



**DEUKOM
PROPRIETARY
LIMITED
ANNUAL
COMPLIANCE REPORT**

MARCH 2024

2022/2023 ANNUAL COMPLIANCE REPORT

DEUKOM (PROPRIETARY) LIMITED

Licence Period: 02 July 2012 – 01 July 2027

1. PREFACE

The Independent Communications Authority of South Africa (“the Authority”) has a statutory mandate in terms of the Constitution, the Independent Communications Authority of South Africa Act¹ (“ICASA Act”), the Electronic Communications Act² (“ECA”) and the Broadcasting Act³ to regulate broadcasting activities in South Africa in the public interest. One of the main tasks of the Authority, is to monitor compliance by broadcasters with the terms and conditions of their licences, the Acts mentioned above and any other relevant legislation and Regulations.

The purpose of the report is to give an account of the compliance status of Deukom (Pty) Limited (“Licensee”), for the 2022/2023 financial year. Areas of compliance that are measured comprise of the geographic coverage, encryption of signal and use of licensed Electronic Communications Network Service (ECNS) provider, language(s) of broadcast, broadcast content format, target market, ownership by individuals from historically disadvantaged groups, financial year, local content obligations, Compliance Procedure Manual Regulations, Subscription Broadcasting Service Regulations, Regulations regarding Standard Terms and Conditions for Individual Broadcasting Services, Must Carry Regulations, General Licence Fees Regulations, Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund and South African Television Content Regulations.

2. BACKGROUND

¹ ICASA Act, 2000 (Act No. 13 of 2000) as amended.

² Electronic Communications Act, 2005 (Act No. 36 of 2005).

³ Broadcasting Act, 1999 (Act No. 4 of 1999).

On 02 July 2012, the Authority issued an Individual Commercial Subscription Television Service ("I-CSTS") licence to Deukom (Proprietary) Limited. The shareholders as reflected on the service licence are as follows:⁴

(a) Prodomo (Proprietary) Limited:	50.5%
(b) The Mayer Trust:	9.5%
(c) TirolerTuchfabricBaur-Foradori GmbH:	10%
(d) Harald Bopalamo:	30%.

The Licensee's shareholding structure has not changed. The ownership held by persons from historically disadvantaged groups is 30% represented by one, Harald Bopalamo.

3. COMPLIANCE ASSESSMENT

3.1 Service Name

Clause 1 of the schedule to the service licence states that the service name is: "Deukom".

The Licensee confirms that the service name has not changed. The Licensee's service name remains Deukom⁵.

The Licensee complies with clause 1 of the schedule to its service licence.

3.2 Geographic Coverage Area

Clause 2 of the schedule to the service licence stipulates that:

"The Licensee shall provide a national coverage of its broadcasting services".

The Licensee confirms that it provides its services via satellite and therefore provides national coverage of its broadcasting service.⁶

⁴ Appendix A: Deukom (Pty) Ltd's I-CSTS Licence.

⁵ Appendix B: ICASA Compliance Report for Deukom.

⁶ Appendix B: ICASA Compliance Report for Deukom.

The Licensee complies with clause 2 of the schedule to its service licence.

3.3 Encryption of Signal and Use of Licensed Electronic Communications Network Service.

Clause 3.1 of the schedule to the service licence provides that:

"The Licensee must ensure that the output signal of its subscription broadcasting service is encrypted".

The Licensee confirms that the output signal of its subscription broadcasting service is encrypted.

The Licensee complies with clause 3.1 of the schedule to its service licence.

Clause 3.2 of the schedule to the service licence stipulates that:

"The Licensee shall use a licensed electronic communications network service".

The Licensee confirms that its network service provider is Deutscher Televisionsklub Betriebs GmbH (DTK) in cooperation with Sentech SOC Limited (a licensed electronic communications network service provider).

The Licensee complies with clause 3.2 of the schedule to its service licence.

3.4 Language(s)

Clause 4 of the schedule to the service licence provides as follows:

"Principal language: German"

The Licensee maintains that its language of broadcast is German. The Authority confirms that the Licensee broadcasts mainly in German.

The Licensee complies with clause 4 of the schedule to its service licence.

3.5 Format

Clause 5 of the schedule to the service licence provides as follows:

"The Licensee is licensed to provide a subscription broadcasting service aimed primarily at the German speaking community and persons having an interest in the German language."

The Licensee confirms that its service is aimed primarily at the German speaking community and persons having an interest in the German language.

The Licensee complies with clause 5 of the schedule to its service licence.

3.6 Target market

Clause 6 of the schedule to the service licence states that:

"The Licensee is licensed to provide a subscription broadcasting service aimed at a niche market. The Licensee's primary target market is viewers who form part of the German-Speaking community and persons having an interest in the German language resident in South Africa".

The Licensee confirms that it provides a subscription broadcasting service to its target market as stipulated in clause 6 above.

The Licensee complies with clause 6 of the schedule to its service licence.

3.7 Ownership by Individuals from Historically Disadvantaged Groups

Clause 7 of the schedule to the service licence provides that:

"The Licensee shall have no less than thirty (30) percent ownership by one or more persons from historically disadvantaged groups for the duration of the licence".

The Licensee confirms that it remains in compliance with clause 7 above because one of its shareholders, Harold Bopalamo, is an individual from a historically

disadvantaged group and owns thirty percent (30%) of the equity in the Licensee.⁷

The Licensee complies with clause 7 of the schedule to its service licence.

3.8 Financial Year

Clause 8.1 of the schedule to the service licence provides that:

"The financial year end of the Licensee is the last day of February".

Further, clause 8.2 of the schedule to the service licence provides that:

"If this date changes, the Licensee shall in writing notify the Authority thereof within seven (7) business days of the change".

The Licensee's confirms its financial year end has not changed; it remains the last day of February.

The Licensee complies with clauses 8.1 and 8.2 of the schedule to its service licence.

3.9 Local Content Obligations

Clause 9.1 of the schedule to the service licence provides as follows:

"The Licensee shall pay an amount equivalent to 5 (five) percent of the Licensee's channel acquisition budget in respect of South African subscribers to one or more appropriate beneficiary/ies to be nominated by the Authority from time to time".

Further, clause 9.2 of the schedule to the service licence provides as follows:

"In the event that no nomination has been made, the amount shall be paid into the trust account of the Licensee's legal representatives from time to time, to be held in trust until such time as a nomination is made".

⁷ Appendix B: ICASA Compliance Report for Deukom.

Furthermore, clause 9.3 of the schedule to the service licence provides for:

"The said sum shall be paid annually in arrears, within 45 (forty-five) business days after financial year end of the Licensee. The Licensee shall furnish proof of payment to the Authority within 7 (seven) business days of payment".

The Licensee entered into an agreement with the National Film and Video Foundation ("NFVF") on 14 November 2017 and submitted the aforementioned agreement to the Authority on 27 November 2017. The agreement between the Licensee and the NFVF was for a period of five (5) years from June 2017 to June 2022 and has since lapsed. The Authority is in the process of nominating a beneficiary(ies). Further, in compliance with clause 9, the legal representatives of the Licensee confirmed to the Authority an amount of six hundred and forty-nine thousand five hundred and seventeen rand and ninety-three cents (R 649 517.93) in respect of local content was deposited into its trust account.

The Licensee complies with clauses 9.1 to 9.3 of the schedule to its service licence.

Clause 9.4 of the schedule to the service licence states that:

"The Licensee shall ensure that in addition to an amount referred to in sub-clause 9.1 above, a further amount equivalent to 5 (five) percent of the Licensee's channel acquisition budget in respect of South African subscribers shall be used by the Licensee to train and/or sponsor one or more black South African citizens resident in South Africa nominated by the Licensee from time to time, in the field of television production and/or the production of content for television, for the duration of the licence period".

Furthermore, clause 9.5 of the schedule to the service licence stipulates that:

"Within six months of its financial year end the Licensee shall furnish the Authority with a written report of the South African citizens trained and/or sponsored and proof of amount used by the Licensee demonstrating compliance with this clause"; and

Clause 9.6 of the schedule to the service licence provides as follows:

"In the event that full amount envisaged in sub-clause 9.4 has not been spent as envisaged therein, the Licensee shall apply the amount not spent as envisaged in sub-clauses 9.1 – 9.3 of the clause".

The auditor's certificates for the financial years ending February 2022 and February 2023 reflects a ten (10%) percent provision for local content fees based on South African subscribers and in compliance with clauses 9.1 and 9.4 above which has been paid into the trust account of the Licensee's legal representatives.

The Licensee complies with clauses 9.4 – 9.6 of the schedule to its service licence.

4. REGULATIONS

4.1 ICASA Compliance Procedure Manual Regulations, 2011

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A⁸ which reports on all complaints received during the financial year under review. The Licensee submitted its complaints report in accordance with the Compliance Procedure Manual Regulations and did not receive complaints during the period under review.

The Licensee complies with the ICASA Compliance Procedure Manual Regulations.

4.2 Subscription Broadcasting Services Regulations, 2006

Regulation 5 of the Subscription Broadcasting Services Regulations, 2006 as published in the *Government Gazette*, No. 28452 on 31 January 2006 states that:

"A subscription broadcasting service shall, within 120 days after the end of its financial year of operation, submit to the Authority audited financial statements stating that, in the opinion of the auditor, the accompanying statements give a

⁸ ICASA Compliance Procedure Manual Regulations, 2011 as published in Government Gazette No. 34863 dated, 15 December 2011.

true and faire view of the licensee's subscription, advertising and sponsorship revenue derived from the provision of the subscription broadcasting service".

The Licensee submitted its financial statements to the Finance Department.

The Licensee complies with Regulation 5 of the Subscription Broadcasting Services Regulations.

4.3 Regulations on Standard Terms and Conditions for Individual Broadcasting Services, 2010⁹

During the year under review, the Licensee is compliant with the Regulations on Standard Terms and Conditions for Individual Broadcasting Services.

The Licensee complies with the Standard Terms and Conditions for Individual Broadcasting Services.

4.4 ICASA General Licence Fees Regulations, 2012

Schedule 2 of the General Licence Fees Regulations, as published in the *Government Gazette*, no 36323 on 28 March 2013, provides for Individual Commercial Broadcasting Service Licensees to pay annually to the Authority, a licence fee of between 0.15% to 0.35% of its licensed revenue (revenue from its licensed services).

Schedule 3 (6) of the General Licence Fees Regulations provides that:

"All payments in respect of Annual Licence Fees are due annually".

Schedule 3 (5) of the General Licence Fees Regulations provides that:

"Where a legal entity holds any combination of a BS Licence, ECS Licence and/or ECNS Licence, such entity must calculate the licence fee based on information contained:

(a) On the Audited Financial Statements of that Licensed Entity; or

⁹ Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010, as amended.

(b) Annual Financial statements signed to by the accounting officer of the licensee where the licensee is not legally obliged to provide Audited Financial Statements."

The Licensee's financial year end is the last day of February. The Licensee submitted proof it has paid its general licence fees on 29 August 2023.

The Licensee complies with Schedules 2, 3(5) and 3(6) of the ICASA General Licence Fees Regulations.

4.5 Universal Service and Access Fund Regulations, 2011

Regulation 3(1) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund ("USAF") as published in the *Government Gazette* No. 34010 on 10 February 2011, provides that:

"Every holder of the licence granted in terms of Chapter 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2 % of the Annual Turnover to the Fund".

Further, Regulation 3(2) provides that:

"A BS Licensee who has paid an annual contribution to the Media Development and Diversity Agency (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's financial year end is the last day of February. The Licensee has submitted proof it has paid its USAF contribution fees on 29 August 2023 to the Authority.

The Licensee complies with Regulations 3(1) and 3(2) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund.

4.6 ICASA Must Carry Regulations, 2008

Regulation 5(1) of the ICASA Must Carry Regulations, 2008 as published in the *Government Gazette* No 31500 on 10 October 2008 provides as follows:

"Subject to regulation 5(3), an SBS Licensee whose offering has twenty-nine (29) channels or less is exempt from the obligation to carry the television programmes of the PBS Licensee".

According to the Licensee's submission, it offers twenty-three (23) channels on its broadcasting service which exempts it from carrying Public Broadcasting Service television programming.

The Licensee complies with Regulation 5(1) of the ICASA Must Carry Regulations.

5. CONCLUSION

For the 2022/2023 financial year, the Licensee complies with all its I-CSTS licence terms and conditions and the relevant Regulations.

6. TERMS OF REFERENCE

- 6.1 Appendix A: Deukom (Pty) Ltd I-CSTS licence;
- 6.2 Appendix B: ICASA Compliance Report for Deukom;
- 6.3 Appendix C: Annexure A - I;
- 6.4 Appendix D: ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011;
- 6.5 Appendix E: Subscription Broadcasting Services Regulations, 2006 as published in *Government Gazette* No. 28452 dated, 31 January 2006;
- 6.6 Appendix F: Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010,
1st Amendment, 2016 published in *Government Gazette* No. 39875, dated 30 March 2016.
2nd Amendment, 2016 published in *Government Gazette* No. 40372, dated 26 October 2016.
3rd Amendment, 2023 published in *Government Gazette* No. 48317, dated 28 March 2023.
- 6.7 Appendix G: General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013,
1st Amendment published in *Government Gazette* No. 37521 dated, 02 April 2014.

- 6.8 Appendix H: USAF Regulations, 2011 as published in *Government Gazette* No.34010 dated, 10 February 2011; and
- 6.9 Appendix I: ICASA Must Carry Regulations, 2008 as published in the *Government Gazette* No 31500 on 10 October 2008,
1st Amendment - Must Carry Amendment Regulations, 2022 published in *Government Gazette* No. 46148 dated, 31 March 2022.

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