

## **E.TV COMPLIANCE REPORT**

**Licence period: 17 December 2008 to 16 December 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 ICASA Act<sup>2</sup> and the Electronic Communications Act<sup>3</sup> (“EC Act”) to regulate broadcasting activities in South Africa in the public interest. The Authority is tasked with ensuring compliance by broadcasters with the terms and conditions of their license, the Electronic Communications Act (“EC Act”), the ICASA Act and any relevant legislation.

The following report is intended to give account of e.tv’s compliance with the terms and conditions set out in its licence for the 2008/09 fiscal year in line with its licence year. Aspects of compliance that are measured comprise of geographic coverage, ownership and control structures. languages, format, local content obligations, general programming obligations Information programming, news and current affairs programming, programming targeted at children Ownership and control , employment equity obligations, skills and development obligations, finances, limitations on advertising and standard terms and conditions.

### **2. BACKGROUND**

e.tv<sup>4</sup> was licensed as the first free to air terrestrial service in 1998. Its first licence expired after an eight (8) year duration, in 2006, and was renewed without the need to hold public hearings. However, in terms of the License conversion process, which the

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

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

<sup>3</sup> Electronic Communications Act No 36 of 2005

<sup>4</sup> The words e.tv and Licensee are used interchangeably in this report

Authority was mandated to undertake in terms of Section 93 of the EC Act, the e.tv licence was converted. As indicated in the introduction above, e.tv is a free to air terrestrial television service. Initially a licence was granted in April 1998 to the then holding company Midi TV (Pty) Limited, by the Authority's predecessor, the Independent Broadcasting Authority. e.tv commenced broadcasting in October 1998, being the first free to air terrestrial commercial television service. Subsequent to an application by e.tv, the licence was renewed in September 2006, for a second period without any opposition or public hearings.

In December 2008, a converted licence was issued to the broadcaster in terms of the Licence conversion process, as enunciated in Chapter 3 read together with Chapter 15 of the EC Act. According to the converted licence, e.tv's licence is valid for fifteen (15) and is due to expire in 2023 (*See Appendix A- Licence Conditions*).

e.tv maintains that it has grown exponentially and is now the largest English medium television broadcaster and the second most watched television channel in the country, with a broadcast footprint of 80.5% (*see Appendix B extract from e.tv's annual report*).

e.tv has since inception of its licence, effected shareholding change, with the approval of the Authority. It has increasingly posted steady profits and is now totally solvent after initial losses in the region of R600 million. The holding company is Sabido Investments, a subsidiary of Hosken Consolidated Investments (HCI), a black economic empowerment and duly registered public company<sup>5</sup>.

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<sup>5</sup> E.tv's licence conditions

### 3. CONTENT MONITORED

#### 3.3.1 e.tv programme content per genre

The following tables reflect the actual content monitored in respect of e.tv from 19 to 31 October 2009

October	News	Current Affairs	Education	Informal Knowledge Building	Drama	Children	Documentary
<b><u>WEEK 1: 19-25</u></b> <b><u>OCT 09</u></b> Content transmitted from 05h00-23h00	9 hours	11hours 35 minutes	# <sup>6</sup>	10 hours 20 minutes	11 hrs 16 min	17 hours 20 minutes	2 hours 13 minutes
<b><u>WEEK 2: 26-31</u></b> <b><u>OCT 09</u></b> Content transmitted from 05h00-23h00	7 hours 30 minutes	11hours 35 minutes	#	9 hours	11 hours 10 minutes	16 hours	2 hours 13 minutes

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<sup>6</sup> Not a requirement

### 3.3.2 Categories not defined in the licence terms and conditions.

These are categories of programmes not defined in the licence terms and conditions, but are produced by e.tv

<b>October</b>	<b>Talk Shows</b>	<b>Infomercials</b>	<b>Sport</b>	<b>Magazine</b>
<b><u>WEEK 1: 19-25</u></b> <b><u>OCT 09</u></b> Content transmitted from 05h00-23h00	#	6 hours	5 hours 30 minutes	6 hours
<b><u>WEEK 2: 26-31</u></b> <b><u>OCT 09</u></b> Content transmitted from 05h00-23h00	#	5 hours 5 minutes	5 hours 20 minutes	6 hours

## **4. COMPLIANCE ASSESSMENT**

### **4.1. Geographic Coverage Area**

Clause 2 of the licence provides that:

*“National coverage of its broadcasting services provided that any given time the minimum population coverage shall be 77%”.*

Since the initial licence was granted, the Authority has approved 34 applications for Self-Help stations. A Self-Help station is defined ‘as a community owned and funded relay station, which transmits the signal of a broadcaster within the licence area of that broadcaster in cases where, for technical or other reasons, the broadcaster’s signal cannot be received’. E.tv, in order to fulfill its mandate of universal service and access, and as part of its expansion of coverage to various parts of the country, which does not fall within e.tv’s geographic coverage area, it has set up these Self-Help stations. This has resulted in an increase in coverage to 80.5% of the population (*see Appendix C e.tv’s 80.5% population coverage extrapolated from annual report*).

e.tv complies with clause 2 of its licence terms and conditions.

### **4.2. Target Audience**

Clause 3 of the licence provides that:

*“General Public”.*

e.tv provides a service to the general public and complies with clause 3 of its licence.

### **4.3 Language(s)**

Clause 4 (1) of e.tv’s licence provides that:

*“Subject to the specific language requirements set out below, the Licensee shall ensure in respect of the licensed service, its programme material is provided primarily in English” (See Appendix A- Licence Conditions).*

According to the information submitted by e.tv, it provides its programme material primarily in English.

The Authority confirmed the above during monitoring of e.tv’s programming profile from 19 to 31 October 2009.

e.tv has complied with clause 4(1) of its licence.

Clause 4(2) of the licence provides that:

*“The Licensee shall broadcast two (2) hours of news and information programming per week during the performance period in a wide range of official languages other than English and shall make provision for sign language translation on screen during the prime time news bulletin. In complying with its obligations in respect of the use of official language other than English, the Licensee shall not make excessive use of a single language, other than English, to the exclusion of other official languages”.*

The licensee maintains that it has exceeded the requirement by broadcasting an average of 6.7 hours per week of news and information programming. Some of the languages used in its news and information programming, comprise a mixture of isiZulu, isi-Xhosa, seSotho and seTswana. Further, e.tv’s morning edition includes an Afrikaans bulletin broadcast between 05h30- 06h00 and 08h00-08h30. In addition, the early edition broadcast at 18h00, which comprises news and information programming, features Afrikaans language. The Authority’s monitoring revealed 9 hours of news per week in week 1 and 7 hours 30 minutes of news in week 2. Current affairs totaled 11 hours 35 minutes in both weeks 1 and 2. Informal knowledge building totaled 6hours 23 minutes in weeks one and two respectively. The total number of hours for news and

information programming in week one equaled 26hours 58 minutes and 24hours 58 minutes in week two as reflected below:

#### 4.3.1 News and Information Programming

<b>October 2009</b>				
	<b>News</b>	<b>Current Affairs</b>	<b>I KB</b>	<b>Total</b>
<b><u>WEEK 1: 19-25 OCT</u></b> Content transmitted from 05h00-23h00	9 hours	11 hours 35 minutes	6hours 23 minutes	26hours 58 minutes
<b><u>WEEK 2: 26-31 OCT</u></b> Content transmitted from 05h00-23h00	7 hours 30 minutes	11 hours 35 minutes	6 hours 23 minutes	24hours 58 minutes

The licensee provides an insert with a sign language interpreter during the prime time (18h00) news bulletin and during its daily 22h00 news bulletin. The licensee has further indicated that the during the broadcast of the Opening of Parliament, the State of the Nation address and the Budget Speech, provision is made for sign language<sup>7</sup>.

From the above, it can be concluded that during the period under review, e.tv has complied with clause 4 (2) of its licence.

Clause 4 (3) of the licence provides that:

*“The Licensee shall broadcast four (4) hours of programming other than news and information per week in official languages other English. Compliance with this sub-clause shall be measured accordingly over the licence year. In complying with the above obligations, the licensee shall not make excessive use of a single language, other than English, to the exclusion of other languages”.*

<sup>7</sup> E.tv's Annual Compliance Report for the 2008/09 Fiscal Year

E.tv claims that the above requirement was exceeded by broadcasting 6.3 hours of programming other than news and information per week in official languages other than English.

From the monitoring of e.tv's programming, even though compliance is measured over the licence year, approximately four hours of programming other than news and information per week in official languages other than English was monitored. The South African drama programmes broadcast by e.tv, are multilingual. For example, e.tv broadcasts Rhythm City, Scandal and Shooting Stars. Rhythm City is interspersed with isiZulu, seTswana and Afrikaans. Scandal is interspersed with seSotho, seTswana, isiXhosa and Afrikaans, whilst Shooting Stars is interspersed with isiZulu and isiXhosa.

During the period under review e.tv demonstrated compliance with clause 4 (3) of its licence.

Clause 4 (4) (a) of the licence provides that:

*"At least 10% of the aggregate broadcasting time of its South African drama productions transmitted, ... in a wide range of official languages other than English".*

According to the submission, e.tv has complied with this obligation by broadcasting at least 18.8% of its South African Drama productions transmitted, in official languages other than English.

For the two weeks monitored, e.tv broadcast 19% of drama in a range of official languages other than English.

During the period under review e.tv demonstrated compliance with clause 4 (4) (a) of its licence.

### 4.3.2 Drama productions

<b>October 2009</b>	<b>South African Drama productions</b>	<b>Foreign drama productions</b>	<b>Drama productions in Official languages other than English</b>	<b>Weekly % <sup>8</sup></b>
<b><u>WEEK 1: 19-25 OCT</u></b> Content transmitted from 05h00-23hours	14 hours 40 minutes	22 hours 05 minutes	2 hours 50 minutes	19%
<b>Prime time</b>	5 hours			
<b><u>WEEK 2: 26-31 OCT</u></b> Content transmitted from 05h00-23H00	14 hours 40 minutes	25 hours 35 minutes	2 hours 50 minutes	19%
<b>Prime time</b>	5 hours			

<sup>8</sup> The weekly percentage was calculated as follows: the minutes of drama productions in Official languages, other than English ÷ South African drama productions minutes × 100 = percentage of drama in official languages, other than English.

Clause 4 (4)(b) provides that “*at least 20% of the aggregate broadcasting time of South African children’s programming transmitted by the licensee is in a wide range of official languages other than English*”. Further clause 4(4)(b)(ii) further provides that “*the Licensee shall not make excessive use of a single official language other than English to the exclusion of other official languages...*”.

According to the submission, e.tv broadcast approximately 28% of children’s programming in a range of official languages consisting of isiXhosa, isiZulu, SePedi, SeTswana and SeSotho. Programmes such as Craze-e broadcast between 14h30 and 16h30 on weekdays, 07h00 and 10h30 on Saturdays as well as 09h00 and 10h30 on Sundays; Cool Catz; Sistahood and Jozi Zoo are some of the programmes broadcast in a range of official languages other than English.

Even though the licence does not expressly indicate whether this 20% is calculated weekly over a year, monitoring on e.tvs’ programming profile as reflected in the table below indicated compliance with the 20% requirement on a weekly basis.

### 4.3.2 Children’s programming transmitted in a range of official languages other than English

October 2009				
	Other Official languages	English	Overall minutes	Weekly % <sup>9</sup>
<b><u>WEEK 1: 19-25 OCT</u></b> Content transmitted from 05h00-23h00	245 minutes	120 minutes	620 minutes	40.9%
<b><u>WEEK 2: 26-31 OCT</u></b> Content transmitted from 05h00-23h00	215 minutes	210 minutes	540 minutes	39.81%

Clause 4(5) of the licence provides that:

*“The Licensee shall endeavor to dub some of the children’s programming acquired from abroad and broadcast by the Licensee into official language other than English”.*

A significant amount of e.tv’s children’s programmes are locally produced and are in official languages other than English, therefore e.tv does not dub programmes acquired from abroad.

### 4.4 Local Content Obligations

Clause 6 (1) of the licence provides that:

*“In procuring programming produced in South Africa, the Licensee must ensure commissioning of programming from the different provinces and to ensure that such programming is reflective of provincial diversity, cultures and characters”.*

<sup>9</sup> The weekly percentage was calculated as follows: the minutes of other official languages in children’s programming ÷ overall minutes of children’s programmes × 100 = percentage of children’s programmes in official languages, other than English.

During the year under review, the licensee maintains that it has continuously complied with the above requirement. In order to promote innovation and creativity in the production of South African programming, e.tv states that it commissioned various documentaries from independent producers by way of unsolicited proposals (unsolicited proposals refer to proposals that are submitted to the licensee by independent producers without a request for proposals from the licensee). Of the unsolicited proposals, one (1) came from the Free State, 13 from Kwa-Zulu Natal, 426 from Gauteng, 15 from the Western Cape and 2 from Limpopo provinces.

Clause 6 (2) of the licence provides that:

*“The Licensee must ensure that forty five (45%) of broadcast time consists of local television content”* and further that *“a maximum of fifteen percent (15%) of which shall be re-broadcast, measured over a year”*.

The licensee has indicated that at least 48.3% local content programming was broadcast during period under review. In addition, at least fifteen percent (15%) of the aforementioned comprised of re-broadcasts.

Monitoring conducted established compliance with clause 6 (2), *(refer to tables above for further information regarding local content programming, page 9)*.

Clause 6 (3) of the licence provides that:

*“The Licensee shall broadcast animations which reflect African and South African culture and lifestyles”*.

The submissions by e.tv and monitoring conducted by the Authority indicate that the animations broadcast by e.tv are reflective of South African culture and lifestyles. E.tv has complied with clause 6 (3) of its licence

Clause 6 (4) of the licence provides that:

*“The Licensee must provide programming which develops and promotes South African culture and talent, especially in the area of music, through locally produced programmes which may be broadcast during the time that falls outside the South African television performance period”.*

In terms of the South Television Content Regulations, published in gazette number 28454 of 2006 (“the Regulations”), the measurement of compliance is done during the performance period from 05h00-23h00.

e.tv confirmed that their programmes are recorded from 05h00- 23h00 in line with the South African performance period.

#### **4.5 General Programming Obligations**

Clause 7(a) of the licence provides that:

*“The Licensee must broadcast two (2) hours thirty (30) minutes of South African drama per week of which at least two (2) hours twenty (20) minutes must be broadcast during prime time”.*

The licensee maintains that during the period under review, it broadcast 2 hours 30 minutes of drama per week and 4 hours 50 minutes during prime time.

The Authority’s monitoring exercise revealed that on average, 14 hours of South African drama is broadcast per week, of which 5 hours is broadcast during prime time, as is evidenced by the broadcast of dramas such as “Scandal” and “Rhythm City” (*Refer to table in 4.3.1 above*).

e.tv has complied with clause 7 (a) of its licence.

Clause 7 (c) of the licence provides that:

*“The Licensee must ensure that at least ten percent (10%) of South African drama productions broadcast by it comprise a broad range of official languages other than English. In meeting this requirement, the Licensee shall not make excessive use of a single official language other than English, to the exclusion of other official languages”.*

e.tv has indicated that during the period under review it broadcast 18.8% of South African drama programming in official languages other than English.

e.tv monitoring indicated that in week one 49.9% of drama programming in official languages other than English was broadcast while 39.8% of drama programming in official languages other than English was broadcast in week two (*Refer to table 4.3.2 above for further details*).

e.tv has complied with clause 7 (C) of its licence.

#### **4.6 Information Programming**

Clause 8 of the licence provides that:

*“The Licensee shall broadcast at least nineteen (19) hours of information programming per week, at least two (2) hours of which shall be broadcast during prime time”.*

e.tv has indicated that they have complied with this provision by broadcasting 20 hours of information programming per week and 2.7 hours of information programming during prime time.

Even though, there no specific definition for information programming, genres such as current affairs, informal knowledge building and documentaries could be considered as

information programming. Table 3.3.1 above, indicates that e.tv has complied with the 19 hours requirement.

With regards to the prime time requirement monitoring of e.tv's recordings revealed approximately 2 hours 50 minutes during prime time.

e.tv complied with the 2 hour requirement.

#### **4.7 News and Current Affairs**

Clauses 9 (a) read with clause 9 (b) of the licence provide that:

*“The Licensee must ensure that it broadcast news and current affairs programming that reflect local, regional and provincial events and developments”. Further, that e.tv “broadcast at least two (2) hours of news during performance period, of which at least thirty (30) minutes, packaged as a single programme, shall be broadcast during prime time”.*

In its submission e.tv maintains that news and current affairs programming reflect local, regional and provincial events and developments. e.tv further maintains that it complies with the two hour requirement of news broadcast during performance period as well as the 30 minutes packaged as a single programme during prime time.

During monitoring of e.tv's programming profile e.tv broadcast news bulletins between 05h30 and 8h30 in the morning and during the programme called “Sunrise”. Further, news bulletins were broadcast at 13h00, 18h00, 19h00 and 22h00.

News during prime time is broadcast every evening at 18h00 and 19h00. The news totals sixty (60) minutes per day of prime time news, of which at least thirty minutes is packaged as a single programme.

e.tv has complied with clause 9 (a) and 9 (b) of its licence.

#### **4.8 Programming targeted at Children**

Clause 10 (a) of the licence provides that:

*“The Licensee must broadcast sixteen (16) hours of children’s programming per week, of which at least 20% shall comply with the local content requirements as set out in the applicable regulations...”*

The information submitted by e.tv indicate that it broadcast 18.3 hours per week of children’s’ programming including a weekly average of 2.5 hours of youth drama all of which amounted to 20.8 hours. In terms of the 20% local content requirement, e.tv indicated that it broadcast 41.4% South African children’s programming.

Monitoring conducted during the period under review revealed that e.tv broadcast seventeen (17) hours and twenty (20) minutes during week 1 and sixteen (16) hours during week 2.

From the Authority’s monitoring exercise e.tv complied with sixteen (16) hours of children’s programming requirement per week.

With regard to the local content requirement, even though compliance is measured as a weekly average over the period of one licence year, monitoring conducted revealed that at least 21% of children’s programming is local content.

#### **4.9 Ownership and Control Structures Obligations**

Clause 11 (1) of the licence provides that:

*“The Licensee may be assisted by foreign consultants in the operation of its broadcasting service, provided that:*

- (a) there is a written agreement with clear terms of reference, a copy of which is to be submitted to the Authority; and*
- (b) the broadcasting service operated in terms of this Licence is operated by the Licensee or bona fide employees of the Licensee”.*

During the year under review, e.tv has not been assisted by any foreign consultants, therefore, no agreement as stipulated under clause 11 (1)(a) above was submitted to the Authority. Further, the broadcasting service is operated by the licensee and employees of the licensee, which is in compliance with clause 11(1) (b) above.

#### **4.10 Employment Equity Obligations**

Clause 12 of the licence provides that:

- (1) “At least forty percent (40%) of the Licensee’s employees (being staff and management) are African, that is, Black people excluding Coloureds and Indians.*
- (2) At least thirty five percent (35%) of the Licensee’s employees (being staff and management) shall be women.*
- (3) At least five percent (5%) of the employees shall be disabled*
- (4) The Licensee’s management shall consist predominantly of South Africans from historically disadvantaged groups (i.e. black (African, Coloured and Indian) South Africans, women and disabled people”.*

From the information submitted by the licensee, its staff compliment is comprised of 46% employees who are African and 46% women. Further, e.tv’s has in its employ twenty-five (25) disabled employees which is 5% of the total staff.

e.tv is in compliance with clause 12 above

#### **4.11 Skills and Development Obligations**

Clause 13(2) of the licence provides that:

*“The Licensee must ensure to participate in the development of the broadcasting industry by, amongst other things:*

- a) supporting independent contractors from historically disadvantaged groups;*
- b) supporting industry development; and*
- c) promoting the development of independent producers”.*

e.tv maintains that it is a leader in the commissioning of programming out to independent producers. The licensee confirms that all local programming, other than news and current affairs, is produced by the independent production sector. All production agreements entered into between e.tv and independent production companies; provide for training for historically disadvantaged persons. The licensee has indicated that it will be commissioning 13 low budget films to be broadcast in 2011 and these will be spread among different producers across the provinces.

From the information received from the licensee, it can be concluded that e.tv has complied with clause 13 (2) of its licence.

Clause 13 (5) e.tv’s licence provides that:

*“The Licensee must invest 5.5% of its total annual salary costs, escalating annually at the rate of inflation, in staff training”.*

The licensee has during the year under review spent R 11 636, 392.69 , which is approximately 9.98% on staff training, which includes formal, external training courses, as well as in- house training, on the job training and internships.

The licensee confirmed that a bulk of training expenditure was committed to the newsroom which is the largest department in e.tv. Training focused on developing and upgrading skills as well as introducing young black newcomers to various aspects of television production.

The licensee has complied with clause 13 (5) of its licence.

#### **4.12 Provision of Audited Financial Statements to the Authority**

Clause 14 of the licence provides that:

*“The Licensee shall provide the Authority with Annual audited financial statements within three (3) months of the end of its financial year”.*

e.tv submitted its Audited Financial Statements on a confidential basis.

#### **4.13 Limitations on Advertising and Provision of advertising-related information**

Clause 15 (1) and (2) of the licence provides that:

*“The licensee may not broadcast more than an average of ten (10) minutes of advertisements per hour on the licensed service during any licence year; and advertisements in excess of twelve (12) minutes in any one hour”.*

The licensee confirmed that during the period under review it did not exceed the 12 minute advertising in any hour.

The monitoring conducted revealed that e.tv’s advertisements did not exceed the maximum 12 minutes. Advertisements ranged between 9 and 11 minutes, which is within the 12 minutes maximum.

The licensee has during the period under review complied with clause 15 (1) and (2) of its licence.

#### **4.14 Events of National interest**

Clause 16 (1), of the licence allows the licensee to make an application to the Authority, in writing, for an exemption to broadcast events of national interest.

During the period under review, the Authority did not receive any application for exemption to broadcast events of national interest.

### **5. REGULATIONS**

#### **5.1 Standard Terms and Conditions for individual broadcasting licensees**

During the year under review, the Authority did not identify any non compliance by e.tv with the standard terms and conditions for individual licensees (*See Appendix D- Regulations for further details*).

### **6. COMPLAINTS**

E.tv is a member of the National Association of Broadcasters (NAB) and as a result all complaints related to the code of conduct are adjudicated by the Broadcasting Complaints Commission of South Africa (BCCSA) in line with section 54 (3) of the Electronic Communications Act which provides that:

*“The provisions of subsection (2) do not apply to a broadcasting service licensee who is a member of a body which has proved to the satisfaction of the Authority that its members subscribe and adhere to a code of conduct enforced by that body by means of its own disciplinary mechanisms, provided such code of conduct and disciplinary mechanisms are acceptable to the Authority”.* E.tv submitted a composite report on written and telephonic complaints received and how these were dealt with during the year under review.

The Authority did not receive any complaints lodged against e.tv for non compliance with the licence terms and conditions.

## **7. CONCLUSION**

e.tv has complied with the licence terms and conditions and applicable regulations for the period under review.

## **8. APPENDICES**

Appendix A: E.tv's licence conditions

Appendix B: Information extrapolated from e.tv's report

Appendix C: Standard Terms and Conditions for Individual Licensees