



# **HOT FM ANNUAL COMPLIANCE REPORT**

**MARCH 2017**

## **2015/2016 ANNUAL COMPLIANCE REPORT**

### **GAUTENG MEDIA DEVELOPMENT PROJECT NPC BROADCASTING AS HOT 91.9 FM**

**LICENCE PERIOD: 03 AUGUST 2014 TO 02 AUGUST 2019**

#### **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 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, the ECA, the ICASA Act, any relevant legislation and regulations.

The following report is intended to give an account of Hot 91.9 FM's compliance with the terms and conditions as set out in its licence for the 2015/2016 financial year. Aspects of compliance that are measured comprise of geographic coverage, community participation, programming, format, news and information, local content obligations, language(s), South African Music Regulations and Regulations Regarding Standard Terms and Conditions.

#### **2. BACKGROUND**

Hot 91.9 FM is a Class broadcasting service Licensee. The Licensee's language of is English. The radio station's mandate is to provide a service to the geographic areas of Randburg and surrounding areas in Gauteng.

Hot 91.9 FM broadcasts from the studios situated at Loft 16, Fancourt Office Park, Corner Northumberland and Felstead Road, Northriding. The Licensee commenced broadcasting on 17 November 2014.

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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

### **3. COMPLIANCE ASSESSMENT**

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

Clause 1 of the schedule to the licence stipulates that:

*"The Licence is issued to:*

*1.1 Name of Company/Entity: Gauteng Media Development Project NPC.*

*1.2 Name of the radio station: Hot 91.9 FM.*

*1.3 Control of the Licensee: Control shall vest in the Board of Directors of Hot 91.9 FM".*

There were no changes reported by the Licensee, and the radio station is still controlled by the Board of Directors of Hot 91.9 FM.

The licence states that control vests in the board of directors. There is a disjuncture between this clause and the provisions of the Licensee's founding documents which played a critical role in the granting of the licence. On the one hand the Document titled "This is the NOI, MOI and Articles for Gauteng Media Development Project NPC" talks to Board of Directors. On the other hand, the founding document has resolutions signed by the 3 Shareholders of the NPC who it appears, happen to be family members as they share one surname, Madurai.

This is a concerning factor. The community radio sector does not have any shareholding structure as there are no shares to acquire, no HDG equity stake or dividends.

**Based on what the Licence states, against the grey areas identified in the founding document provides, It is the Authority's view that the Licensee complies with clause 1.1 and 1.2 of the schedule to the licence. However, conclusion cannot be drawn regarding compliance with clause 1.3 of the schedule to the licence.**

Clause 1.2 of the schedule to the licence stipulates as follows:

*"Name of the radio station: Hot 91.9 FM".*

The name of the Licensee's radio station is Hot 91.9 FM as stipulated in the licence.

**The Licensee complies with clause 1.2 of the schedule to its licence.**

### **3.2 Geographic Coverage Area**

Clause 3 of the schedule to the licence stipulates the geographic coverage area as follows:

*"Randburg and surrounding areas as set out in the Licensee's radio frequency spectrum licence."*

The Licensee confirms that it covers; these are the geographic areas specified in the spectrum licence.

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

### **3.3 Community Participation**

Clause 4.1 of the schedule to the licence provides that:

*"The Licensee should provide services to a community residing within the geographic coverage area specified herein."*

Hot 91.9 FM broadcast from Randburg and provides its services to the geographic community residing within its coverage area.

**The Licensee complies with clause 4.1 of the schedule to its licence.**

Clause 4.2 of the schedule to the licence provides that:

*"The Licensee shall provide for the participation of community members in the affairs of the station in the following ways:*

*4.2.1 "The Licensee shall hold at least two (2) meetings annually with its community on programming and programme related matters for the selection and provision of programmes;*

*4.2.2 "The Licensee shall furnish the Authority with proof of such meetings as well as the attendance thereof by members of the community;*

The Licensee has not submitted proof that the above meetings have been held with the community. **The Licensee has failed to comply with clause 4.2.1 and 4.2.2 the schedule to its licence.**

*Further Clause 4.2.3 stipulates that:*

*"The Licensee shall hold an Annual General Meeting (AGM) for the following purposes:*

*4.2.3.1 To provide feedback on the Licensee's compliance with licence conditions,*

*4.2.3.2 To provide feedback on the Licensee's operational and financial performance, and*

*4.2.3.3 To elect members of the controlling structure e.g. Board of Directors, Trustees etc. Subject to the licensee's founding documents.*

The Licensee convened an Annual General Meeting (AGM) on 14 December 2015. The Compliance Unit was not at the meeting however the Licensee submitted minutes of the meeting to the Authority. The Compliance Unit detected through the minutes that there were only five people in attendance at the meeting. Through the perusal of the minutes, the Unit realised that no feedback was provided with regards to compliance with licence terms and conditions. However, the Licensee did report on its financial performance as well as operational performance. However no details of that presentation was submitted to the Compliance Unit. There is no demonstration that Community organisations or ordinary members of the community were invited or involved in the meeting. There are two members who will join the board, however there is no demonstration of how these two individuals were nominated or elected.

**The following people are the current 'shareholders' of Hot 91.9 FM:**

Llyod Maduarai
Brennan Madurai
Patrice Madurai

**The Licensee intends to incorporate the following people as shareholders of the Licensee:**

- MJ Siluma; and
- Advocate S.L Jacobs

**The Licensee has, during the period in review, not demonstrated compliance with the obligations above regarding community participation.**

### **3.4 Programming**

Clause 5.1 of the schedule to the licence provides that the Licensee shall provide programming as follows:

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#### *5.1.1 News and Information:*

*The Licensee shall broadcast a total of thirty-two (32) minutes of news per day of which 30% will be local, 30% national, 40% international news.*

The monitoring exercise indicated that Hot 91.9 FM broadcasts news bulletins every hour on the hour and news headlines at the bottom of the hour, of which the duration of the news bulletins is 2 to 3 minutes.

The following were among the news bulletins covered for the period under review:

- *"A Gauteng man is going on trial for the murder of his wife. eNCA reports that Che Rudelle Fox was shot while she was sleeping two years ago. Edward Kennedy Fox claimed his wife was killed by intruders. Oscar Pistorius's prosecutor Gerrie Nel has taken on the case. Fox is currently out on R10 000 bail and has custody of the two children. He intends to plead not guilty.";*
- *"John Key has announced that he will resign as Prime Minister of New Zealand after eight (8) years. He says this was the hardest decision he ever made and does not know what he will do next. Deputy Prime Minister Bill English is likely to take over until the National Party holds a caucus to choose a new Prime Minister.";*
- *"The car wash employee who caused the death of a woman and her unborn child in August has not been charged yet. The man attempted to move a Toyota Fortuner from one part of the car wash to another when he lost control and drove over the 35 year old woman who was in the waiting area.*

*The woman was 38 weeks pregnant. Police say they are waiting for a Pathology report before they can make an arrest.”; and*

- *“The confirmed death toll from a blaze that engulfed a converted warehouse during a dance party in Oakland, California has risen to 36. The greatest loss in a fire in the USA in over a decade. The police say they are still looking to recover more bodies as more families have reported their relatives missing. The cause of the fire is yet to be determined.”*

The Licensee does not broadcast 30% of local news as stipulated in the licence. Monitoring exercise detected that the Licensee broadcasts at least 10% of local news, 60% of national news and 30% of international news.

**For the period under review, the Licensee did not fully comply with the requirements of this clause.**

*5.1.2 South African Music Content:*

*The Licensee shall broadcast 60% South African music content.*

Monitoring revealed that the Licensee broadcasts less than 25% South African local music.

**The Licensee has, during the period in review, failed to comply with clause 5.1.2 of the schedule to its licence.**

*5.1.3 Talk vs Music:*

*30% talk and 70% music.*

The monitoring exercise confirmed that the Licensee **complies with clause 5.1.3 above.**

It is important to note that the Licensee’s format is different from all other class Licensee’s alike. This format is prevalent to the commercial sound Licensees. This could be linked to the Licensee having a commercial advantage over other Class Licensee’s as evidenced by concerns received from other class licensees.

*5.1.4 Language(s) of broadcast:*

*(a) 100% English*

The Licensee broadcast in English. **The Licensee was found to be compliant with clause 5.1.4 of the schedule to its licence.**

#### **4. REGULATIONS**

##### **4.1. South African Music Content Regulations**

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

*“Every holder of a community sound broadcasting licence to which these regulations apply must ensure that after eighteen months of the gazetting of these regulations, a minimum of 40% 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”.*

Hot 91.9 FM plays a minimal amount of South African music. The music genres are RnB and pop music. The local music played by the radio station includes among others: *Parlotones, Mark Alex, PJ Powers, Mi Casa and Mango Groove.*

On average Hot 91.9 FM plays less than 25% South African music daily. Again, this percentage is linked to the requirements for commercial sound licensees.

**Hot 91.9 FM does not comply with the required local music content quota, as prescribed by the South African Music Content Regulations**

##### **4.2 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences**

During the year under review, the Authority did not identify instances of non-compliance by the Licensee with the standard terms and conditions for class licensees.

##### **4.3 Information in accordance with Compliance Procedure Manual Regulation (CPMR)**

The Licensee is required to submit the following information to the Authority in following manner:

- a) Form 1 & 7C: These forms are annual submissions and are to be submitted each year by end of March;



- b) Form 6B and 12A: These forms are bi –annual submissions and are to be submitted second week of October and second week of April each year; and
- c) Form 8A-E: These are monthly reports pertaining to general programing logs, they are to be submitted at the beginning of every month to report on the previous month.

The Licensee does not submit the above information to the Authority as set out in the Regulations. Accordingly, **the Licensee has failed to comply with the Regulation above.**

## **5. CONCLUSION**

Hot 91.9 FM, for the period under review, has general complied with the requirements as set out in its licence and relevant legislation. However, the Licensee did not comply with clause 4.2.1 and 4.2.2 as well as news and information output and music obligations as set out in the licence terms and conditions. There is no indication as to how the Licensee, being classified as a community radio station encourages participation by community members in its activities. The Authority will arrange a meeting with the Licensee to discuss areas of concern.

## **6. TERMS OF REFERENCE**

- 6.1 Appendix A: Hot 91.9 FM's broadcasting service and frequency spectrum licence.