasting a single format.

6.1.37. The Applicant states the 50/50 music split is a format that was imposed by the Authority, which the Applicant did not apply for. It further submits that there is no proof that the Authority conducted research to establish whether there is still a need and demand for a 50/50 format. On the other hand, the Applicant states that, at the time of the previous application, it was certain that there is no need and demand for Classical Music, but that there is a need and demand for Old Skool and R&B Music.

7. RESEARCH UNDERTAKEN SUPPORTING THE PROPOSED AMENDMENT[10]

7.1. To support its current application, the Applicant provides a research report ("the BrandMapp Report"), conducted by a company called BrandMapp. This report illustrates the type of music that appeals to the residents in Gauteng province. The BrandMapp Report indicates that R&B is the most listened music at 61%, followed by Gospel music at 45%, Dance/House at 44%, Jazz at 27%, African traditional at 24%, Classical at 18%, Rap at 18%, and Rock at 17%.[11] Accordingly, the Applicant emphasises that the most interesting music format to the listeners in Gauteng province is the R&B Music.

7.2. The BrandMapp Report further shows that the most popular commercial broadcasters in the Gauteng province, based on listenership, are Kaya FM, Power FM, 94.7 Jacaranda FM, and Radio 702, whereas Hot FM is at the bottom of the list.[12]

7.3. In addition, the Applicant relies on a second research report ("the Plus 94 Report), which study was conducted by a company called Plus 94. The Plus 94 Report was conducted in order to establish whether the Applicant's listeners are interested in Classical Music, and to obtain suggestions by listeners on how to increase listenership of the breakfast/morning show.

7.4. According to the Plus 94 Report, most respondents indicated that after 7 pm, when Classical music is playing, they tune into other radio stations like Jacaranda FM. The respondents further indicated that they enjoy listening to Hot 1027 FM during the day when Old Skool and R&B music are playing.

7.5. Based on the above reasons, the Applicant concludes that there is less interest in Classical music, which has resulted in listenership declining and a loss of advertisers and, in turn, a negative effect on its revenue.

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[10] Page 85 – 187 of the application
[11] Page 104 of the application.
[12] Page 102 of the application.

7.6. It is for these reasons mentioned above that the Applicant requests the Authority to amend its licence and remove Classical Music in its entirety.

8. IMPLICATIONS OF THE PROPOSED AMENDMENTS

8.1. The Applicant is of the view that the Authority must consider the following when assessing this amendment application:

8.1.1. first, that the Applicant brings this application in terms of section 10(1)(a) of the EC Act, which allows the Authority to amend the terms and conditions of an individual licence to align with those of all individual licences of the same type;

8.1.2. second, that the removal of the Classical Music would allow the Applicant to provide its format in the same manner as other individual broadcasters;

8.1.3 third, that there are grounds for the Authority to amend its licence for the purpose of ensuring competition between licensees, as envisioned by section 10(1)(b) of the EC Act. The Applicant emphasises that it is precisely to ensure fair competition between licensees that it brings this application;

8.1.3. fourth, that its current licence conditions are unfair and that all players within a relevant market must be subjected to the same rules and operate within the same framework. The Applicant submits that, currently, the commercial sound broadcasting market is not operating fairly because it has to compete with other commercial sound broadcasting licensees while offering two entirely different formats and at the same time is expected to attract advertisers 24-hours a day. By way of example, the Applicant submits that, if broadcasters like Kaya FM were obligated to play 50% jazz and 50% Classical music or if 94.7 were obligated to play 50% heavy metal and 50% urban contemporary music, there would be an outrage;

8.1.4. fifth, that the proposed amendment to its Licence will not have a negative impact on orderly frequency management and will not prejudice the interests of other licensees, but rather it would be able to better compete with other radio stations that are available in its coverage, as contemplated in section 10(1)(c) of the EC Act;

8.1.5. sixth, that it has been demonstrated that this application is in support of a number of the objects of the EC Act, as contemplated in section 10(1)(f). The Applicant submits, is impressive given that a number of these objectives do not pertain to broadcasting *per se* but focus on other aspects of the EC Act;

8.1.6. that the following objects of the EC Act are the most relevant in the context of this application:

8.1.6.1. promoting competition within the ICT sector (section 2(f));
8.1.6.2. promoting the development of public, commercial and community broadcasting services that are responsive to the needs of the public (section 2(r));
8.1.6.3. ensuring that broadcasting services, viewed collectively, promote the provision and development of a diverse range of sound and television broadcasting services on a national, regional and local level, which cater for all language and cultural groups and provide entertainment, education and information (section 2(s)(i)); and
8.1.6.4. promoting stability in the ICT sector (section 2(z);

8.1.7. that the Authority should consider the Position Paper published by the Authority's predecessor, the IBA on 16 May 1996. The Applicant is of the view that, even though the Position Paper relates mainly to the Independent Broadcasting Act (the "IBA Act"), the principles in the Position Paper remain relevant because the provisions of the IBA Act, which deal with private sound broadcasting licences, were substantially re-enacted in the EC Act;

8.1.8. that the Position Paper makes it clear that financial viability is a key consideration in an application. According to the Position Paper, applicants must demonstrate, by way of surveys, that there is a need and demand for their proposed radio service, which has to be linked to their financial projections;

8.1.9. that applicants must provide details of their audience profile and prospective advertisers and show how this would feed into their projected advertising and other revenues at that time. Recent invitations to apply published by the Authority show that these factors continue to be relevant when the Authority issues new commercial sound broadcasting licences in terms of the EC Act;

8.1.10. that most of the broadcasters listed below are in the coverage area in Johannesburg and their formats are "adult contemporary" and "music", which is more general. The Applicant argues that it is proposing to provide format different from the formats described below, and accordingly this would add diversity in the market. The Applicant accordingly lists the respective Licence formats:

Licensee/ radio station	**Licence format**
Jacaranda FM	Clause 5.1 of the schedule to the Licence provides that: *"The licensee shall have* a *programming format of music in an adult contemporary golden oldies format providing* a *mix of music and information that is community based.* Clause 4 of the schedule to the Licence provides that Jacaranda FM's has a split broadcast language of *"English 50% and Afrikaans 50%".*
Metro FM	Clause 4.2 of the schedule to the Licence provides that: *"The licensed service shall be a sound broadcasting service in an urban contemporary format".*
YFM	Clause 4(a)(b) of the schedule to the Licence provides that YFM's format is: *"(a) Youth based focused service with an infotainment consisting of seventy five percent (75%) music and 25% talk;* *(b) The Licensee may not change more than fifteen percent (15%) of its format between 05h00 and 23h00".*
5FM	Clause 4.1 of the schedule to the Licence provides that: *"The licenced service shall be a sound broadcasting service in* a *Contemporary Hit Radio Format.*
94.7	Clause 4 of the schedule to the Licence provides that: *"The Licensee shall have* a *programming mix of talk and music in an adult contemporary format, providing* a *mix of music and information (including coverage of community affairs)".*
Kaya FM	Clause 5.1 of the schedule to the Licence provides that: *'' 5.1.1 An African-focused adult contemporary/jazz music; and* *5.1.2 Sixty percent (60%) music and forty percent (40%) talk".*
Radio 702	Clause 4 of the schedule to Licence provides that the licensee's format is: *''A talk-based service with* a *maximum of fifteen percent (15%) music*

Licensee/ radio station	Licence format
	programming".
Power FM	Clause 4 of the schedule to Licence provides that: *"The Licensee shall be* a *full-service adult contemporary talk radio station with up to* 70% *of the airtime devoted to talk and at least 30% to music.*

8.1.11. that both research and day-to-day operations at the radio station has shown that there is a need for diversity in the current form of format. The Applicant further emphasise that it attracts a big number of listeners during the hours it plays Old Skool and R&B Music. The Applicant believes that if its listeners were not adequately serviced by it, there would be no need for a radio station like Hot 1027, however, the Applicant has discovered that listeners switch in numbers to listen to it when it plays Old Skool and R&B Music; and

8.1.12. that it views its primary competitors in the commercial broadcasting market, with similar target audiences as Highveld 94.7, Radio 702, and Jacaranda FM. However, according to the Applicant, its proposed service is distinct from the formats offered by the mentioned broadcasters.

9. WRITTEN REPRESENTATIONS BY THE SABC[13]

9.1. Written representations were received by the Applicant and the Authority before the due date elapsed from the SABC and is objecting to the proposed amendment as follows:

Legislative and Policy Considerations

9.1.1. The SABC states that:

9.1.2. the Authority has, in the licensing of Greenfield radio stations, included the Applicant, which at that time was trading as Classic FM, developed a Position Paper on Private Sound Broadcasting Services published ("the Position Paper") on 16 May

[13] Written submission by SABC submitted on 09 December 2024.

1996. The Position Paper set the context and criteria for consideration by the Authority to licence new sound broadcasting services in the market. The Position Paper, amongst other criteria, states the following:

9.1.2.1. that, "In deciding to grant an application for a licence, the Authority was amongst other things guided by format and language diversity to meet the obligations set out in section 2(e) of the EC Act which requires the Authority to:

(a) Promote the provision of a diverse range of sound broadcasting services on a national, regional and local level which when viewed collectively, cater for all languages and cultural groups and provide entertainment, education and information."

9.1.2.2. that, section 2(s)(i) of the EC Act, provides that the Authority should:

"*(s) ensure that broadcasting services viewed collectively –*

(i) Promote the provision of and development of a diverse range of sound and television broadcasting services on a national, regional and local level…". Accordingly, the SABC is of the view that the unique Classical music format proposed by the Applicant at the time of the initial licensing of Greenfield radio stations was a major consideration by the Authority in granting the Applicant a licence.

9.1.2.3. deviation from the Applicant's licensed format not only dilutes the material essence of the licence but militates against the principle of licensing diverse services in the market;

9.1.2.4. South Africa's radio industry benefits from a variety of formats that cater to niche audiences. According to SABC, the proposed amendment by the Applicant to exclusively offer Old Skool and R&B music would undermine diversity in the market;

9.1.2.5. the market is already saturated with radio stations that are playing Old Skool and R&B music, which tends to be more foreign music than local which in turn benefits international artists;

9.1.2.6. the broadcasting industry is aware that many radio stations are struggling to meet their revenue targets as advertising revenues are shrinking and this struggle is not unique to the Applicant. The SABC is therefore advising the Authority not to grant the Applicant the proposed format for reasons that are based on increasing its audiences to gain more revenues;

9.1.2.7. although the Applicant is not a public broadcaster, it is critical for all broadcasters to contribute to South Africa's broader cultural tapestry as provided for in section 2 of the EC Act. SABC states that radio stations like Metro FM and Radio 2000 already serve audiences with a strong preference for genres like Old Skool and R&B and the Applicant's proposed 100% Old Skool and R&B proposed format would overlap with Metro FM and Radio 2000 audiences, and thus creating unnecessary competition and potentially diluting listener loyalty; and

9.1.2.8. the Applicant was granted the licence on the promise by the Applicant that it would play 100% Classical Music. This was in recognition of a gap in the market whereby Classical Music had fewer platforms to showcase their creative expression in the country. According to SABC, the Applicant has failed to grow the outlets for Classical Music and SABC suggests that the Applicant must do more to support Classically trained musicians and promote Classical Music genre by working with the relevant the government department, record companies and state theatres.

9.1.3. The Authority agrees with the view of the SABC that granting the Applicant the proposed format amendment would be deviating from the initial licence issued to the Applicant which stated that it would provide Classical Music.

CONSIDERATIONS FOR LICENCE AMENDMENT

9.2. Section 10 of the EC Act provides the criteria to be followed by the Authority in amending an individual licence. Among others it provides: "*the Authority may amend an individual licence after consulting with the licensee –*

For purposes of ensuring fair competition between licensees; and

Where the Authority is satisfied that the amendment is necessary to ensure the achievements of the objectives of this Act".

9.3. SABC further emphasised that the proposed amendment by the Applicant does not enhance fair competition to the already saturated market that provides an abundance of old skool music and R&B. It should further be noted that the proposed amendment is in essence a proposal for a new service licence, which should be critically viewed by the Authority as a material deviation from the original licence. The application should thus be viewed against the backdrop of a section 51 enquiry, as it would appear to be an application for a new service. If the application succeeds, the station shall have morphed from a Classical music station to a new music station that was not contemplated in the original licensing process.

9.4. SABC submits that the application by the Applicant to amend its current format of 50% split between Classical Music and Old Skool and R&B music to 100% Old Skool and R&B music be refused. According to the SABC, the application does not comply with section 10 of the EC Act but is an application for a new licence in disguise and deviates materially from the originally intended licensed service for Classical Music.

9.5. The SABC further emphasised that if the Applicant is granted the proposed amendment, South Africa will be poorer with the Classic music culture.

10. RESPONSE BY THE APPLICANT TO SABC'S WRITTEN SUBMISSION[14]

10.1. On 03 January 2025, the Applicant responded to the SABC's written submission as follows:

Diversity of services in the sound broadcasting market

10.1.1. the Applicant agrees with SABC that the Authority must give effect to the objectives in section 2 of the EC Act, including, but not limited to, the objectives in section 2(s)(i) of the ECA as quoted in the SABC's letter as:

10.1.1.1. to promote diversity in the range of radio services; and

[14] Applicant's response to the SABC's written submission received on 03 January 2025.

10.1.1.2. the principles in the Position Paper on Private Sound Broadcasting Services, 1996 are relevant to Authority's consideration of the application as mentioned on paragraphs 6.8 and 6.9 of Appendix 3.2 of the Application. The Applicant states that although the proposed format may be similar to other radio station formats in the market, it is not the same and, accordingly, that amending the format as proposed does not undermine the objective of promoting diversity.

10.1.2. The Applicant states that the policy principles set out in the Position Paper and in the EC Act extend beyond the need for the Authority simply to ensure diversity of services in the market, it also mentions financial viability, the need and demand for a proposed radio service.

10.1.3. While the unique Classical Music format was an important consideration for the Authority's predecessor, the IBA, when it granted a licence to the Applicant in 1998, it does not follow that this exact niche format or the split format must remain in place in perpetuity. The Applicant sets out the reasons for the statement as follows:

10.1.3.1. markets and listener preferences are not static; the market has changed significantly in the last 26 years. What listeners needed then, and what there was sufficient demand for then, is not the same as what listeners need and demand today. The listeners and advertisers prefer Old Skool & R&B music offering as compared to the Classical Music.

10.1.3.2. the research and statistics presented by the Applicant cannot be ignored on the basis that Classical Music is unique and that the SABC believes it is primarily the Applicant’s responsibility to keep the Classical Music culture alive. The Applicant suggests that if SABC feels strongly about the need to keep the Classical Music culture alive and believes that it is in line with South Africa's national interests to continue to do so, SABC should provide Classical Music.

10.1.3.3. the very reason that there was a need to apply to amend its licence format in in 2020, and again in 2024, is because it not financially viable for a commercial sound broadcaster operating in Gauteng area to play Classical Music.

10.1.3.4. as a commercial sound broadcaster, owned by private shareholders, the Applicant states that it needs to be profitable by removing Classical Music on its format.

10.1.4. The fact that other market players might also be experiencing shrinking advertising revenues, or that this might or might not be a common experience in the market, is not relevant to this application. The Applicant states that it has identified the reason for its for loss of its revenues as the 50% split format between the Classic music and Old Skool and R&B.

10.1.5. The Applicant disagrees that its proposed licence format would create "unnecessary competition" in the market. Rather, it believes that this amendment, if granted, would ensure that there is "fair competition" between existing licensees, as required in section 10(1)(b) of the EC Act.

10.1.6. According to the Applicant, this amendment would promote competition in line with the objectives in section 2(f) of the EC Act. The Applicant states that it is currently unable to compete effectively in the market because it must play Classical music 50% of the time where there are few listeners tuning in. The Applicant states that it is the only licensee in the market that has to accommodate two very different genres of music.

10.1.7. On the contrary, the Applicant believes that if it were to play Old Skool & R&B music only, it would be able to use its spectrum more efficiently and its listenership would continue to increase, and its advertising revenues would in turn, also increase, its overall brand would improve and this would mean that it is a stronger player in the market.

10.1.8. The Applicant disagrees that the proposed amendment to its licence is a "material deviation" from its current licence format, or that the Application is simply "an application for a new licence in disguise". The Applicant states that it is already playing 50% of Old Skool & R&B music in line with its licence format. The Applicant states that it is not requesting the Authority to allow it to change its format to something entirely new or different but rather requesting Authority to allow it to play a format that its listeners and advertisers respond to positively.

11. ADDITIONAL INFORMATION REQUESTED BY THE AUTHORITY[15]

11.1. On 10 November 2025, the Applicant was requested to further clarify certain information on its application and further conduct a survey with regards to the affected listeners of the Classical Music and provide the requested information by twenty-one (21) days[16].

11.2. On 09 December 2025, the Applicant responded to the Authority as follows:

11.3. Overview of the Applicant's Annual Turnover Trends

11.3.1. In response to the Authority's request for clarity regarding the Applicant's turnover trends since the introduction of the 50% split between Classical Music and R&B Music, the Applicant provided information which demonstrates that between 2016 and 2021, when the Applicant was only playing Classical Music, the Applicant was operating on a low margin. The introduction of R&B Music in 2021 saw the Applicant's profit margins starting to move up. According to the submitted information, the Applicant is further projecting that the profit margins would further move up in 2026.

11.3.2. The information further revealed that the Applicant has been able to pay its financial obligations which includes taxes, VAT, PAYE, ICASA licence fees, USAF, BRC fees, SAMRO, South African Music Performance Rights Association (SAMPRA).

11.3.3. The Applicant further emphasises that the financial data presented to the Authority clearly demonstrates the positive economic impact with the introducing Old Skool & R&B music and growth potential if the Authority approves the proposed amendment to play Old Skool & R&B music 24 hours a day.

11.4. Strategic Review of the Listener Behaviour and Advertisers

11.4.1. The Applicant was further requested to provide evidence, substantiated by data and research that proves that there is a decrease in listenership and less advertisers

[15] Letter dated 10 November 2025 by the seeking clarity and further information and the response from the Applicant dated09 December 2025.
[16] Letter addressed to the applicant for further inputs on the amendment application.

who advertised during the Classical Music period. According to the research conducted by the Applicant, of the 12 615 participants in the question regarding the "*primary musical reason for tuning in the into the radio station, 86.32% responded that they tune in to listen to R&B and Old Skool Music. 13.68% indicated they prefer Classical Music.*"

11.4.2. The Applicant further asked respondents to indicate whether they would like the R&B and Old Skool Music to play 24 hours a day. Out of the respondents who responded to this question, 11 474 (83.11%) stated that they prefer the R&B and Old Skool Music to play 24 hours. 2 332 (16.89%) indicated that they are not interested in to listen to the R&B and Old Skool Music to play 24 hours.

11.4.3. The Applicant further engaged with the listeners, asking whether their listeners would prefer the Applicant to continue playing 50% of the Classical Music. 11 199 (81%) of the respondents stated that they would like the Applicant to discontinue playing 50% of the Classical Music. 2 608 (18.89%) stated that they still prefer the 50% of the Classical Music to be played by the Applicant.

11.4.4. The Applicant posed a question whether the listeners tune out of the radio station after 19h00 when its starts playing 50% of the Classical Music. 9 432 (68 27%) of the respondents stated that they indeed tune into other radio stations at that time. 4 383 (31 73%) of the respondents stated that they do not tune out of the radio station.

11.4.5. The Applicant further provided a graph[17] which indicates the listenership per hour. The graph shows that, at 19h00, the listenership drops.

11.5. **Source of the Applicant's Revenue**

11.5.1. On 10 November 2025, the Authority further requested the Applicant to state the sources of its revenue. On 09 December 2025, the Applicant responded that all of its source of revenue comes from advertising agencies, although they do not stay permanently; others leave to do advertising with other radio stations.

11.6. **Advertisers views regarding Classical Music offering**

[17] Page 18 of the supplementary information submitted on 09 December 2025.

11.6.1. The Applicant was requested to provide information from advertising agencies with regards to the advertisements taking place during the Classical Music slot.

11.6.2. According to the Applicant's report, advertisers are less interested in advertising during the slot for Classical Music because this genre is perceived as commercially restrictive, and incompatible with their target audiences.

11.6.3. Many advertisers describe Classical music as a niche genre that causes audience to tune-out precisely when their high-value consumers are most reachable during the critical post-work, prime-time window. As a result, brands are avoiding the Classical music slot altogether.

11.7. **Clarification regarding advertiser participation, rate structures, and revenue generation during the Classical music slot**

11.7.1. According to the information submitted by the Applicant, the rates charged from 19h00 – 05h00 are less compared to the rates charged 06h00 – 19h00.

11.8. **Revenue during the Day vs Night revenue**

11.8.1. According to the Applicant's revenue report, revenue collected during Classical Music is less than the revenue collected during the day. Accordingly, the Applicant further emphasises that Classical Music is not financially viable.

11.9. The Applicant further provided a list of advertisers and their contact details, as requested by the Authority. Notable is that all the advertisers are not interested in advertising during the slots when listeners are few. Consequently, the Applicant charges advertisers during the Classical Music slot at a discounted price.

11.10. **Evidence supporting the claim that a significant portion of Hot 102.7FM's audience "tunes out", disengages or switches stations when Hot starts playing Classical music after 19h00.**

11.10.1. The Applicant further submitted a survey conducted to check whether listeners leave the radio station and tune in to other radio stations that do not play Classical Music. 9 432 (68.27%) of the participants responded by stating that they tune in to other broadcasters and 4 383 (31.73%) of listeners stated that they do not leave the radio station after 19h00.

11.11. Research Methodology and sample have been provided by the Applicant as requested by the Authority.

11.12. The Applicant further provided information in relation to the other platforms where listeners can listen to Classical Music, this includes, Spotify, YouTube, Apple Music. SAFM, Classic FM, in car saved music collections. Accordingly, the Applicant states that listeners have different platforms to access Classical Music other than Hot 102.7 FM.

11.13. The Applicant submits that the additional information and evidence submitted, when taken together, demonstrate that Classical Music listeners are digitally equipped, affluent, and already inclined to consume content via streaming platforms. The Applicant further submits that by transitioning Classical programming to an online platform (should the amendment application be granted) will preserve access for the niche audience while allowing the Applicant's broadcast to focus on Old Skool and R&B format, thereby balancing audience needs with commercial viability.

12. ANALYSIS OF THE INFORMATION SUBMITTED BY THE APPLICANT POST THE HEARING

12.1. It was evident from the information submitted by the Applicant that there is less interest from the majority of the Applicant's listeners in listening to Classical music, and the advertisers do not see the value of placing adverts during the Classical Music slots. The Applicant has demonstrated this through the research conducted, the financial reports, which indicate that there is less interest in classical Music.

12.2. In relation to the online platform which the Applicant argues that it provides a viable alternative for Classical Music listeners, the Authority notes that the availability of the online platform does not ensure that all listeners (or even the majority) are able to access such a platform. In particular, the data provided by the Applicant shows that most Classical Music listeners currently listen to Classical Music via the traditional FM broadcast service during the evening slot, whereas only a small number of listeners access Classical Music via the streaming platform.

12.3. The significant difference between the numbers of Classical Music listeners accessing the online platform and those listening via the traditional FM broadcast indicates that not all listeners may have access to or may prefer to access the online platform. Further, the existence of alternative online platforms does not necessarily justify the complete removal of a niche broadcasting service, i.e. Classical Music, particularly where such a service contributes to the diversity of radio broadcasting programmes and serves a specific segment of the audience.

12.4. Accordingly, the Authority found that, while listeners of Classical Music constitute a smaller audience compared to listeners of Old Skool and R&B music, a significant number of these listeners (i.e. Classical Music) continue to access the music through the traditional FM broadcast rather than the online platform. In this regard, the Authority considers that these listeners should not be disregarded through the complete removal of Classical music from the radio station's programming.

12.5. On this basis, the Authority is therefore proposing a higher percentage of Old Skool and R&B Music than the Classical Music in order to accommodate both the high percentage of listeners who prefer Old Skool and R&B Music and small percentage of the Applicant's loyal listeners of Classical Music. In that regard, the Authority proposed that the Applicant should be granted 85% of the Old Skool and R&B Music and 15% of the Classical Music.

13. PUBLIC HEARINGS

13.1. In terms of Section 9(2)(e) of the EC Act, the Authority has the discretion to conduct public hearing in relation to an application. Considering section 9(2)(e), the Authority held the view that a public hearing was necessary to hear the views of the public and the interested stakeholders with regards to the proposed amendment application by the Applicant.

13.2. As such, on 14 May 2025, the Authority held a public hearing with regards to the amendment application.

13.3. On 23 May 2025, the Applicant submitted written submissions in response to issues raised at the hearing which includes procedural matters, additional questions raised by the Authority at the public hearing and the representation made by the SABC.

14. CONCLUSION

14.1. The Authority is of the view that the Applicant's proposed licence amendment has been necessitated by the Applicant changing its brand as follows:

14.2. In 2020, the Applicant applied to change its format from providing 100% Classical Music and proposed to offer 100% Old Skool and R&B Music. After consideration of the amendment application, the Authority decided to approve the amendment application as 50% Classical Music and 50% R&B Music.

14.3. Although the Applicant's previous amendment application was approved as 50% Classical Music and 50% R&B Music, the Applicant's financial situation has improved, however, there is a possibility that the Applicant's financial situation can improve more if the Classical Music is reduced from 50% to a lesser percentage.

14.4. The Authority also took into consideration that the Applicant's submissions regarding declining listenership and reduced advertising during the Classical Music slot. However, the Applicant is licenced as a Classical Music radio station and as such, the Applicant is obligated to provide Classical Music regardless of the developments that have taken place within the radio station.

14.5. The Authority has considered the reasons provided by the Applicant and motivation for the proposed amendment and is of the view that the Applicant has failed to provide sufficient reasons to persuade the Authority to grant the proposed licence amendment.

14.6. The Authority has decided to partially grant the proposed amendment by the Applicant based on the following reasons:

14.6.1. The Applicant was issued with its initial licence to provide Classical Music. Allowing the Applicant to entirely remove Classical Music and replace it with another genre from its offering would mean that the Applicant has been issued with a new licence without going through the process of applying for a new licence.

14.6.2. The Authority notes that the Applicant states that its listenership drops during the intervals they play Classical Music and that advertisers are not interested in advertising with the radio station during this time. As such, the Applicant's revenue is reduced. Although this is the case, the Authority is of the view that, if the Applicant's application is approved, it would be tantamount to issuing a new licence without necessarily following the licence application process.

14.6.3. The Applicant mentions different formats provided by other broadcasters and argues that its proposed format amendment application is different from the current broadcasters in the commercial market in Gauteng.

14.7. Although the Applicant has provided the above arguments, the Authority is of the view that the Applicant's proposal to remove the Classical Music in its entirety and providing 100% Old Skool and R&B music would not serve the interests of the minority listeners who still rely on the Applicant to access Classical Music. Although the Applicant states that it provides Classical Music through a streaming platform and commits to continue to offer Classical Music on the streaming platform, this is not sufficient for an ordinary listener who is unable to stream this music online.

14.8. Although the Classical Music listener audience is small compared to the Old Skool and R&B audience, a significant number of Classical Music listeners continue to access the music through the traditional FM broadcast rather than the online platform.

14.9. The Authority is therefore of the view that the availability of Classical Music on the online platform does not constitute an adequate substitute for the FM service and that the complete removal of the Classical Music from the station's programming is not appropriate.

14.10. Further, in an effort to assist the Applicant in potentially increasing its revenue without compromising its own processes and taking away Classical Music from the listeners that still listen to it, it is proposed that the Applicant still provide at least 15% of Classical Music and 85% Old Skool and R&B Music.

15. THE AUTHORITY'S DECISION

15.1. The Authority hereby approves the proposed amendment by the Applicant by reducing the percentage of Classical Music provision and increasing the Old Skool and R&B music as per the table below:

Existing clause 5	Approved amendment to clause 5
"The Licensee shall provide 50% Classical Music and 50% Old Skool Music and R&B Music."	*"The Licensee shall provide 15% Classical Music and 85% Old Skool and R&B Music."*

MOTHIBI G. RAMUSI
CHAIRPERSON

DATE: 29 **/** 06 **/2026**