



# **TSHWANE FM ANNUAL COMPLIANCE REPORT**

**MARCH 2023**

---

**Y Kedama (Acting Chairperson), T Faye, Dr. C Lewis, Adv. LS Mkumatela, C Mushi, N Nontombana,  
N Sithole, P Zimri (Councillors), T Maluleka – Disemelo (CEO)**

# **2021/2022 ANNUAL COMPLIANCE REPORT**

## **TSHWANE UNIVERSITY OF TECHNOLOGY**

### **BROADCASTING AS TSHWANE FM**

**LICENCE PERIOD: 28 October 2018 – 27 October 2023**

#### **1. PREFACE**

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution<sup>1</sup>, the Independent Communications Authority of South Africa Act (ICASA Act<sup>2</sup>), the Electronic Communications Act<sup>3</sup> (ECA) and the Broadcasting Act<sup>4</sup> to regulate broadcasting activities in South Africa in the public interest. Among the responsibilities of the Authority is the task to ensure compliance by broadcasting service Licensees with the terms and conditions of their licence and any relevant legislation and/or regulations.

The purpose of the report is to give an account of Tshwane FM's compliance for the 2021/2022 financial year. Aspects of compliance that are measured comprise of Licence Area, Community Participation, Programming, Format, News and Information, Local Content Obligations, Language(s), South African Music Content Regulations, Community Broadcasting Services Regulations and Regulations Regarding Standard Terms and Conditions.

#### **2. BACKGROUND**

Tshwane FM was issued with a renewed Class Sound Broadcasting Service licence on 28 October 2018 to continue with their broadcasting services to the student community of interest residing within the Tshwane University of Technology and surrounding areas as set out in the radio frequency spectrum licence.

---

<sup>1</sup> The Constitution of the Republic of South Africa, No 108 of 1996

<sup>2</sup> Act No. 13 of 2000, as amended.

<sup>3</sup> Act No. 36 of 2005

<sup>4</sup> Act No. 4 of 1999

### 3. COMPLIANCE ASSESSMENT

#### 3.1 Licence Area<sup>5</sup>

Clause 3 of the schedule to the service licence of Tshwane FM provides that:

*"The Licensee shall provide services to Tshwane University of Technology and surrounding areas as set out in the radio frequency spectrum licence."*

For the period under review, there were no complaints that were lodged against the Licensee regarding its coverage area. The Licensee maintains that its coverage area is as defined in the frequency spectrum licence.

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

#### 3.2 Community

Clause 4.2 of the schedule to the service licence of Tshwane FM provides that:

*"The Licensee shall provide for the participation of community members in the affairs of the station in the following ways:*

*4.2.1 The Licensee shall hold at least two (2) meetings annually with its community focusing on programming and programming related matters for the selection and provision of programmes;*

*4.2.2 The Licensee shall furnish the Authority with proof of such meetings as well as the attendance thereof by members of the community.*

The Licensee submitted that they were unable to convene meetings for the purpose of engaging its community on programming-related matters due to the non-availability of members to attend those meetings. A copy of an invite was submitted as proof of attempts to engage the community which included purpose and details of the meetings<sup>6</sup>.

**The Licensee did not comply with clause 4.2 of the schedule to the service licence.**

---

<sup>5</sup> Appendix A: Tshwane FM Service Licence

<sup>6</sup> Appendix B: Community Programming Meeting Invite Flyer

4.3 *The Licensee shall hold Annual General Meetings (AGM) for the following purposes:*

4.3.1 *To provide feedback on the Licensee's compliance with licence conditions,*

4.3.2 *To provide feedback on the Licensee's operational and financial performance, and any Special Annual General Meeting as and when required by the constitution; and*

4.3.3 *To elect members of the controlling structure, e.g. Board of Directors, Trustees etc. subject to the Licensee's founding documents".*

The Licensee submits that they could not convene an AGM due to the provision of the ICT Covid Regulations that exempted community broadcasters to convene community meetings and/or AGMs. The Licensee has reported that it was not aware of the subsequent amendment that lifted the exemption accordingly. The suspension of convening community meetings was lifted on, 28 May 2021.

**The Licensee did not comply with clause 4.3 of the schedule to the service licence.**

### **3.5 Programming**

Clause 5.1.1 of the schedule to the service licence of Tshwane FM provide that:

*"The Licensee shall broadcast a total of twenty (20) minutes of news per day and ten (10) minutes of news on weekends. This shall constitute 50% community, 30% national and 20% international news."*

The monitoring exercise confirmed that the Licensee broadcast news headlines on at the bottom of the hour and the news bulletins at the top of the hour during certain hours from the breakfast show until the midday show, with news every hour from 12H30 until 17H30 during weekdays, for an average of three (3) minutes which equates to twenty-four (24) minutes per day. The monitoring exercise could not find any news during the weekend broadcast. The Licensee's news broadcast is dominated by local and national news, this affects international news output as stipulated in the clause above.

Below are some of the news items monitored:

- *"A Pretoria East Non-Profit organisation received a much-needed generous donation on Tuesday. The Kungwini welfare organisation, which houses 160 adults with severe and profound disabilities, including those who depended on oxygen, was given a newly built medical staff house, a cold room to store fruits and vegetables, as well as a standby generator"*
- *A 56-year-old business owner was in critical condition after he was shot several times in the upper body during an attempted robbery in Pretoria Garden on Wednesday afternoon.*
- *The Electoral Court is expected on Friday to hear Action SA's bid to force the Electoral Commission of South Africa to include the party's name on the ballot paper for municipalities where it is contesting.*

**The Licensee did not comply with the news percentage breakdown and not broadcasting news over the weekend.**

Clause 5.1.3 of the schedule to the service licence of Tshwane FM provides that:

*"The format shall be 40% talk and 60% music"*

The Licensee's weekday programming content is music driven, with most of the programmes including DJ mixes. Furthermore, most programmes in the mid-morning and afternoon during the week would have a balance between talk and music, with some programmes broadcast on Sundays talk driven amongst others to compliment the music-driven format.

**The Licensee complies with its licenced format.**

Clause 5.1.4 of the schedule to the service licence of Tshwane FM stipulates that:

*5.1.4.1 50% - English*

*5.1.4.2 12% - Sesotho*

*5.1.4.3 12% - Setswana*

*5.1.4.4 11% - Sepedi*

*5.1.4.5 7.5% - isiXhosa*

*5.1.4.6 7.5% - isiZulu*

The monitoring exercise revealed that the Licensee's main language of broadcast is in English to a larger percentage than is reflected in the service licence condition. They have presenters that are multilingual and are able to converse and engage listeners and read social media posts in the majority of languages including using the Pretoria slang language. There are programmes such as the Sunday gospel programme which is predominantly broadcast in indigenous languages but when calculated over the weekly output is not sufficient to balance the language percentages as outlined in the clause above.

**The Licensee did not comply with its languages of broadcast obligations.**

## **4. REGULATIONS**

### **4.1 South African Music Content Regulations**

Regulation 3.3 of the Regulations on South African Music Content as published on 23 March 2016 provides that:

*"A holder of a community sound broadcasting service licence must ensure that after eighteen (18) months from the date of the gazetting of these regulations, a minimum of 60%, increasing by 10% annually to reach 80% of the musical works broadcast in the performance period, consist of South African music and that such South African music is spread reasonably evenly throughout the said period"*<sup>7</sup>.

The Licensee submitted their Form 8A and their local music content is an average of eighty-two percent (82%). The Authority's monitoring exercise found that the Licensee broadcast a majority of local music from Amapiano, Dub, Afro Soul, Hip Hop amongst others. Some of the music artists that were monitored include *Dlala Thukzin – Phuze, Steve Netshishivhe – Dub Dem Down, Sakhile – Ubuhle Bakho* amongst others. The Licensee conducts interviews with artists and play their new releases with interviews for artists such as *Soulfreakah, Tyga Bankz* among others, which get added to their music output through the format factor point system.

**The Licensee complies with the Regulations on South African Music Content.**

---

<sup>7</sup> Appendix C: Regulations on South African Music Content

#### **4.3 Regulations regarding Standard Terms and Conditions for Class Licensees**

The Authority is satisfied that during the period under review, the Licensee did not contravene the Regulations in respect of the Standard Terms and Conditions for Class Licences.

#### **4.4 Community Broadcasting Service Regulations**

Regulation 5 (2) of the Community Broadcasting Services Regulation stipulates that:

*The composition of the Board must exclude immediate family members such as: parents, siblings, children connected by the birth or adoption, spouses through marriage, civil partnership or cohabitation, grandparents, great-grandparents; grandchildren; great-grandchildren; aunts; uncles; siblings-law; half-siblings; cousins; adopted children and step-parents/step-children.*

The Licensee has submitted a declaration together with Form 1 of the Compliance Procedure Manual Regulation in compliance with the above-mentioned regulations<sup>8</sup>.

**The Licensee complies with the Community Broadcasting Services Regulation.**

### **5. CONCLUSION**

Tshwane FM did not comply with its community participation in relation to community programming and convening and AGM, as well as some programming aspects of its licence. The Licensee has during the National State of Disaster gone through management changes and has reported that they have not been able to access some of their records accordingly and such has been addressed in the following year by the acting management of the station. The areas of non-compliance will be followed up with the Licensee to ensure full compliance. Should the Licensee not rectify their non-compliance, they will be referred to the Complaints and Compliance Committee (CCC), for hearing and adjudication.

---

<sup>8</sup> Appendix D: Community Broadcasting Services Regulations

## **6. TERMS OF REFERENCE**

Appendix A: Tshwane FM Broadcasting Service Licence

Appendix B: Tshwane FM Community Programming Meeting Invite Flyer

Appendix C: Regulations on South African Music Content

Appendix D: Community Broadcasting Services Regulations