



# **LOTUS FM**

# **ANNUAL COMPLIANCE**

# **REPORT**

**MARCH 2021**

# **2019/2020 ANNUAL COMPLIANCE REPORT**

## **SOUTH AFRICAN BROADCASTING CORPORATION (SABC) BROADCASTING AS LOTUS FM**

**Licence Period: 18 December 2018 - 17 December 2028**

### **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>, 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 Lotus FM's compliance with the terms and conditions as set out in its licence for the 2019/2020 financial year. Aspects of compliance that are measured comprise of Format, Local Content Obligations, General Programming Obligations, Training and Skills Development, Finances, Complaints, South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions and Universal Service and Access Fund (USAF).

### **2. BACKGROUND**

Lotus FM is an Individual Sound Broadcasting Service Licensee of the South African Broadcasting Corporation (SABC). The radio station forms part of the public service division of the SABC and is licensed to provide a full spectrum service to the Greater Kwa Zulu-Natal province and parts of Gauteng. The radio station is in Durban, in the KwaZulu-Natal Province.

According to the Broadcast Research Council of South Africa (BRC), the listenership figures for the period under review was 185 000<sup>5</sup>, down 1,6% from the same period in the previous year.

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<sup>1</sup> The Constitution of the Republic of South Africa Act, 1996 (Act 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

<sup>5</sup> [https://brcsa.org.za/brc-ram\\_listenership-report-apr19-mar20/](https://brcsa.org.za/brc-ram_listenership-report-apr19-mar20/)

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Ownership and Control**

Clause 1 of the licence stipulates that:

- 1.1 Name of company/entity: The South African Broadcasting Corporation*
- 1.2 Shareholders: The State shall hold one hundred (100%) percent of the shares of the Corporation*
- 1.3 Ownership by persons from historically disadvantaged groups: N/A*

There were no changes reported on the name and shareholding of the Licensee. Lotus FM forms part of the public service division of the SABC and is 100% owned by the State.

**The Licensee complies with clauses 1 of its licence.**

#### **3.2 Geographic Coverage Area**

Clause 3 of the licence schedule states 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's coverage area is Gauteng, KwaZulu-Natal and Cape Town. Its transmitter sites are located in Durban, Durban North, Glencoe, Johannesburg, Ladysmith, Pietermaritzburg, Port Elizabeth, Port Shepstone, Sunnyside, The Bluff and Tygerberg. The Licensee maintains that its coverage area is as defined in the frequency spectrum licence.

**The Licensee complies with clause 3 of its licence.**

#### **3.3 Language(s)**

Clause 4 of the licence states that the language of broadcast is as follows:

*"Principal Language: English with specialist programmes in Hindi, Tamil, Urdu, Gujarati and Telegu".*

The Authority's monitoring exercise confirmed that Lotus FM's principal language of broadcast is English, with alternates between Hindi, Tamil, Urdu, Gujarati and Telegu during some of the radio station's specialist programmes.

**The Licensee complies with clause 4 above.**

### **3.4 Format**

Clause 5.1 of the licence states that:

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

Clause 5.2 stipulates that:

*"The licensed service shall provide a full spectrum service".*

Lotus FM forms part of the public service radio stations 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 which found that the radio station engages in different topical issues of national interest across its programming offerings.

**The Licensee complies with clauses 5.1 and 5.2 of its licence.**

### **3.4 Local Content Obligations**

Clause 6 of the schedule to the licence stipulates that:

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

*Clause 6.1 different genres; and*

*Clause 6.2 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 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 Lotus FM's quarterly reports for the period under review in line with the Compliance Procedure Manual Regulations.

**The Licensee complies with clause 5 of its licence.**

### **3.5 General programming obligations**

#### **3.5.1 General**

Clause 7.1.1 of 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<sup>6</sup> stipulates that:

*"Religious programmes should take account of regional factors, target audiences, language and cultural preferences, and the devotional needs of specific groups."*

The monitoring exercise found that between 17h00 and 21h00 on Sundays, the radio station broadcasts religious and devotional programmes that cater for different religions. Discourse is held on various spiritual topics, devotional music from different religions is also played. The shows that are broadcast during this period are *Gospel Hour* which focuses on Christianity and provides religious motivation, prayer dedications from listeners and plays Christian music; *Bhakti Sungheet* focuses on Hindu religion and devotional music and *Deenyat* is dedicated to the Islam religion and devotional music.

### **The Licensee complies with clause 7.1.1 of its licence.**

Clause 7.1.2 of the licence stipulates that:

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

The Licensee's range of diverse program offerings demonstrates its commitment to reflect cultural and traditional diversity of its audiences. Shows such as *Gospel Hour*, *Deenyat* and *Bhakti Sungheet* are examples of shows that provide for various audiences within the coverage areas of the Licensee.

### **The Licensee complies with clause 7.1.2 of its licence.**

Clause 7.1.3 of 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".*

The following programmes were monitored during the period under review, where various issues of interest to society were discussed:

- *Life and Style*: A lifestyle programme on weekdays between 10h00 and 12h00 with listener interaction. It discusses a variety of topics including health matters, cooking, disability matters and issues affecting women and children. During the monitoring

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<sup>6</sup> An extract from the Licensee's Editorial Policy

period, there was a discussion about birth defects, what causes them, and the role played by alcohol and drugs during pregnancy in causing birth defects.

- *The Official Drive*: An afternoon drive show that holds discussions about different issues that affect communities. A discussion about whose responsibility it is to make sure that kids don't bunk school was heard during the monitoring exercise, giving teachers, learners and parents a platform to call in to discuss the issue.
- Saturday afternoon shows, *Local Vocal* and *Beyond the Game* appeal to listeners of all ages. *Local Vocal* is a music show that is broadcast between 18h00 and 21h00 with interviews with local artists. *Beyond the Game* is a sports show with listener interaction, it is broadcast between 15h00 and 18h00.

The diversity of shows on the Licensee's line-up confirms that addresses various issues relevant to people of all age groups and genders.

### **The Licensee complies with clause 7.1.3 of its licence.**

#### **3.5.2 News and Current Affairs**

Clause 7.2.1 of the schedule attached to the licence stipulates that:

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

The monitoring exercise identified that Lotus FM broadcasts more than sixty (60) minutes of news per day. The radio station broadcasts news bulletins every hour from 06h00 to 20h00. The news bulletins are approximately five (5) minutes and all the news bulletins are broadcast in English.

The following were among the news stories covered:

- *The South African Editors Forum, SANEF says journalists must conduct research and only rely on experts when reporting on the Coronavirus. It also says it is important that journalists maintain the doctor-patient confidentiality when reporting on COVID-19. This means not disclosing a person's identity without their permission as has happened on social media. SANEF held a seminar on Ethics, Journalism and Safety in the Digital Age in Durban yesterday.*
- *Traffic has been heavily affected on the N2 northbound near the old airport south of Durban after a man was found shot inside his vehicle. It's alleged that the man was an off-duty police officer. He was found in his vehicle on the side of the highway*

*and was declared deceased at the scene. Rescue Care Paramedics spokesperson, Gareth Jameson says the circumstances surrounding the incident are unclear.*

- The South African National Defence Force has welcomed the announcement by Public Works Minister Patricia De Lille that the fence between South Africa and Zimbabwe will be rebuilt in the next six weeks. The SANDF is tasked with patrolling the borders to secure the country. The army has for years been complaining about the damaged border fence, which is making it easier for undocumented foreigners to enter the country. SANDF head of communications Siphiwe Dlamini says the new fence will help curb the smuggling of illicit goods and illegal immigration.*
- "A state of emergency has been declared in the state of Washington following the first death from the Coronavirus in the U.S. Officials in California, Oregon and Washington have expressed concern over cases emerging from patients who have not visited areas where there was an outbreak or been in contact with anyone who had.*

#### **The Licensee complies with clause 7.2.1 of its licence.**

Clause 7.2.2 stipulates that:

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

The Licensee's quarterly reports indicate that Lotus FM broadcasts ninety (90) minutes of current affairs programming per day on week days during the South African performance period and hundred and twenty (120) minutes on weekends.

The following current affairs programmes were identified during the monitoring exercise:

- Newsbreak: A Current Affairs programme between 06h00 and 07h00 on weekday mornings.*
- The Lunch Break: There is a Current Affairs slot between 13h00 and 13h30 during this programme on weekdays.*
- Newsbreak: Weekends: Current Affairs lunch time talk show between 13h00 – 14h00 on Saturdays and Sundays.*

#### **The Licensee complies with clause 7.2.2 of its licence.**

Clause 7.2.3 stipulates that:

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

- Exercise full editorial control in respect of the contents of such programming;*
- 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 reasonable opportunity for the public to receive a variety of points of view on matters of public concern”.*

The Licensee’s editorial policies indicate that the Licensee exercises full editorial control in respect of contents of its programming. The editorial policies further indicate that the Licensee endeavours to meet the highest standards of journalistic professionalism. Furthermore, it provides fair, unbiased and impartial coverage independent from government, commercial or other interference.

During the period under review, the monitoring exercise revealed that Lotus FM broadcasts matters of regional, national and international significance.

#### **The Licensee complied with clause 7.2.3 of its licence.**

##### **3.5.3 Drama**

Clause 7.3 of the schedule to the licence stipulates that:

*“The Licensee shall broadcast at least two and a half (2½) hours of drama per week within the South African performance period”.*

According to quarterly reports submitted by the SABC, Lotus FM broadcasts on average one hundred and fifty (150) minutes (2 hours and 30 minutes) of drama programming per week during the performance period.

The Authority’s monitoring exercise confirmed that the radio station broadcasts the drama, *Through the Shadows* on weekdays at 09h45 to 10h00 in the mornings and repeated at 20h45 to 21h00 in the evenings, which amounts to one hundred and fifty minutes a week.

#### **The Licensee complies with clause 7.3 of its licence.**

##### **3.5.4 Informal Knowledge Building**

Clause 7.4 of the schedule to the licence stipulates that:

*“The Licensee shall broadcast at least three (3) hours of informal knowledge building programming per week within the South African performance period”.*

According to quarterly reports submitted by the SABC, Lotus FM broadcasts six hundred and twenty (620) of informal knowledge building programming per week.



Programmes such as *Life and Style*, *Sunday Masala* on Sundays between 06h00 – 09h00 as well as *Walk the Talk*, which broadcasts between 19h00 – 20h00 weekdays, are examples of informal knowledge building content in that a diverse range of topics are discussed on these shows, with listener interactions. An example is the ‘*Mind your language*’ insert on *Sunday Masala* which translates Zulu phrases into English. Interviews with experts from different fields were heard on *Walk the Talk* during the monitoring exercise, including psychologists, biologists, community leaders and publishers.

### **The Licensee complies with clause 7.4 of its licence.**

### **3.6 Training and Skills Development Obligations**

Clause 8 of the schedule to the licence states the following:

- "8.1 *The Licensee must adopt and implement equal opportunity employment practices;*
- 8.2 *The Licensee must ensure that its management and staff are representative of South African society and that its human resource policies take into account the development of managerial, production, technical and other skills and expertise, particularly with regard to the historically disadvantaged persons;*
- 8.3 *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.*
- 8.4 *The Licensee must, within thirty (30) days of the end of each financial year, provide the Authority the written information regarding its compliance with the above requirements".*

The Licensee submitted its Employment Equity and Transformation report for the period under review (2019/2020) to the Authority. The report acknowledges the importance of diversity in the workplace and that employment equity is an imperative business driver. The Licensee implements various education and awareness campaigns with the intention to create and to maintain a respectful, inclusive and non-discriminatory workplace.

The report indicates that the management and staff of the Licensee are representative of South African demographics, including 83 employees living with disabilities. The Licensee further endeavours to ensure that females are well represented at all occupational roles and especially in decision making positions.

The Licensee through its Learning and Development department implements a workplace skills programme in alignment with the needs of the organisation. During the period under review 87% of the people that were trained were from historically disadvantaged backgrounds, with females representing 54,5% of the overall total. The total amount spent on training for the period under review was R10 332 040. The training included among others, on customer service, effective presentation skills, stress management, office administration and time management.

The report shows the extent to which historically disadvantaged people are represented throughout the organisation. Further, the Licensee has a National employment equity forum that continues to monitor and evaluate the implementation of the Licensee's employment equity objectives.

The Licensee submitted both its Employment Equity and Transformation plan<sup>7</sup> report as well as its Training and Skills Development report, that respectively provide a detailed breakdown of its compliance with the above requirements to the Authority for the period under review.<sup>8</sup> Both reports were submitted within 30 days of the end of the financial year as required.

### **The Licensee complies with its training and skills developments obligations.**

### **3.7 Provision of Audited Financial statements to the Authority**

Clause 9 of the licence stipulates that:

*"The Licensee shall provide the Authority with the audited annual financial statements of the licensed service within six (6) 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 Licensee submitted its audited annual financial statements. However, due to the Covid-19 pandemic, the submission of the Licensee's audited financial statements was delayed and could not be submitted within four (4) months of the end of the Licensee's financial year.

The Authority was duly informed of the delay by the Licensee and considers the covid-19 pandemic good cause for an extension of the submission deadline.

### **The Licensee complies with clause 9 of the schedule to its licence.**

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<sup>7</sup> SABC Employment Equity and Transformation: Report to ICASA, Reporting period: 1 April 2019 – end March 2020.

<sup>8</sup> Appendix D: SABC Skills and Development Report

## **4. REGULATIONS**

### **4.1 ICASA South African Music Content Regulations, 2016**

On 23 March 2016, the Authority published the ICASA South African Music Content Regulations.

Regulation 3 (1) of the South African Music Content<sup>9</sup> as published on 23 March 2016 stipulates that:

*"A holder of a public sound broadcasting service licence must ensure that after eighteen (18) months from the date of gazetting of these Regulations, a minimum of 60% increasing to 70% in the following year, of the musical works broadcast in the performance period, consist of South African music and that South African music is spread evenly throughout the performance period."*

On 6 February 2019 the Authority approved the exemption request authorising Lotus FM to only broadcast 35% South African music content for their licence period, with special conditions.

The SABC's quarterly reports indicated that Lotus FM played an average of 35% South African music during the performance period.

The monitoring conducted by the Authority revealed that the Licensee plays at least 35% South African music during the performance period. Some of the artists featured during the monitoring period were: *Gona Pillay, Imran Kamar, Louis Pillay, Yugesh Singh, Risa Moodley and Karolin Govender.*

**The Licensee complies with clause 3.2 of the South African Music Content Regulations during the period under review.**

### **4.2 Special Conditions Regarding South African Music Content**

Clause 10.1 of the schedule to the licence states the following:

*"10.1. In line with the exemption granted in terms of Regulation 44.1-3 of the 2016 Music Regulations, the Licensee shall broadcast 35% of local music and further do the following:*

*10.1.1 Create four (4) bi-annual lyric writing competitions;*

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<sup>9</sup> ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016.

The Licensee submitted that it held successful lyric writing competitions and managed to get fifteen (15) new songs recorded and released with the help of five (5) music directors. The radio station normally holds an awards evening to present awards and prize money to the winners and directors for the lyric writing completion, this could not be done for the 2019/20 period due to the Covid-19 pandemic. However, winners were announced on air and the prize money was awarded to the winners via live interviews. It cited budget constraints as a huge stumbling block to this project.

*10.1.2 Record religious music to fulfil the religious programming needs;*

The Licensee submitted that the recording was planned for the last quarter of the financial year and it could not take place due to safety concerns around the Covid-19 pandemic and lockdown restrictions.

*10.1.3 Co-ordinate workshops for South African artists with visiting overseas artists;*

The Licensee submitted that the workshops were planned for the 4<sup>th</sup> quarter of the financial year but it could not take place because of travel restrictions and a halt put on concerts due to safety concerns around the Covid-19 pandemic and lockdown restrictions.

*10.1.4 Offer special package to South African artists who want to promote their albums on Lotus FM;*

The Licensee submitted a special package it had put together for South African artists who want to promote their albums. Artists can choose from three (3) packages: Monday to Friday package, Saturday or Sunday package.

*10.1.5 Promote local concerts through publicising them in the station's community news slots;*

No information submitted under this clause.

*10.1.6 Profile at least one local artist/group per week;*

The Licensee submitted that all its shows have afforded South African Musicians the chance to be profiled, showcase their music and give away CDs to promote their albums. It also reported that this has been a very successful exercise and also assisted in music quotas.

*10.1.7 Encourage local music producers to participate in competitions where they will submit completed works as part of year-end South African Hit Makers programme;*

No information submitted under this clause.

*10.1.8 Offer local artists releasing new albums interviews on the station to publicise the album;*

The Licensee submitted that it created a special category of new South African Indian Music and special priority scheduling of this priority. Once a new track has reached a minimum of ten (10) plays in this category, it is then moved to normal scheduling.

*10.1.9 Give away local CDs/tapes as a way of increasing support among the audiences for local Indian music;*

No information was provided under this clause.

The SABC also stated that it has gone beyond its mandated obligation to help develop South African Indian Music and improve the industry. It submitted a list of other innovations it has come up with to assist the industry. The innovations include: Digital Library where artists can submit their music and compilers can have access to the music for their individual stations; a quarterly virtual meeting with artists to touch base, air their concerns and discuss the local music scene.

**The Licensee substantially complies with its special conditions regarding South African Music Content.**

#### **4.3 Regulations regarding Standard Terms and Conditions for Individual Broadcasting Service Licensees**

During the period under review, the Authority did not identify any non-compliance by the Lotus FM with the Standard Terms and Conditions for individual Licensees.

#### **4.4 Universal Service and Access Fund Regulations**

Regulation 3 of the USAF Regulations, 2011<sup>10</sup> 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".*

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<sup>10</sup> Published in *Government Gazette* No. 34010 dated, 10 February 2011.

The Licensee made the prescribed payment and submitted proof thereof to the Authority.

### **The Licensee complies with Regulation 3 of the USAF Regulations.**

#### **4.5 Complaints**

A Licensee is required, in terms of the Compliance Procedure Manual Regulations, 2011, to submit a Form 12A<sup>11</sup>: ECN/S and BS Complaints Reporting form, which a Licensee should complete with details of all complaints received in each financial year.

There were no complaints received by the Licensee during the period under review and none were escalated to the Authority in this regard. The Licensee complied with the Code of Conduct for Broadcasters.

#### **5. CONCLUSION**

The Licensee substantially complied with its licence terms and conditions and related Regulations that govern public broadcasters for the period under review.

#### **6. TERMS OF REFERENCE**

- 6.1** Annexure A : Lotus FM's Service and Spectrum Licences;
- 6.2** Annexure B : Training & Skills Development Report;
- 6.3** Annexure C : Regulations on Standard Terms and Conditions for Individual Broadcasting & Individual Electronic Communications Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010, as amended;
- 6.4** Annexure D : USAF Regulations 2011, published in *Government Gazette* No. 34010 dated, 10 February 2011;
- 6.5** Annexure E : Processes and Procedures Regulations for Individual licences published in *Government Gazette* No. 33293 dated, 14 June 2010, as amended;
- 6.6** Annexure F : ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016;
- 6.7** Annexure G: Proof of SABC's Contribution to USAF; and
- 6.8** Annexure H: Lotus FM's report on South African Indian Music 2019/2020.

#### **March 2021**

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<sup>11</sup> Provided for in the ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.