



# **OFM ANNUAL COMPLIANCE REPORT**

**MARCH 2018**

## **2016/2017 ANNUAL COMPLIANCE REPORT**

### **Central Media Group (Pty) Ltd broadcasting as OFM**

**Licence Period: 17 December 2008 - 16 December 2018**

#### **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. One of the main tasks of the Authority, is to monitor 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 OFM's performance for the 2016/2017 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Languages, Format, Local Content Obligations, General Programming Obligations, Complaints Received, Regulations on the Code on People with Disabilities, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations and General Licence Fees Regulations.

#### **2. BACKGROUND**

OFM is an Individual Commercial Sound Broadcasting Service Licensee providing an adult contemporary format, mix of music and information to the Free State, Northern Cape provinces and parts of North West province<sup>5</sup>. According to the Broadcast Research Council of South Africa (BRC), the listenership figures for the last quarter of the period under review was 253 000.<sup>6</sup>

#### **3. COMPLIANCE ASSESSMENT**

##### **3.1 Geographic Coverage**

Clause 1 of the schedule to the licence states that the name of station is:

"OFM"

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

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

<sup>3</sup> Act No. 36 of 2005.

<sup>4</sup> Act No. 4 of 1999.

<sup>5</sup> Appendix A: OFM's licence conditions.

<sup>6</sup> <http://www.brcsa.org.za/brc-ram-radio-listening-jul-16-dec-16-oct-16-mar-17/>

The Licensee confirms that the name of the radio station is still OFM. This was further confirmed during the monitoring exercise.

**The Licensee was found to be compliant with clause 1 of the schedule to its licence.**

Clause 2 of the schedule to the licence provides that the Licensee's geographic coverage area is:

*"Free State, Northern Cape and parts of the North West, as defined in the coverage map attached to the radio frequency spectrum licence".*

According to the frequency spectrum licence, the radio station covers the areas indicated above. The Licensee confirms that its coverage area is as defined in the frequency spectrum licence.

**The Licensee was found to be in compliance with clause 2 of the schedule to its licence.**

### **3.2 Broadcast Language(s)**

Clause 3 of the schedule to the licence lists languages of broadcast as follows *"English and Afrikaans".*

The monitoring of OFM's programming content confirmed that the radio station broadcasts programmes in English and Afrikaans.

**The Licensee was found to be in compliance with clause 3 of the schedule to its licence.**

### **3.3 Format**

Clause 4 of the schedule to the licence stipulates that:

*"The Licensee shall have a programming format of music in an adult contemporary format, providing a mix of music and information (including coverage of community affairs)".*

The monitoring of OFM's programming content confirmed that the radio station offers a programming format of music in an adult contemporary format and a mix of music and information.

**The Licensee was found to be in compliance with clause 4 of the schedule to its licence.**

### **3.4 Local Content Obligations**

Clause 5 of the schedule to the licence stipulates that:

*"5.1 The Licensee shall annually adhere to a four-point plan, namely:*

*5.1.1 Supporting live music performances;*

*5.1.2 Profiling South African composers;*

*5.1.3 Engaging in joint promotions and competitions with record companies and advertisers; and*

*5.1.4 Playing and promoting local music demonstration tapes or equivalent".*

The Licensee submitted proof indicating that it supports live music performances on a monthly basis.

**The Licensee was found to be in compliance with clause 5.1.1 of the schedule to its licence.**

Further, the Licensee submitted proof indicating that OFM does profile South African composers. The list of South African composers as appearing in the submission includes Jimmy Nevis, Bobby van Jaarsveld, Elvis Blue, Lloyd Cele, Gavin Edwards and many more.

**The Licensee was found to be in compliance with clause 5.1.2 of the schedule to its licence.**

OFM submitted proof indicating that it complied with clause 5.1.3 by partnering with companies and advertisers.<sup>7</sup>

**The Licensee was found to be in compliance with clause 5.1.3 of the schedule to its licence.**

The radio station submitted that it does play and promote local music. According to OFM, 35% of the music played by the radio station is South African. OFM's submission was further substantiated by monitoring exercise. During the period under review, OFM interviewed and played music of the following artists: *Francois Van Coke; Justin Serrao;*

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<sup>7</sup> Appendix A: OFM's licence conditions.

*Cara Frew; Alexandra May; Liezel Pieters; Josh Wantie; Flexboogie and Little Fite and many more artists.*

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

### **3.5 General programming obligations**

Clause 6.1 of the schedule to the licence states that:

*"Should the Licensee source news material from a source other than itself, the source(s) thereof shall be disclosed during the news broadcast".*

The Licensee stated that acknowledgement is diligently given to all other news sources, either at the beginning or end of the clip.

The monitoring exercise revealed that the Licensee discloses its sources of news whenever it reports on news that has not been obtained by its own news journalists. The Licensee's submission indicates that news sources include OFM's Content Team, OFM Regional Correspondents and the Internet.

**The Licensee was found to be in compliance with clause 6.1 of the schedule to its licence.**

Clause 6.2 of the schedule to the licence provides that:

*"The Licensee shall spend a minimum of R900 000 (nine hundred thousand Rand) per annum on the provision of news, including locally-based news gathering".*

The Licensee submitted that over the past twelve (12) months (01 April 2016 to 31 March 2017) The Licensee spent three million, six hundred and 5 thousand, two hundred and ninety-five (R 3,605,295) in respect of the provision of news, thus exceeding its target by 300,6%.

**The Licensee was found to be in compliance with clause 6.2 of the schedule to its licence.**

Clause 6.3 of the schedule to the licence provides that:

*"The Licensee shall emphasise local news".*

The monitoring exercise revealed that a significant amount of OFM's news bulletins is local news.

**The Licensee was found to be in compliance with clause 6.3 of the schedule to its licence.**

Clause 6.4 of the schedule to the licence states that:

*"The Licensee shall broadcast an average of at least thirty-five (35) minutes of news per day including half hourly bulletins during peak hours".*

OFM submits that it broadcasts fifty-nine and a half (59.5) minutes of news bulletins per day, from Monday to Friday.<sup>8</sup> The radio station states that it broadcasts thirty-six (36) to forty (40) minutes of news bulletins on Saturdays, Sundays and on public holidays. The monitoring confirmed that the Licensee broadcasts fourteen (14) news bulletins every hour on the hour and half hour at 13h30. The first news bulletin is at 7h00 and the last news bulletin is at 18h00. The total minutes of news broadcast on weekdays is 56.5 minutes. The monitoring exercise revealed that five (5) news bulletins are read in Afrikaans and nine (9) news bulletins are read in English. Further, OFM broadcasts broadcast seven (7) news bulletins on weekends. The monitoring exercise revealed that three (3) news bulletins are read in Afrikaans, while four (4) news bulletins are read in English. The news bulletins are broadcast every hour on the hour from 7h00 to 13h00.

Among the news stories covered for the period under review were excerpts from certain broadcasts, as follows:

- *'SASSA has lodged papers requesting direction from the Constitutional Court following a day of grilling over its fruitless and wasteful expenditure and the status of its contract with CPS';*
- *'Three members from the police emergency services in Bloemfontein were released on bail yesterday after they were arrested at the weekend for allegedly accepting a bribe';*
- *'Social Development Minister, Bathabile Dlamini and the South African Social Security Agency/SASSA have accepted responsibility for failing to put systems in place to ensure the agency will be ready to take over payment distribution to 17 million social grant beneficiaries from the first of April';*
- *'A family of three who were allegedly involved in running an illegal gambling network in the Northern Cape and North West would be back in court on the 20<sup>TH</sup> of June'; and*

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<sup>8</sup> Appendix C: OFM's Report.

- 'An 81-year old Japanese woman has created an app for the elderly'.

**The Licensee was found to be in compliance with clause 6.4 of the schedule to its licence.**

### **3.6 Community-Related Obligations**

Clause 7 of the schedule to the licence states that:

*"The Licensee shall provide no fewer than 100 hours of training "on the job" for staff members at all such community radio stations in its coverage area as may apply for such training, per annum. A programme of training on both technology and operations shall be developed by the Licensee and provided to the Authority, along with confirmation of the number of attendees, the name of the community radio station where they were employed, and the number of training hours completed by the Licensee, at least once per year".*

The Licensee submitted proof indicating that it did train staff members from community radio stations within its coverage area during 2016/2017 financial year. The staff trained was from Central University of Technology FM (CUT FM), Kopsie FM (University of the Free State), Motheo FM and Gold FM. The training programmes were provided to the Authority as proof and were for both technology and operations training.

**The Licensee was found to be in compliance with clause 7 of the schedule to its licence.**

### **3.7 Ownership and Control Obligations**

Clause 8.1 of the schedule to the licence states that:

*"The Licensee shall maintain a minimum of thirty percent (30%) control of the station within the broadcasting coverage area".*

The Licensee's submission indicates that out of eleven (11) directors, five (5) directors live within the radio station's coverage area. This translates to forty-five percent (45%) control of the radio station within the broadcasting coverage area.

**The Licensee was found to be in compliance with clause 8.1 of the schedule to its licence.**

Clause 8.2 of the schedule to the licence provides that:

*"The Licensee shall maintain ownership and control of the station by persons from historically disadvantaged groups at 30% or such other level as may be acceptable to the Authority, pending the determination by the Authority of a generally applicable ownership quota in relation to all broadcasting licences in accordance with section 9(2)(b) of the applicable law".*

The Licensee submits that ownership and control by historically disadvantaged groups (HDI/G) in the radio station is currently at 43.03%.

**The Licensee was found to be compliant with clause 8.2 of the schedule to its licence.**

Clause 8.3 of the schedule to the licence provides that:

*"The Licensee shall ensure that, at all times, at least two women are on its board of directors".*

OFM's Board of Directors is constituted of eleven (11) people, of this number, five (5) are women which translates to 45.5% female and 54.5% male. The Board members are as follows:

1. Mr A.J. Grobbelaar – Board Member (White, male)
2. Rev C.D. Jaftha – Deputy Chairperson (Black, male)
3. Mr D.S. Mtshali – Board Member (Black, Male)
4. Ms E. Myburgh - Board Member (White, female)
5. Ms M Mynhardt – Board Member (White, female)
6. Mr M.J. Prinsloo – Chairperson (White, male)
7. Mr G.S. Stroebe – Chief Executive Officer (White, male)
8. Ms I.I. Tlankana – Board Member (Black, female)
9. Mr N.C.L. Grubb – Board Member (White, male)
10. Ms M.M.M. Vermeulen – Board Member (White, female)
11. Prof W. Viviers - Board Member (White, female)<sup>9</sup>.

**The Licensee was found to be in compliance with clause 8.3 of the schedule to its licence.**

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<sup>9</sup> Appendix C: OFM's Report.



### **3.8 Training and Skills Development Obligations**

Clause 9.1 of the schedule to the licence provides that:

*"The Licensee shall spend a minimum of R250 000 (two hundred and fifty thousand Rand) per annum on training and skills development for persons from historically disadvantaged groups".*

During the year under review, the Licensee submits that it has spent two million, six hundred and eighty-nine thousand, two hundred and sixty-nine rand (R2, 689, 269) on training and development of HDG's<sup>10</sup>.

**The Licensee was found to be in compliance with clause 9.1 of the schedule to its licence.**

Clause 9.2 of the schedule to the licence states that:

*"The Licensee shall ensure that at least thirty percent (30%) of its total full time staff complement is Black".*

The Licensee submits that OFM has 37.84% black staff which is more than 30% requirement.

**The Licensee was found to be in compliance with clause 9.2 of the schedule to its licence.**

## **4. REGULATIONS**

### **4.1 Complaints Received**

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A<sup>11</sup> which reports on all complaints received during the financial year under review. The Licensee submitted its complaints report in accordance with the Regulations regarding the Code of Conduct for Broadcasting Service Licensees.

The Licensee is a member of the National Association of Broadcasters (NAB). Any complaint related to code of conduct is dealt with by the Broadcasting Complaints Commission of South Africa (BCCSA). According to the Licensee, OFM received complaints against the presenter, related to music, content, competition, transmitter and general. The Licensee states that all complaints received by OFM were resolved.

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<sup>10</sup> Appendix C: OFM's Report.

<sup>11</sup> OFM Form 12A.

Further, the radio station encourages people to lodge formal complaints via email or telephonically. Listeners also raise their complaints via the facebook fanpage and via twitter, but those complaints are not included in the complaints report.

**The Licensee was found to be compliant with Compliance Procedure Manual Regulations.**

#### **4.2 Regulations on the Code for Persons with Disabilities**

Clause 3.1(a) of the Code on People with Disabilities states that:

*"Broadcasting service licensees must ensure that their services are made available and are accessible to people with disabilities".*

The Licensee states that OFM works together with Associations of people with disabilities in order to involve people with disabilities in the activities of the radio station. Further, OFM reported that People with Disabilities are able to visit their studio without a challenge since they have lifts.

**The Licensee was found to be compliant with clause 3.1(a) of the Code for Persons with Disabilities.**

Clause 3.1(c) of the Code on People with Disabilities states that:

*"Broadcasting service licensees must monitor the effectiveness of their service through surveys as well as contact with organisations of and for people with disability and stakeholders".*

OFM conducts surveys in order to get perceptions of people with disabilities on the radio station.

**The Licensee was found to be compliant with clause 3.1(c) of the Code on People with Disabilities.**

#### **4.3 Regulations Regarding Standard Terms and Conditions**

During the year under review, the Authority did not identify any non-compliance by the Licensee with the standard terms and conditions for individual licensees<sup>12</sup>.

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<sup>12</sup> Appendix D: Regulations Regarding Standard Terms and Conditions for Individual Licences.

#### **4.4 South African Music Content**

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

*"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that a minimum of 25% 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 monitoring exercise confirmed that OFM plays 35% of South African music and thus is in compliance with clause 3.2 of the South African Music Content Regulations.

**The Licensee was found to be compliant Regulation 3.2 of the Regulations on South African Music Content.**

#### **4.5 Universal Service and Access Fund**

Regulation 3 (1) of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund as published in the *Government Gazette*, no 31499 states that:

*"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".*

Further, Regulation 3 (3) states that:

*"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 paid its annual contribution fee to the fund on 21 September 2017 and duly submitted proof of payment to the Authority.

**The Licensee was found to be in compliance with Regulations 3(1) and 3(3) of the USAF Regulations.**

#### **4.6 General Licence Fees**

Regulation 2(b) of General Licence Fees Regulations provides for Licensees to pay annual licence fees.

During the period under review, OFM made a payment of its licence fees on 21 September 2017. Proof of payment was submitted to the Authority.

**The Licensee was found to be in compliance with regulation 2(b) of General Licence Fees Regulations.**

## **5. CONCLUSION**

The Licensee has complied with its licence terms and conditions and the relevant regulations.

## **6. APPENDICES:**

- 6.1 Appendix A: OFM's licence conditions;
- 6.2 Appendix B: General Programming Obligations Report;
- 6.3 Appendix C: OFM's Report;
- 6.4 Appendix D: Regulations on a Code for Persons with Disabilities;
- 6.5 Appendix E: Regulations Regarding Standard Terms and Conditions for Individual Licences;
- 6.6 Appendix F: USAF Regulations;and
- 6.7 Appendix G: OFM's Complaints Report.