

2011/2012 ANNUAL COMPLIANCE REPORT

XK FM

Licence Period : 18 December 2008- 17 December 2018

1. PREFACE

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution,¹ the Broadcasting Act,² the ICASA Act of 2000,³ and the Electronic Communications Act ("EC Act") of 2005⁴ to regulate broadcasting activities in South Africa in the public interest. The Authority is tasked with ensuring compliance by broadcasters with the ICASA Act, the EC Act, the terms and conditions of their licence and any relevant legislation and regulations.

The following report is intended to give account of XK FM's compliance for 2011/2012 financial year. Aspects of compliance that are measured comprise of the Format, Local Content Obligations, General Programming Obligations, Training and Skills Development Obligations, Finances, South African Music Content Regulations, Standard Terms and Conditions, Universal Service and Access Fund Regulations and Licence Fee Regulations.

2. BACKGROUND

XK FM is a public broadcasting service Licensee of the South African Broadcasting Corporation ("the SABC"). The radio station's mandate is to provide a full radio spectrum service to the public community of Schmidtsdrift, an area lying in the north furthest parts of the Northern Cape Province. The principal languages of broadcast are: iXun and Khwe (*see broadcasting service licence and spectrum licence attached as Appendix A*).

¹ The Constitution No, 108 of 1996,

² The Broadcasting Act No,4 of 1999

³ The ICASA Act No, 13 of 2000,

⁴ The Electronic Communications Act No, 36 of 2005

3. COMPLIANCE ASSESSMENT

3.1 Ownership and Control

Clause 1.1 of the licence states that:

"Name of the Company/Entity: The South African Broadcasting Corporation"

Clause 1.2 of the licence provides that the shareholders are as follows:

"Shareholders: The State: 100%"

Clause 1.3 of the licence states that:

"Ownership held by persons from historically disadvantaged groups: NA"

XK FM forms part of the public service of the SABC and is 100% owned by the State. The programming content of the radio station as per the Authority's monitoring exercise, attests to the fact that the service is of a public nature.

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

3.2 Geographic Coverage Area

Clause 2 of the schedule to the licence states that:

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

According to the frequency spectrum licence, the radio station's coverage area is Kimberly, an area in the Northern Cape, together with parts of Platorand and surrounding areas. According to the Licensee, the coverage area has been changed.

The radio station complies with clause 2 of its frequency spectrum licence.

3.3 Language(s)

Clause 3 of the schedule to the licence states that the radio stations languages of broadcast are:

"Principal language: iXun and Khwe".

The Authority's monitoring exercise confirmed that the radio station's principal languages are iXun and Khwe. However, the radio station also alternates between Afrikaans, iXun and Khwe languages to cater for the needs of the majority Afrikaans-speaking people of the Northern Cape.

The radio station complies with clause 3 of its licence.

3.4 Format

Clause 4.1 of the schedule to the licence states that:

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

Clause 4.2 states that:

"The licensed service shall be a full-spectrum service".

XK FM is categorised as a public radio station of the SABC and offers a full-spectrum service to its audience as outlined in the licence. This was confirmed during the Authority's monitoring exercise.

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

3.5 Local Content Obligations

Clause 5 of the schedule to the licence states 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 in the licensed service during that quarter, in each instance, distinguishing between genres, providing the relevant details in relation to prime time and the period between 5h00 and 23h00 daily ("the South African broadcast period"), and expressing relevant details both as an aggregate in minutes and as a percentage of the total of all such programming material".

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 show a breakdown of XKFM's compliance with the quotas set out by the Authority. These figures were verified during the Authority's monitoring exercise, as detailed under paragraph 3.5 of the report.

First Quarter April – June 2011

Content/ Genre	ICASA Quota (Minutes Daily/Weekly)	XK FM's Provision (Minutes Daily/Weekly)	XK FM's Compliance (%)
News	30 min (Daily)	66min (Weekdays) 50min (Saturday) 50min (Sundays)	220% 166% 166%
Current Affairs	30min (Daily)	99min (Weekdays) 55min (Saturday) 55min (Sundays)	330% 183% 183%
IKB	180 min (Weekly)	1450min (Weekly)	805%
Educational	300min (Weekly)	525min (Weekly)	175%
Children's	15min (Weekly)	755min (Weekdays)	5000%

Second Quarter July – September 2011

Content/ Genre	ICASA Quota (Minutes Daily/Weekly)	XK FM's Provision (Minutes Daily/Weekly)	XK FM's Compliance (%)
News	30min (Daily)	66min (Weekdays) 50min (Saturday) 50min (Sunday)	220% 166% 166%
Current Affairs	30min (Daily)	99min (Weekdays) 55min (Saturday) 55min (Sunday)	330% 183% 183%
IKB	180min (Weekly)	1425min (Weekly)	791%
Educational	300min (Weekly)	550min (Weekly)	183%
Children's	15min (Weekly)	755min (Weekdays)	5000%

Third Quarter October – December 2011

Content/ Genre	ICASA Quota (Minutes Daily/Weekly)	XK FM's Provision (Minutes Daily/Weekly)	XK FM's Compliance (%)
News	30min (Daily)	66min (Weekdays) 50min (Saturday) 50min (Sunday)	220% 166% 166%
Current Affairs	30min (Daily)	99min (Weekdays) 55min (Saturdays) 55min (Sundays)	330% 183% 183%
IKB	180min (Weekly)	1425min (Weekly)	791%
Educational	300min (Weekdays)	530min (Weekdays)	176%
Children's	15min (Weekdays)	755min (Weekdays)	5000%

Fourth Quarter January 2012- March 2012

Content/ Genre	ICASA Quota (Minutes Daily/ Weekly)	XK FM's Provision (Minutes Daily/ Weekly)	XK FM's Compliance (%)
News	30min (Daily)	66min (Weekdays) 50min (Saturdays) 50min (Sundays)	220% 166% 166%
Current Affairs	30min (Daily)	99min (Weekdays) 55min (Saturdays) 55min (Sundays)	330% 183% 183%
IKB	180min (Weekly)	1420min (Weekly)	788%
Educational	300min (Weekly)	535min (Weekly)	178%
Children's	15min (Weekdays)	755min Weekdays	5000%

As shown above from the SABC's quarterly submissions, XKFM has, during the 2011/2012 financial year, complied with the set quotas as per clause 5 of its license.

3.6 General programming obligations

3.6.1 General

Clause 6.1.1 of the schedule to the licence states that:

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

The SABC's editorial policy states that:

"Religious programmes should take account of regional factors, target audiences, language and cultural preferences, and the devotional needs of specific groups" (See an extract on SABC's editorial policy attached as Appendix B).

During the period under review, the Authority's monitoring exercise revealed that the radio station's programming provides for religious content. A programme called "*Gospel Tuis*" presented by Alex Clark was identified. The programme included a sermon presented in Afrikaans. Another religious programme is broadcast on Sundays between 16h00 to 17h00pm which includes a sermon. In between religious sermons, there is community choir music played to cater for the needs of the diverse needs of the targeted communities.

The radio station complies with clause 6.1.1 of the schedule to the licence.

Clause 6.1.2 of the schedule to the licence states that:

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

On Saturday mornings the radio station features a programme called "Community News" which deals with announcements and events affecting community members. During the show, there is a live-crossover to some of the events held, where community members are given an opportunity to speak on issues affecting their communities from cultural perspective and others.

The radio station complies with clause 6.1.2 of its licence.

Clause 6.1.3 of the schedule to the licence states 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".

"Hier waar ons bly" is amongst the programmes identified during the monitoring exercise. The programme dealt with issues affecting the communities in the coverage area such as health and wellbeing, water and sanitation.

Although most programmes are broadcast in *iXun and Khwe* from the outside broadcasts monitored; there were interviews held with some of the women in the community who highlighted issues affecting them and how the government can assist further.

The radio station complies with clause 6.1.3 of its licence.

3.6.2 News and Current Affairs

Clause 6.2.1 of the schedule to the licence states that:

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

The quarterly reports submitted by the SABC indicate that XK FM broadcasts, sixty six (66) minutes of news on week days, fifty five (55) minutes of news on Saturdays and Sundays during the performance period.

The Authority's monitoring exercise conducted, indicates that XKFM broadcasts fifteen (15) news bulletins during the performance period. The news bulletins last for approximately six (6) minutes every hour on the hour from 07h00 to 21h00 during weekdays, and on weekends, the radio station broadcast news from 07h00 to 22h00. Headline news is broadcast every half hour.

During the period under review, a minimum of ninety (90) minutes of news was monitored each day. The following news was monitored during the period under review:

- *"A new national strategic plan on HIV Aids and TB will be released by President Jacob Zuma today. The plan will be a guide on how to tackle the pandemic over the next 5years. Various sectors under the national aids council have contributed to the plan".*
- *"The African bloc on the Durban climate change talks, say the need up to 5 trillion rand to pay for measures to mitigate and adapt to climate change. The amount is six times more than the 800 billion rand agreed to in Cancun last year for the Green Climate Fund. The fund is supposed to help developing countries".*
- *"The suspended president of the youth league, Julius Malema says without the vocal youth league, the youth of this country are facing a bleak future. He has appealed to youth league leaders to rise up and save the league".*

The radio station complies with clause 6.2.1 of its licence.

Clause 6.2.2 of the schedule to the licence states that:

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

The quarterly reports submitted by the SABC indicate that the radio station broadcasts ninety-nine (99) minutes of current affairs programmes on week days, fifty five (55) minutes on Saturdays and Sundays during the performance period.

The Authority's monitoring exercise indicated that XK FM broadcasts an average of eighty-five (85) minutes of current affairs programmes each day during the performance period. *"Akaku /'am (what the community must know)" is among the current affairs programmes identified. The programme discussed a topic which centered around HIV/Aids and TB research with the Head of Reproductive Health at Wits University, Professor Helen Reitz; who discussed improved ways of the treatment of HIV/Aids, and continued research into better treatment of the virus.*

The radio station complies with clause 6.2.2 of its licence.

Clause 6.2.3 of the schedule to the licence states as follows:

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

- (i) Exercise full editorial control in respect of the contents of such programming;*
- (ii) include matters of international, national, regional and where appropriate local significance;*
- (iii) meets the highest standards of journalistic professionalism;*
- (iv) provide fair, unbiased, impartial and balanced coverage independent from governmental, commercial or other interference*

- (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 provides that the licensee must exercise full editorial control in respect of contents of its programming. The editorial policy further indicate 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.

Furthermore, in its news and programming content it includes matters of international national, regional and local significance.

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 XKFM’s news and current affairs programmes during the year under review not only demonstrated compliance with clause 6.2.2 of its licence but the Charter as contained in the Broadcasting Act of 1999 (See 6.2.1 and 6.2.2 above).

The radio station complies with clause 6.2.3 of its licence.

3.6.3 Programming targeted at Children

Clause 6.3.1 of the schedule attached to the licence states that:

“The Licensee shall in the provision of the licensed service, broadcast at least fifteen (15) 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 states 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 quarterly reports submitted by the SABC indicate that the radio station broadcasts, seven hundred and fifty five (755) minutes (12 hours 35 minutes) of programming targeted at children on weekdays during performance period.

According to the Authority's monitoring exercise, children's programmes are broadcast daily. More than fifteen minutes of children's programming is broadcast daily. "Story Time For Kids" broadcast in both! A Xun and Kwedam language was identified.

The radio station complies with clause 6.3.1 and 6.3.2 of its licence.

3.6.4 Educational Programming

Clause 6.4 of the schedule to the licence states that:

"The Licensee shall broadcast at least five (5) hours of educational programming (as contemplated in section 10 (1) (e) of the Broadcasting Act) per week within the South African performance period".

The quarterly reports submitted by the SABC indicate that the radio station broadcasts, on average five hundred and twenty five minutes (8 hours 45 minutes) of educational programming per week.

The Authority's monitoring exercise indicated that the radio station broadcasts educational programmes as follows:

- "Ngewo I'm" on the Late Midday Shift between 14h05 and 14h40. This is an educational program aimed and entertaining and informing the youth of events and news related to them.
- "So onthou ons" which talks about lifestyle issues aimed and informing and advising youth of today on how things were done in the past.

In total, a weekly average of seven hundred and fifty (12 hours 30 minutes) of children's programming per week, during the South African performance period was monitored.

The radio station complies with clause 6.4 of its licence.

3.6.5 Informal Knowledge-Building Programmes

Clause 6.5 of the schedule to the licence stipulates that:

"The Licensee shall broadcast at least three hours of informal knowledge building programming per week within the South African performance period".

The quarterly reports submitted by the SABC indicate that the radio station broadcasts, on average 1420 minutes (23hours 40 minutes) of informal knowledge building programming per week during the performance period.

The Authority's monitoring exercise indicated that the radio station broadcasts at least seventeen (17) hours of informal knowledge building programming per week. The following is amongst the topics identified during monitoring exercise:

"Hier waar ons bly", the programme dealt with issues affecting the communities in the coverage area such as health and wellbeing, water and sanitation.

The radio station complies with clause 6.5 of its licence.

3.6.6 Training and Skills development Obligations

Clause 7 of schedule attached to the licence states as follows:

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 submits that it is in the process of vetting information which relates to its implementation of equal opportunity employment practices. This information will detail the SABC’s management and control structures and procurement allocations. The information will be submitted as soon as the process is complete.

Further, the SABC indicates that its management and staff is representative of South African society. For the period under review there was reasonable participation by historically disadvantaged people with respect to its management and skills development.

The SABC ensured that the learning and development needs are strategically aligned to business needs so as to bring about positive business impact and increases in the productivity level at large.

Furthermore, the SABC indicates that there are not many enterprise development initiatives due to the nature of the industry. It continues to use bulk commissioning to ensure that the smaller companies who belong to the previously disadvantaged individuals survive by partnering with partnering with the bigger companies.

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

The radio station complies with clause 7 of its licence.

3.7 Provision of Audited financial statements to the Authority

Clause 8 of the licence states 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 apply to the Authority for extension".

The SABC submitted its Audited statements for the 2011/2012 financial year within the stipulated timeframe.

The Licensee has complied with clause 8 of its licence.

4. REGULATIONS

4.1 South African Music Content Regulations

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

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

The radio station promotes local content in the form of community driven programming and music, such as community choir songs that can be heard regularly throughout the day. Programmes such as *"Modern Live"*, feature local artists like Adilah; Lebo Mathosa; Senyaka and Mzwakhe Mbuli. The monitoring confirmed that the radio station plays approximately 65% South African music.

The radio station complies with the 40% local music content quota, as prescribed by the South African Music Content Regulations (*See Regulations on South African Music Content attached as Appendix D*).

4.2 Standard Terms and Conditions for Individual Licences

During the year under review, the Authority did not identify any non-compliance by XK FM with the standard terms and conditions for individual licensees (*See Regulations regarding Standard Terms and Conditions for Individual Licences attached as Appendix E*).

4.3 Universal Service Access Fund

Regulation 3 of the USAF Regulations states that:

- (1) *"Every holder of a licence granted in terms of Chapters 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of its Annual Turnover to the Fund.*
- (2) *A Broadcasting Service Licensee who has paid an annual contribution to the MDDA must set off that contribution against its*

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

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 USAF regulations.

4.4 General License Fees Regulations

Regulation 4(b) of General Licence Fees Regulations provides for the exemption of Individual Licences for Public Broadcasting Services.

XK FM is part of Public Broadcasting Services and is thus exempted from paying licence fees.

5. CONCLUSION

XK FM has complied with its licence terms and conditions and applicable regulations.

6. APPENDICES

Appendix A: Sound broadcasting service and frequency spectrum licences

Appendix B: SABC's Editorial Policy

Appendix C: Skills Development Report

Appendix D: Regulations on South African Music Content

Appendix E: Regulations regarding Standard Terms and Conditions for Individual Licences

Appendix F: Regulations in Respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund;

Appendix G: General Licence Fees Regulations

