

2011/2012 ANNUAL COMPLIANCE REPORT

TRU 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 Constitution¹, the ICASA Act² and the Electronic Communications Act (“EC Act”)³ 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, any relevant legislation and regulation.

The following report is intended to give an account of Tru FM’s performance for the 2011/2012 financial year. Aspects of compliance that are measured comprise of the Geographic Coverage, Language(s), Format, Local Content Obligations, General Programming Obligations, Training and Skills Development Obligations, Finances, South African Music Content Regulations and Regulations regarding Standard Terms and Conditions, Regulations in Respect of Prescribed Annual Contributions of Licensees to The Universal Service and Access Fund Regulations and General Licence Fees Regulations.

2. BACKGROUND

Tru FM is an Individual Broadcasting Service Licensee of the South African Broadcasting Corporation (“the SABC”). The Licensee’s licence is valid for ten (10) years and will expire on 17 December 2018. Tru FM provides a service in an Urban Contemporary Music format to the following areas: East London, King Williams Town and Queenstown (*See broadcasting service licence and spectrum licence attached as Appendix A*).

¹ The Constitution of the Republic No 108, 1996

² ICASA Act No 13 , 2000 as amended

³ Electronic Communications Act No 36, 2005

According to the SABC's annual report for the period under review, Tru FM provides a platform for free expression to young people. It is primarily focused on providing its modernised, ambitious, confident and fun-loving Eastern Cape listener with tools for self-development and improved quality of life. It boasts, as per the SABC's annual report, a weekly average audience of two hundred and seventy five (275 000) adults (15+).

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"

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

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

3.2 Geographic Coverage Area

Clause 2 of the schedule to the licence stipulates that:

"The geographic coverage area is as defined in the map attached to the radio frequency spectrum licence".

According to the frequency spectrum licence, the radio station covers the following areas: East London, King Williams Town and Queenstown. The Licensee confirms that its coverage area is as defined in its frequency spectrum licence. During the period under review, the Authority did not receive any complaints alleging that the Licensee is in contravention of its frequency spectrum licence.

The Licensee complies with clause 2 of the schedule to its licence.

3.3 Language(s)

Clause 3 of the schedule to the licence stipulates that Tru FM's language split is as follows:

"Principal Language: 60% English and 40% isiXhosa".

The recordings monitored for the period under review, confirmed that the main languages of broadcast on Tru FM are English and isiXhosa.

The Licensee complies with clause 3 of the schedule to its licence.

3.4 Format

Clause 4.1 of the schedule to the licence stipulates that:

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

Further, clause 4.2 of the schedule to the licence stipulates that:

"The licensed service shall be a full-spectrum service with an Urban Contemporary Music format".

The monitoring exercise confirmed that Tru FM is a public radio station of the SABC and offers a full-spectrum service with an Urban Contemporary Music format to its audience, as outlined in the licence.

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

3.5 Local Content Obligations

Clause 5 of the schedule to the licence stipulates that:

"In each licence year, the Licensee shall, within thirty (30) days of end of the quarter, submit to the Authority written records indicating the extent of:

5.1 different genres; and

5.2 South African Music Content, in programme material broadcast on the licensed service during that quarter, in each instance, distinguishing between genres, providing the relevant details in relation to prime time and the period between 05h00 and 23h00 daily ("the South African broadcast period"), and expressing relevant details both as an aggregate in minutes and as a percentage of the total of all such programming material".

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

The figures below demonstrate a breakdown of Tru FM's compliance with the quotas set by the Authority. The figures were confirmed during the Authority's monitoring, from the recordings submitted by the radio station, for the period under review.

First Quarter April – June 2011

Content/ Genre	ICASA Quota <i>(Minutes Daily/Weekly)</i>	TRU Provision <i>(Minutes Daily/Weekly)</i>	FM's TRU Compliance (%)
<i>News</i>	<i>30 min (Daily)</i>	<i>74 min (Week Days)</i> <i>60 min (Saturdays)</i> <i>60 min (Sundays)</i>	<i>246%</i> <i>200%</i> <i>200%</i>
<i>Current Affairs</i>	<i>60 min (Daily)</i>	<i>60 min (Week Days)</i> <i>30 min (Saturdays)</i> <i>30 min (Sundays)</i>	<i>100%</i> <i>50%</i> <i>50%</i>
<i>Informal Knowledge Building</i>	<i>60 min (Weekly)</i>	<i>1980 min (Weekly)</i>	<i>3300%</i>
<i>Education</i>	<i>120 min (Weekly)</i>	<i>305 min (Weekly)</i>	<i>254%</i>
<i>Children</i>	<i>30 min (Weekly)</i>	<i>55 min (Weekly)</i>	<i>183%</i>

Second Quarter July – September 2011

Content/ Genre	ICASA Quota <i>(Minutes Daily/Weekly)</i>	TRU FM's Provision <i>(Minutes Daily/Weekly)</i>	TRU FM's Compliance (%)
<i>News</i>	<i>30 min (Daily)</i>	<i>74 min (Week Days) 60 min (Saturdays) 60 min (Sundays)</i>	<i>246% 200% 200%</i>
<i>Current Affairs</i>	<i>60 min (Daily)</i>	<i>54 min (Week Days) 30 min (Saturdays) 60 min (Sundays)</i>	<i>90% 50% 100%</i>
<i>Informal Knowledge Building</i>	<i>60 min (Weekly)</i>	<i>2170 min (Weekly)</i>	<i>3616%</i>
<i>Education</i>	<i>120 min (Weekly)</i>	<i>355 min (Weekly)</i>	<i>295%</i>
<i>Children</i>	<i>30 min (Weekly)</i>	<i>55 min (Weekly)</i>	<i>183%</i>

Third Quarter October – December 2011

Content/ Genre	ICASA Quota <i>(Minutes Daily/Weekly)</i>	TRU FM's Provision <i>(Minutes Daily/Weekly)</i>	TRU FM's Compliance <i>(%)</i>
<i>News</i>	<i>30 min (Daily)</i>	<i>74 min (Week Days) 60 min (Saturdays) 60 min (Sundays)</i>	<i>246% 200% 200%</i>
<i>Current Affairs</i>	<i>60 min (Daily)</i>	<i>54 min (Week Days) 30min (Saturdays) 60 min (Sundays)</i>	<i>90% 50% 100%</i>
<i>Informal Knowledge Building</i>	<i>60 min (Weekly)</i>	<i>2140 min (Weekly)</i>	<i>3566%</i>
<i>Education</i>	<i>120 min (Weekly)</i>	<i>350 min (Weekly)</i>	<i>291%</i>
<i>Children</i>	<i>30 min (Weekly)</i>	<i>55 min (Weekly)</i>	<i>183%</i>

Fourth Quarter January – March 2012

Content/ Genre	ICASA Quota (Minutes Daily/Weekly)	Tru FM's Provision (Minutes Daily/Weekly)	TRU FM's Compliance (%)
News	30min (Daily)	74 min (Week Days) 60 min (Saturdays) 60 min (Sundays)	246% 200% 200%
Current Affairs	60min (Daily)	54 min (Week Days) 30 min (Saturdays) 60 min (Sundays)	90% 50% 100%
Informal Knowledge Building	60 min (Weekly)	2065 min (Weekly)	3441%
Education	120 min (Weekly)	340 min (Weekly)	283%
Children	30 min (Weekly)	50 min (Weekly)	166%

The above information indicates compliance by Tru FM with the set quotas during the 2011/12 financial year, with the exception of current affairs programming. Based on the above information and previous submissions, it can be concluded that the Licensee has complied with most quotas except for current affairs quota on week days (54 min) and on Saturdays.

General Programming Obligations

3.5.1 General

Clause 6.1.1 of the schedule to the licence stipulates that:

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

The SABC's editorial policy stipulates that:

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

Tru FM broadcasts *"Sounds of Spirit"* every Sunday between 06h00 and 09h00.

Local and international gospel music is played during the show. There are worship programme inserts between 05h55 and 06h00 on Saturdays and Sundays. Pastors from different denominations are invited in the studio to provide sermons. The involvement of different church leaders from different denominations is reflective of the diversity of South Africa's religions.

The Licensee complies with clause 6.1.1 of the schedule to its licence.

Clause 6.1.2 of the schedule to the licence stipulates that:

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

Tru FM's target audience is primarily the isiXhosa speaking youth. The Authority's monitoring of Tru FM's programming profile confirmed that the radio station's programming content reflects the cultural and traditional needs of its audience.

There is an insert programme called "Inkolo Yemvelo" before the broadcast of "Fast Forward" on Fridays between 05h45 and 06h00, which seeks to educate listeners about the dynamics of the isiXhosa culture. The programme insert focuses, amongst other things on family matters, diseases and explanation of words and proverbs linking them to African Religion. During the period monitored, the studio guest made an example about feet and someone suffering from swollen feet and the interpretation thereof in terms of African belief/culture. He indicated that traditionalists believe that witches cause swollen feet.

The Licensee complies with clause 6.1.2 of the schedule to its licence.

Clause 6.1.3 of the schedule to the licence stipulates that:

"The Licensee shall, during the South African performance period, provide programme material that caters and has due regard for the interests of all sectors of South African society and shall provide programming on health related issues, gender issues relevant to all age groups".

Tru FM broadcasts a variety of programmes focusing on health and gender issues. The monitoring exercise identified a programme called "Mid-Morning Blend". This programme is broadcast on week days between 09h00 and 12h00.

The programme focuses on different health related issues. For example, one of the topics discussed focused on things that people do not like with their bodies.

The presenter made an example of people who decide to undergo surgery with the purpose to make their bodies look better. Listeners were given an opportunity to interact with the presenter through social network such as facebook. There were different opinions from listeners for and against such decision.

The Licensee complies with clause 6.1.3 of its licence.

3.5.2 News and Current Affairs

Clause 6.2.1 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least sixty (30) minutes of news programming each day during the South African performance period".

The quarterly reports submitted by the SABC indicate that the radio station broadcasts seventy four (74) minutes of news programming during weekdays and sixty (60) minutes on Saturdays and Sundays.

The monitoring confirmed that Tru FM broadcasts news bulletins every hour on the hour from 06h00 to 22h00 and headlines every half hour. The news bulletins last for approximately five (5) minutes. A total of approximately eighty five (85) minutes of news is broadcast each day during the South African performance period.

The following are examples of news items identified:

- *"The ANC has dismissed reports that the party is in turmoil";*
- *"The Regional Executive Committee of the ANCYL in the Nelson Mandela Bay has been disbanded";*
- *"President Jacob Zuma has urged the businesses sector to support the government historical schools' restoration project";*
- *"COSATU calls for special meeting with ANC regarding protection of Information Bill";*
- *"ANCYL in KwaZulu Natal to challenge the change of the ANCYL constitution without following correct procedures";*
- *"ANCYL President, Julius Malema is expected to attend the ANC NEC Meeting taking place in Bloemfontein after appealing his suspension";*

- *"President Jacob Zuma has invited Government Departments to work together with Chapter 9 Institutions";*
- *"Members of ten opposition parties to meet in Cape Town in order to discuss strategies regarding the formation of the new stronger opposition party have been invited by Mosioa Lekota";*
- *"Mac Maharaj refuses to comment of alleged bribe paid to him and his wife"; and*
- *"Three people killed in the DRC ahead of the elections tomorrow".*

The Licensee complies with clause 6.2.1 of its licence.

Clause 6.2.2 of the schedule to the licence stipulates that:

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

The quarterly reports submitted by the SABC indicate that Tru FM broadcasts a minimum of sixty (60) minutes of current affairs programming on weekdays, a minimum of thirty (30) minutes on Saturdays and fifty five (55) minutes on Sundays, during the performance period.

The monitoring exercise confirmed that Tru FM broadcasts current affairs programming.

Three (3) current affairs programmes were identified as follows:

- *"Indaba Ngobunjalo Bazo"* broadcast on weekdays from 12h00 to 12h30;
- *"Tru News"* broadcast during week days from 18h00 to 18h30;

- "Interchange" broadcast on Saturdays from 06h00 to 06h30; and
- "News Review" broadcast on Sundays from 18h00 to 19h00.

The programmes include interviews, live field reports, phone-in programmes and analyses of matters of public interest. The duration of the current affairs programmes is sixty (60) minutes on weekdays, including Sundays, with the exception of Saturdays, where there is a shortfall of thirty minutes.

During the period under review, the Licensee has complied with clause 6.2.2 of its licence on weekdays and Sundays, but failed to comply with the minimum requirement on Saturdays.

Clause 6.2.3 of the licence stipulates 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 independent from governmental, commercial or other interference; and*
- (v) Provide a reasonable opportunity for the public to receive a variety of points of view on matters of public concern".*

The SABC's editorial policy stipulates that the licensee must exercise full editorial control in respect of contents of its programming. The editorial policy further indicates that the licensee endeavours to meet the highest standards of journalistic professionalism. Further, the policy provides for fair, unbiased and impartial coverage independent from government, commercial or other interference.

In its current affairs broadcast, the radio station provides an opportunity for the public to receive a variety of points of view on matters of public concern. The SABC's Editorial Policies form part of the SABC's Charter and monitoring of Tru FM's news and current affairs programmes for the period under review demonstrated compliance with clause 6.2.2 of its licence but the Charter as contained in the Broadcasting Act of 1999.

The Licensee complies with clause 6.2.3 of its licence.

3.5.3 Programming targeted at Children

Clause 6.3.1 of the schedule to the licence stipulates that:

"The Licensee shall in the provision of the licensed service, broadcast at thirty (30) minutes of programming targeted at children (as contemplated in section 10 (1) (g) of the Broadcasting Act) per week during the South African performance period".

Clause 6.3.2 of the schedule to the licence stipulates that:

"In the production and presentation of its children's programming, the Licensee shall ensure that such children's programming is:

- (i) broadcast at times of the day when children are available to listen;*
- (ii) targeted at and appropriate for children between the ages of nought (0) to six (6) years and seven (7) to twelve (12) years respectively;*
- (iii) educational and is made from children's point of view".*

The SABC's quarterly reports indicate that Tru FM broadcasts a minimum of fifty (50) minutes of children's programming weekly.

"*Takalane Sesame*" is amongst the programmes identified during the Authority's monitoring. The programme was broadcast between 9h12 and 9h23 on Saturday, 26 November 2011.

The Licensee has complied with clause 6.3.1 and clause 6.3.2 of the schedule to its licence.

3.5.4 Educational Programming

Clause 6.4 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least two (2) hours of educational programming (as contemplated in section 10 (1) (e) of the Broadcasting Act) per week within the South African performance period".

The SABC's quarterly reports indicate that the radio station broadcasts an average of three hundred and five (305) minutes (5 hours 05 minutes) of educational programming per week, within the South African performance period.

The Authority's monitoring confirmed that Tru FM broadcasts educational programmes between 18h30 and 19h00 from Monday to Thursday.

"*Conversation*" is one of the programmes that caters for the audience's educational needs. One of the topics discussed on 21 November 2011 was about the youth, and whether or not the social behaviour influences the identity. The presenter and studio guests concurred that today's youth engage in sex at early stage. The studio guests highlighted that access to technology, TV, poor parental care; people in the surrounding area are the contributory factors to this challenge. Listeners also called in, raising their opinions on the topic.

Another educational topic monitored on 22 November 2011 focused on matric exam in Geography. There was a studio guest who is a qualified teacher who provided matric students with tips. "Guardian Fund", "Conversation" were also identified.

In total, two (2) hours of educational programming was monitored per week, within the South African performance period.

The Licensee complies with clause 6.4 of its licence.

3.5.5 Informal Knowledge Building Programmes

Clause 6.5 of the schedule attached to the licence stipulates that:

"The Licensee shall broadcast at one (1) hour of informal knowledge building programming per week within the South African performance period".

The SABC's quarterly reports indicate that Tru FM broadcasts a minimum of one thousand nine hundred and eighty (1980) minutes (33 hours) of informal knowledge building, per week during the South African performance period.

The monitoring exercise identified the following informal knowledge building programmes:

- "Ezomoya" broadcast between 19h00 and 21h00 from Sunday to Thursday;
- "The Real Deal" broadcast on weekdays from 12h00 to 15h00; and
- "Home Stretch" broadcast between 15h00 and 18h00 on weekdays.

At least two (2) hours of informal knowledge building programming per week within the South African performance period, was identified.

The Licensee complies with clause 6.4 of the schedule to its licence.

3.6 Training and Skills Development Obligations

Clause 7 of the schedule to the licence stipulates that:

- 7.1 The Licensee must adopt and implement equal opportunity employment practices;*
- 7.2 The Licensee must ensure that its management and staff are representative of South African society and that its human resource policies takes into account the development of managerial, production, technical and other skills and expertise, particularly with regard to the historically disadvantaged persons;*
- 7.3 The Licensee shall endeavour to achieve fair and reasonable participation by historically disadvantaged persons with respect to:*
 - (a) its management and control structures;*
 - (b) skills development;*
 - (c) enterprise development; and*
 - (d) procurement*
- 7.4 The Licensee must, within thirty (30) days of the end of each financial year, provide the Authority with written information regarding its compliance with the above requirements”.*

The SABC submitted a skills development and training report of the entity as a whole, indicating that its management and staff are representative of South African society. The Licensee submits that Skills Development is not only a national priority, but that of the SABC at large. The Licensee submits that the technological landscape that keeps on evolving calls for the SABC to continually equip its employees with the necessary skills in order to remain competitive and sustainable. The Licensee states that in the year 2011/12, there have been a number of positive developments in response to the myriad challenges posed by the change in technology (migration from analogue to a digital space). The SABC submits that more than half of the total SABC employee population (2049) was

trained in the respective divisions/clusters. Furthermore, its total expenditure on training amounted to twenty two million, nine hundred and eight thousand, seven hundred and sixty three rand (R22, 908, 763) spread across various divisions for 4612 interventions which included Learnerships/Internships. Of the 2049 employees that were trained, 47% are females and 53% are males.

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

The Licensee has demonstrated compliance with clause 7 of its licence.

3.7 Provision of Audited financial statements to the Authority

Clause 8 of the schedule to the licence stipulates that:

“The Licensee shall provide the Authority with the audited annual financial statements of the licensed service within four (4) months of the end of the licensee’s financial year, provided that the licensee may on good cause shown apply to the Authority for extension”.

The SABC submitted its Audited Financial Statements for the 2011/12 financial year within the stipulated timeframe.

The Licensee has complied with clause 8 of the schedule to its licence.

4. REGULATIONS

4.1 South African Music Content Regulations

The Regulations on South African Music Content as published on 31 January 2006 stipulates that:

“All public sound licensees must play a minimum 40% South African music”.

The monitoring exercise revealed that the radio station plays approximately 80% South African music. The following are some of the artists identified: Msawawa, Zahara, Ntando, Lira, Zonke, Msawawa, Jazil Brothers, Ntokozo Masinga, Ringo Madlingozi, Bongsi Dube, KB, Thandi, Mafikizolo, Ntando, TK Zee, Malaika, Freshly Ground, Lungi, Mapaputsi, Mzekezeke, Mandoza, Teagas, Sakomota, Ringo Madlingozi, Siphokaz, Aba Shanti, Deborah Fraser, Rebecca Malope and Ncandweni Gospel Choir.

The Licensee complies with the South African Music Content Regulations.

4.2 Regulations Regarding Standard Terms and Conditions for Individual Broadcasting Licences

During the year under review, the Authority did not identify any non-compliance by the Licensee with the standard terms and conditions for individual licences. The radio station complies with the Regulations regarding Standard Terms and Conditions.

4.3 Universal Service and Access Fund Regulations

Regulation 3 of the USAF Regulations stipulates that:

- (1) *“Every holder of a licence granted in terms of Chapters 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of its Annual Turnover to the Fund”.*

(2) *"A BS licensee who has paid an annual contribution to the MDDA must*

set off that contribution against its USAF Contribution, provided that the MDDA contribution and the USAF contribution against which it is set off are for the same financial year".

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

The Licensee submitted proof of payment to the Authority in March 2012.

The Licensee has complied with the regulations in respect of 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.

Tru FM is part of the SABC's Public Broadcasting Services and is thus exempted from paying licence fees.

5. CONCLUSION

During the period under review, Tru FM has generally complied with its licence terms and conditions and applicable regulations, except for current affairs programming on Saturdays in all the quarters and Sundays in quarter one.

6. APPENDICES

Appendix A: Tru FM's broadcasting service

Appendix B: Tru FM's frequency spectrum licence

Appendix C: The Religious section as contained in the SABC's Editorial Policy

Appendix D: SABC's Training and Skills Development Report

Appendix E: South African Music Content Regulations

Appendix F: Regulations Regarding Standard Terms and Conditions

Appendix G: USAF Regulations

Appendix G: General Licence Fees Regulations