



PHALAPHALA FM

ANNUAL

COMPLIANCE REPORT

MARCH 2022

2020/2021 ANNUAL COMPLIANCE REPORT

SOUTH AFRICAN BROADCASTING CORPORATION (SABC) BROADCASTING AS PHALAPHALA 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 Constitution¹, the ICASA Act², the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority, is to ensure compliance by broadcasters with the terms and conditions of their licence, and any relevant legislation and regulations.

The purpose of the report is to give an account of Phalaphala FM's compliance with the terms and conditions as set out in its licence for the 2020/2021 financial year. Furthermore, the report will measure compliance with regulations that includes South African Music Content, Standard Terms and Conditions for Individual Licensees, Universal Service and Access Fund, General Licence Fees, Code of Conduct for Broadcasters and the ICT Covid-19 Regulations first published in April 2020 and the subsequent amendments following the proclamation of the State of National Disaster.

The ICT Covid-19 Regulations as amended have introduced exemptions with specific service licence conditions and/or revised quotas and such will be reflected in the body of the report accordingly.

2. BACKGROUND

Phalaphala FM is an Individual Broadcasting Service Licensee of the South African Broadcasting Corporation (SABC). The radio station's mandate is to

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

² Act No. 13 of 2000, as amended.

³ Act No. 36 of 2005.

⁴ Act No. 4 of 1999.

provide a full spectrum radio service to the Gauteng, Mpumalanga and Limpopo province⁵.

3. COMPLIANCE ASSESSMENT

3.1. Geographic Coverage

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

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

The Authority did not receive reports suggesting the Licensee broadcasts outside the defined coverage area.

The Licensee complies with its coverage obligations.

3.2 Language (s)

Clause 4 of the schedule to the service licence provides that the language of broadcast is as follows:

"Principal Language: tshiVenda".

The Licensee's primary language of broadcast is as per the licence condition with translation of sound bites of news, current affairs and interviews with non-Tshivenda speaking guests to the principal language of broadcast.

The Licensee complies with its language of broadcast.

3.3 Format

Clause 5.1 of the schedule to the service licence provides that:

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

Clause 5.2 of the schedule to the service licence provides that:

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

⁵ See Appendix A

Phalaphala FM forms part of the public service stations of the SABC and offers a full spectrum of content to the listeners as outlined in the service licence.

The Licensee complies with its format.

3.4 Local Content Obligations

Clause 6 of the schedule to the service licence provides 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:

Clause 6.1 different genres; and

Clause 6.2 the 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 ICT Covid Regulations were exempt Licensee's from submitting quarterly reports as stipulated in their licence terms and conditions. However, Licensees were required to keep the information and submit to the Authority upon request. The SABC submitted its quarterly reports for the period under review in line with the ICT Covid Regulations. The Reports indicated the different genres, the South African music content and programming material for the period under review.

Furthermore, sound broadcasting Licensees were exempt from compliance with specific programming requirements and promises of performance during the National State of Disaster and thus findings on compliance with clauses under such obligations of the licence will not be determined.

3. 5 GENERAL PROGRAMMING OBLIGATIONS

3.5.1 General

Clause 7.1.1 of the schedule to the service licence provides that:

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

Phalaphala FM broadcast “*Lutendo*” which is a programme aimed at discussing different types of religion in the country. The presenters would have a topic of the day and invite experts and/or representatives from different religious denominations, to discuss and engage on the topics with listeners.

The Licensee complies with clause 7.1.1 of the schedule to its service licence.

Clause 7.1.2 of the schedule to the service licence provides that:

“The Licensee shall take responsible steps to provide programming that reflects the cultural and tradition needs of the audience.”

Phalaphala FM in their Sunday programme called “*Vhurereli ha hashu*” focuses the content of the programme on Tshivenda culture, tradition and customs. The programme would have a representative from a traditional and cultural group, a scholar or elder to talk and clarify aspects of the Tshivenda culture. The Licensee’s playlists feature exclusively, Tshivenda artists and broadcast traditional music such as Malende, Tshifasi, Tshikona among others, on a programme broadcast between 09H00 and 11H00 on Saturdays.

The Licensee complies with clause 7.1.2 of the schedule to its service licence

Clause 7.1.3 of the schedule to the service licence provides 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”.

Phalaphala FM’s lifestyle programme “*Nne na vhone*” is broadcast weekday between 09H00 and 12H00 has segments during different times of the weeks, that speak to health related matters from mental health to nutrition, relationship matters, financial matters, motivational talk among other current societal issues.

The Licensee complies with clause 7.1.3 of the schedule to its service licence.

3.5.2 News and Current Affairs

Clause 7.2.1 of the schedule to the service licence provides that:

"The Licensee shall broadcast at least sixty (60) minutes of news per day during the South African Performance Period".

The Licensee submits that it broadcasts an overall total of five hundred-and forty-five-minutes weekdays, which equates to hundred and nine minutes daily and seventy-five minutes per day over the weekend.

The Licensee broadcasts news bulletins every hour from 06h00 to 22h00 for an average of five minutes for total average of eighty-five minutes of news per day. The following are some of the news stories identified:

- *"Phuresidennde Vho Cyril Ramaphosa vho nwalela lunwalo mulanga dzulo la phalamende Vho Thandi Modise vha tshi khou vha humbela uri huvhe na dzulo la mutangalenalo u rera nga ha pulane dza u vusuludza ikonomi vhege idaho nga lavhuna. Vho Ramapohosa vha ri hu khou tea u dzhiwa maga nga u tavhanya u vusuludza ikonomi;*
- *Vhatshumelo ya muthelo Afurika Tshipembe vhari vhabadeli vha muthelo vha kha divha na tshikhala tsha u swika nga Lavhuna u nga kona u humisa bammbiri dzavho dza muthelo matavhini a ofisi dza SARS. Naho zworalo, avho vhane vha khou humisa nga tshumelo ya efilling vho newa u swika nga la fumi rathi la nwedzi u daho; and*
- *Mivhigo ya zwenezwino yo swikelaho kha vho ramafhungo vha SABC yo sumbedza zwauri muofisiri muhulwane wa kale kha khamphani ya Bosasa Vho Angelo Agrizzi ndi munwe wa vhahumbulelwa kha milandu ya zwiito zwa vhufhura na vhuada ine ya khou hweswa murado wa lihora la ANC wa kale phalamendeni Vho Vincent Smith. Vho Smith vho senga khothe Palm Ridge tshipembe ha Johannesburg namusi vha vhofhololwa nga bail ya rannda dza zwigidi zwa furaru"*

Clause 7.2.2 of the schedule to the service licence provides that:

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

Phalaphala FM submits that they broadcast an average of six hundred minutes of current affairs programming weekdays and sixty (60) minutes on weekends.

Phalaphala FM broadcasts its current affairs programme "Ndevhe Tsini" weekdays in the morning between 06h00 and 07h00 and later in the evening between 18h00 and 19h00. Their weekend current affairs programmes are broadcast between 06h00 and 07h00 with each being an hour format. The monitoring exercise confirm that the Licensee broadcasts more than sixty (60) minutes of current affairs daily.

3.5.3 Programming targeted at Children

Clause 7.3.1 of the schedule to the service licence provides that:

"The Licensee shall in the provision of licensed service, broadcast at least one (1) hour 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 7.3.2 of the schedule to the licence provides 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 Licensee broadcasts sixty (60) minutes of children programming on a weekly basis.

The Authority's monitoring confirmed that the Licensee broadcasts a weekly programme called "Denzhe" and "State your mind" on Fridays between 14H00 and 15H0 for an hour weekly average. The programmes are presented and aimed at kids with their participation through call engagement with the presenter and/or guest for the programme.

3.5.4 Educational Programming

Clause 7.4 of the schedule to the service licence provides that:

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

The Licensee broadcasts three hundred and thirty (330) minutes of educational programming on a weekly basis.

Phalaphala FM through the SABC education platform broadcasts educational programmes weekdays between 20H00 and 21H00 covering topics from educators and learners' development, legal matters and health matters among others, with the earlier format of the programme on Thursday between 14H30 and 15H00 for science and technology for learners and educators. Further, Phalaphala FM was broadcasting a school programme format for learners' support after 21H00 in the month of October of the year under review.

The Licensee broadcasts more than five (5) hours of educational programming per week.

3.5.5 Drama

Clause 7.5 of the schedule to the service licence provides that:

"The Licensee shall broadcast at least two and half (2 1/2) hours of drama per week within the South African performance period".

The Licensee submits that they broadcast one hundred and fifty (150) minutes of drama on a weekly basis. The monitoring exercise found that Phalaphala FM their drama between 13H15 and 13H30 called "*Ipfi la pfa*", with a repeat in the evening after the 21h00 news. There are also other educational sponsored drams at different shows during the performance period such as "*Makarapa City*" at 14H10 for a total of five mins sponsored by Anglo American on Thursdays and later on "*Ekeketse Zenzele*" drama about saving broadcast at 16H22 for five minutes as well sponsored by Standard Bank.

3.5.6 Informal Knowledge Building

Clause 7.6 of the schedule to the service licence provides that:

"The Licensee to shall broadcast at least three (3) hours of informal knowledge building programming per week within the South African Performance Period".

The Licensee broadcasts an average of two thousand (2000) minutes of informal knowledge building programming on a weekly basis.

The ICASA Regulations on Local Television Content of 2016 defines knowledge building programming as programming acquired through personal experience, outside of the formal learning environments such as schools and training courses which provides information on subjects for example, science, technology, health, law and citizen' rights, religion, culture, business, finance and the natural or built environment.

The Licensee broadcasts religious programmes on Sundays from 07H00 until 10H00 and through their SABC education desk a series of programme midweek between 20H00 and 21H00 also on Saturday between 11H00 and 12H00, for an average total of over the three (3) hours.

3.5.7 Training Skills Development Obligations

Clause 8 of the schedule to the service licence provides that:

- 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 with written information regarding its compliance with the above requirements”.*

The Licensee submitted its Employment Equity and Transformation plan report and its Training and Skills Development. It provides a detailed breakdown of its compliance with the above requirements for the period under review.

The report indicate that the Licensee has adopted and implemented equal opportunity employment practices and showed that the Licensee has remained committed to diversity and inclusion in the workplace. Its workforce represents the different groups of South African society.

The report further shows that the licensee delivered 765 training interventions for 690 employees. Of the total 690 employees, 491 were Africans, 67 were Coloureds, 41 were Indians, 91 were whites and 14 employees living with disabilities. The Licensee further endeavours to ensure that females are empowered and therefore 53,62% of the total employees trained were female.

Thus, confirming that the Licensee’s policies consider the development of managerial, production, technical and other skills and expertise, particularly regarding the historically disadvantaged persons.

Fair and reasonable participation by historically disadvantaged persons is evident at all occupational levels and in decision-making positions

3.7 Submission of Audited financial statements to the Authority

Clause 9 of the service licence provides 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 an 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 six (6) months of the end of the Licensee's financial year end. The Licensee did inform the Authority accordingly.

The Licensee complies with clause 8 of the schedule to its service licence.

4. REGULATIONS

4.1 Code of Conduct for Broadcasters

The Licensee is a member of the National Association of Broadcasters (NAB). Complaints related to code of conduct are administered by the Broadcasting Complaints Commission of South Africa (BCCSA).

4.2 Regulations regarding Standard Terms and Conditions for Individual Broadcasting Licences

During the period under review, the Authority did not find any non-compliance with the Standard Terms and Conditions for Individual Licences as amended.

4.3 Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund

Regulation 3 of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF), published in Government Gazette, No. 34010 of 10 February 2011, 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".

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

The Licensee complies with Regulation 3 of the USAF Regulations.

4.4 General Licence Fees Regulations

Regulation 4 (b) of General Licence Fees Regulations provides for the exemption of Individual Licences for Public Broadcasting Services. Phalaphala FM is part of the SABC's Public Broadcasting Services and is exempt from paying licence fees.

4.5 South African Music Content

Regulation 3 (1) of the ICASA South African Music Contents Regulations published on 23 March 2016 stipulates that:

Every 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 such South African music is spread reasonably evenly throughout the said period".

The ICT Covid 19 National Disaster Regulation, 2020 under Minimum Standard, Regulation 4 (7) stipulates that:

"The performance period for both sound and television broadcasting shall run from 07h00 to 21h00".

plays an average of seventy-five (75%) percent of local music during the South African performance period. Some of the artists that were monitored include *Joe Mafela, David Mmbi, Splash, Adziambei Band* amongst others. Furthermore, the Licensee have programme such as "*Nambi ya Dzinambi*" broadcast Saturdays between 09H00 and 11H00 with exclusively Tshivenda music.

The Licensee complies with the ICASA South African Music Content Regulations.

5. CONCLUSION

The ICT Covid 19 National Disaster Regulations as referred to in the preface, introduced exemptions and suspended specific terms and conditions in the licences and Regulations. Therefore, the compliance assessment with such

conditions per the said Regulations, will be conducted in the next review wherein most of the exemptions would have been lifted.

During the period under review, Phalaphala FM was found to be fully compliant with every one of its licence terms and conditions and applicable Regulations.

6. TERMS OF REFERENCE

- 6.1 Appendix A: Phalaphala FM's Service licence
- 6.2 Appendix B: Phalaphala FM's Quarterly Reports
- 6.3 Appendix C: Training and Skills Development Report
- 6.4 Appendix D: Copy of proof of MDDA Payment

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