

2011/2012 ANNUAL COMPLIANCE REPORT

Y FM

License Period : 12 December 2008 –11 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 Act³ (“EC Act”) to regulate broadcasting activities in South Africa in the public interest. The Authority is tasked with ensuring compliance by broadcasters with the ICASA Act, the EC Act, terms and conditions of their licence, and any relevant legislation and regulations.

The following report is intended to give account of YFM’s performance for the 2011/ 2012 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Languages, Format, Local Content Obligations, General Programming Obligations, Ownership and Control Obligations, Training and Skills Development Obligations, Community-related Obligations, South African Music Content Regulations, Regulations regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations and General Licence Fees Regulations.

2. BACKGROUND

YFM is an Individual Commercial Sound Broadcasting Service Licensee, providing a Youth focused service with an infotainment format consisting of seventy five percent (75%) music and twenty five percent (25%) talk (*See Appendix A*).

¹ The Constitution of the Republic of South Africa Act No 108, 1996

² ICASA Act No 13 , 2000 as amended

³ Electronic Communications Act No 36, 2005

According to the South African Advertising Research Foundation (SAARF), the listenership figures for the period under review were at 1 412 000⁴. The shareholders are as follows:

- Sabido Investments (Pty) Ltd (Sabido) – 100%

3. COMPLIANCE ASSESSMENT

3.1 Licensee

Clause 1 of the service licence stipulates that:

"The Licence is issued to:

1.1 Name of Company/Entity: Yired (Pty) Ltd.

1.2 Shareholders, Sabido Investments (Pty) Ltd (Sabido) (100)".

1.3 Ownership held by persons from historically disadvantaged groups: 100%".

The Licensee is Yired (Pty) Ltd. The Licensee confirms that Sabido Investments (Pty) Ltd owns the company 100% and that ownership held by historically disadvantaged groups is 100%.

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 stipulates that the coverage area is:

"Johannesburg, as defined in the coverage map attached to the Licensee's Frequency Spectrum licence".

According to the frequency spectrum licence, the radio station covers the Johannesburg area, Pretoria and the Vaal region. The Licensee confirmed that its

⁴ <http://www.saarf.co.za/>

coverage area has not changed. The signal distributor is Sentech and has its transmitter site in Johannesburg.

The Licensee complies with clause 2 of its frequency spectrum licence.

3.3 Language(s)

Clause 3 of the schedule to the licence stipulates that the languages of broadcast are as follows:

"Primarily English, IsiZulu and Sesotho".

The Authority's monitoring revealed that YFM broadcasts primarily in English, followed by IsiZulu, Sesotho and township/local slang.

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

3.4 Format

Clause 4 (a) of the schedule to the license stipulates that:

"Youth focused service with an infotainment format consisting of seventy five percent (75%) music and twenty five percent (25%) talk".

Clause 4 (b) of the schedule to the licence stipulates that:

"The Licensee may not change more than fifteen percent (15%) of its format between 05h00 and 23h00".

The Licensee confirms that its format is music orientated however; it also provides opportunities for listeners to interact by calling in to choose songs or discuss any topic of the day on any of the programmes offered. The format was confirmed during the Authority's monitoring. The Licensee did not deviate from its format during the year under review.

The Licensee complies with clause 4 (a) and 4 (b) of the schedule to its licence.

3.5 Local Content Obligations

Clause 5 of the schedule to the licence stipulates that:

(a) The Licensee must ensure that at least fifty percent (50%) of its music is South African music content”.

The monitoring exercise confirmed that the Licensee plays a minimum of fifty five percent (55%) South African music. In addition, the radio station interviews local artists and playlist new musicians which contributes to local music.

The Licensee complies with clause 5 (a) of the schedule to its licence.

Clause 5 (b) of the schedule to the licence stipulates that:

(b) The Licensee must develop programmes which are aimed at empowering local musicians and music producers”.

The Licensee has a show called “Hot 99”, broadcast between 09h05 and later at 21h00 on weekdays. The show features and promotes the latest and exclusive new music to the radio station’s audience. It is aimed at affording new, including unsigned artists, airplay on YFM. The following artists were identified: Soul Tech, Mshizi and Dunkin, Ryhme Steam and Black Magic.

The Licensee complies with clause 5 (b) of the schedule to its licence.

3.6 General Programming Obligations

Clause 6 (a) of the schedule to the licence provides that:

“The Licensee shall broadcast news for a minimum of two hundred and ten (210) minutes per week on a regular basis for a minimum of forty (40) minutes each weekdays during the South African performance period (05h00-23h00)”.

The Authority's monitoring revealed that the Licensee broadcasts thirteen (13) news bulletins every hour on the hour from 06h00 and 18h00 on weekdays.

News headlines are broadcast every half hour from 6h30 to 17h30. Sports news is broadcast immediately after the news headlines. The duration of news bulletins is between three (3) and four (4) minutes. Approximately forty five (45) minutes of news was monitored per day during the South African performance period. The following news items were identified:

- *"The political showdown for the DA boss gets underway in the party's' elective congress in Pretoria today. The two main candidates are John Moodey who commands party faithful in Johannesburg Central and South and Ian Ollis, an MP who commands supports in Johannesburg North and Sandton suburbs. Some 1134 delegates are expected to attend the congress along with DA leader Helen Zille. Whoever wins the DA race is expected to lead the DA campaign to takeover Gauteng from the ANC at the 2014 general elections".*
- *"An education Indaba concentrating on the high number of drop outs from Gauteng schools has just kicked off in Turffontein racecourse in Johannesburg. The Gauteng education department's fourth monitoring and evaluation colloquium is made up of teacher, education official and academics. More than one million pupils between Grade one and Grade eleven drop out of South African schools every ten years".*
- *"The competition tribunal has reserved judgement on the price fixing case involving fixed line operator Telkom. The competition commission is accusing the telecommunications giant of monopolistic behaviour dating back to 2004 and want Telkom to be fined 4.5 billion rand".*

The Licensee complies with clause 6 (a) of the schedule to its licence.

Clause 6 (b) of the schedule to the licence stipulates that:

"in instances where the Licensee does not originate news material, it must during its broadcast, credit the source of such material in accordance with accepted journalistic practices".

The Licensee maintains that whenever it reports on news that it has obtained from other sources other than its own journalists, such sources are disclosed during the relevant news bulletin. During monitoring, the radio station used its own journalists for news reporting.

The Licensee complies with clause 6 (b) of the schedule to its licence.

Clause 6 (c) of the schedule to the licence stipulates that:

"The Licensee will not be required to broadcast news bulletins over weekends".

The Licensee does not broadcast news on weekends and therefore complies with clause 6 (c) of its licence.

3.7 Ownership and Control Obligations

Clause 7(a) of the schedule to the licence stipulates that:

"The Licensee shall establish scheme in terms of which staff are allocated five percent (5%) equity or profit participation".

The Licensee notified the Authority that employees are paid bonuses in December yearly in compliance with Clause 7 (a) of the service licence.

Clause 7(b) of the schedule to the licence stipulates that:

"The Licensee shall be entitled to reduce ownership by previously disadvantaged persons to below percent (80%) on application to the Authority".

Sabido Investments (Pty) Ltd (Sabido) is hundred percent (100%) owned by previously disadvantaged person. The Authority has during the year under review not received any application from the Licensee to reduce ownership held by previously disadvantaged persons.

The Licensee complies with clause 7 (a) and (b) of the schedule to its licence

3.8 Training and Skills Development Obligations

Clause 8(a) of the schedule to the licence stipulates that:

"The Licensee shall ensure that at least fifty percent (50%) of the station's staff are women".

The Licensee submits that it has a staff compliment of ninety six (96) people and this includes permanent, fixed contract and Y Academy staff members. The overall total number of women is forty two (42), which is forty four percent (44%) of the overall staff compliment. This is an increase from the previous year's women representation of forty one percent (41%), although this still falls short of the required minimum of 50% of staff being women. Meetings were held with the Licensee in this regard and the Licensee eventually opted to submit an application for an amendment to Clause 8(a) of its service licence. The Licensee indicated that the situation is beyond its control and it cannot continue to transgress in this respect.

During the period under review the Licensee did not comply with clause 8 (a) of its licence.

Clause 8 (b) of the schedule to the licence stipulates that:

"The Licensee must expend R400 000 (four hundred thousand Rand) per annum on training and human resource development".

The Licensee submits that it recruited twelve (12) interns through its Y Academy initiative for a period of six months, which provided them with hands on experience on different media fields. The interns were paid a monthly stipend of two thousands five hundred rand (R2500). Over and above this, the Licensee took some of its staff members to different trainings. During the period under review, the Licensee spent six hundred and eighteen one hundred and five rand and ninety four cents (R618 105.94) on training and human resource development.

The Licensee complies with clause 8 (b) of the schedule to its licence.

3.8 Community-related Obligations

Clause 9 of the schedule to the licence stipulates that:

"The Licensee must provide at least R1 000 000 (one million Rand)'s worth of airtime annually to relevant organisations for the purposes of providing free social responsibility messaging".

The Licensee has, through its YCARES initiative, provided airtime to the amount of two million two hundred and fifty eight rand one hundred and seventy six (R2 258 176) to organisation for the purposes of free social messaging (See Appendix E).

The Licensee has complied with clause 9 of the schedule to its licence.

4. REGULATIONS

4.1 South African Music Content

Regulation 3.2 of the Regulations on South African Music Content as published on 31 January 2006 provides that:

"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that a minimum of 25% 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”.

The Licensee plays an average fifty five (55%) percent local music. Black Coffee, Shota, Khuli Chana, DJ Menace, and Sean Pages are some of the local artists that were identified during the period monitored.

The Licensee complies with the regulations on South African music content.

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.

4.3 Universal Service and Access Fund (USAF) regulations

Section 3 (1) (2) of the prescribed annual contribution of licences to USAF regulations published on 10 February 2011 stipulates that:

- (1) “every holder of the licence granted in terms of Chapter 3, 4 and/or 9 Converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2 % of 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 is set are for the same financial year”*

The Licensee made payment of one hundred and two thousand rand, nine hundred and seventy cents (R102 970.00) to the Media Development and Diversity Agency on 31 July 2012 and proof of payment was duly submitted to the Authority (See Appendix F).

The Licensee complies with the USAF regulations.

4.4 General Licence Fees Regulations

The General License Fees Regulations came into effect on the date of publication in the government Gazette no. 32084, on 01 April 2009. Regulation 3 (1) (a) stipulates that:

"The annual Licence fees prescribed in these regulations and as set out in Schedule 2 apply to holders of Individual and Class ECS licences, Individual Licences, Individual and Class ECNS licences and Individual Commercial BS licences".

Schedule 2 under Annual Licences Fees stipulates that:

"Individual Commercial Broadcasting Service Licensees to pay an annual licence fee of 1.5% of gross profit to the Authority".

Schedule 3 (4) (b) (c) stipulates that:

(b) in respect of payment, such are due and payable within 6 months from the end of the licensee's financial year;

(c) may only be paid by way of an electronic transfer or via direct deposit into the Authority's bank account"

The Licensee made payment of five hundred and twenty nine thousand, nine hundred and ten rands and ninety three cents (R529 910.93) which is equivalent to 1.5% of the Licensee's gross profit. The payment was made on 10 September 2012, six (6) months after the Licensee's financial year end which is March (See Appendix G).

The Licensee complies with the General Licence Fees regulations.

4.5 Code of Conduct for Broadcasters

The Licensee is a member of the National Association of Broadcasters ("NAB") and complaints in relation to the Code of Conduct are administered by the Broadcasting Complaints Commission of South Africa ("BCCSA"). There were few complaints laid against YFM that were heard and adjudicated by the BCCSA during the period under review.

5. CONCLUSION

During the period under review (April 2011 until March 2012), Y FM complied with most of its licence terms and conditions. The Licensee has not complied with clause 8(a) of its licence. The Licensee has submitted an application for an amendment to its service licence as the Licensee has indicated that there situation is beyond its control.

6. APPENDICES

Appendix A: YFM Licence Licence Conditions

Appendix B: Shareholders Letter

Appendix C: Staff compliment

Appendix D: Training Development

Appendix E: Ycares documentation

Appendix F: MMDA proof of payment

Appendix G: Licence Fees payment