



# **O FM ANNUAL COMPLIANCE REPORT**

**MARCH 2019**

## **2017/2018 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 Independent Communications Authority of South Africa Act<sup>2</sup> (ICASA Act), 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.

This report is intended to give account of OFM's compliance for the 2017/2018 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Languages, Format, Local Content Obligations, General Programming Obligations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations and General Licence Fees Regulations and Code on People with Disabilities.

#### **2. BACKGROUND**

OFM is an Individual Commercial Sound Broadcasting Service Licensee providing an adult contemporary format, with a mix of music and information (including coverage of community affairs) to the Free State, Northern Cape and parts of the North West Provinces<sup>5</sup>.

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

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

Clause 2 of the licence provides that the geographic coverage of the Licensee is:

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

<sup>1</sup> The Constitution of the Republic of South Africa, 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> Appendix A, OFM's Broadcasting Service License

The Licensee confirms that it provides geographic coverage to the areas as specified in its Radio Frequency Spectrum licence. Further, the Authority received no complaints that the Licensee was broadcasting outside of its specified geographic coverage area.

**The Licensee complies with clause 2 of the licence.**

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

Clause 3 of the licence provides that the broadcast language(s) is:

*"English and Afrikaans"*

The monitoring exercise confirmed that the Licensee broadcast only in English and Afrikaans.

**The Licensee complies with clause 3 of the license.**

### **3.3. Format**

Clause 4 of the licence provides 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 exercise found that the format of OFM's programming is a mix of music and information. The music broadcast by OFM is of adult contemporary in nature. Further, it was found that OFM covers community affairs in its broadcasting.

**The Licensee complies with clause 4 of the licence.**

### **3.4. Local Content Obligations**

Clause 5 of the licence provides that:

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

*5.1.1 Support 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."*

OFM ~~guarantees~~ that it broadcasts an average of a minimum of thirty percent (30%) of South African music. Further, OFM regularly conducts interviews with South African musicians, covers live South African music and promotes new releases from South African artists. As such the average minimum total of South African music content as broadcast by the Licensee is above thirty-five percent (35%).

The Licensee, during the period under review, demonstrated its support for the love of music through not only advertising some of the live music events but also sponsoring some of the events. The Licensee also has its own live music performance events.

Some of the live performances that the Licensee supported include<sup>6</sup>:

- Lush Music Festival from 14<sup>th</sup> – 17<sup>th</sup> April 2017.
- BloemSkou: OFM Music Evening held on 6 May 2017.
- Tekkie Music Festival from 8 – 9 September 2017.
- OFM Music Awards Radio Show held on 21 September 2017.
- Aardklop Arts Festival from 2 – 7 October 2017.
- Cherry Festival from 16 – 18 November 2017.

**The Licensee is compliant with clause 5.1.1 of the licence.**

The Licensee, for the period under review, regularly profiled South African composers<sup>7</sup>.

Some of the interviews that were conducted with South African musicians include interviews with:

*Josk Kempton, Tim ODV, Jeremy Loops, Leah, Elvis Blue, Liezel Pieters, Bouwer Bosch, Riana Nel and Nadine.*

**The Licensee is compliant with clause 5.1.2 of the licence.**

The Licensee collaborated with several record companies regarding joint promotions and competitions. Some of the joint promotions and competitions that the Licensee was involved in include<sup>8</sup>:

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<sup>6</sup> Appendix B: OFM Report

<sup>7</sup> Appendix B: OFM Report.

<sup>8</sup> Ibid.

- *The Licensee partnered with Universal Music record label for the launch of the new Nia Nell album. A special music feature where listeners could win tickets to a special by-invite-only concert for the album launch.*
- *The Licensee partnered with Select Music record label for the launch of the new Kurt Darren album. A special music feature was broadcasted as well as an album give-away.*
- *The Licensee partnered with Universal Music for the launch of new albums from Caroline Grace and ADAM, respectively. This partnership included individual special music features.*
- *The Licensee partnered with Gallo Music for the launch of new albums from Kahn Moreby and Louise Carver, respectively. This partnership included individual music features for each artist.*

**The Licensee is compliant with clause 5.1.3 of the licence.**

The Licensee played and promoted local music demonstration tapes or equivalent.

Some of the new South African releases that was promoted include:

*Ashlinn Gray "Finding Home"; Appel "More Than Just Love"; Charlie Finch "If I Let You Down"; Armand Joubert "Should I"; Craig Lucas "Smother"; Gerry Liberty "Boom Boom"; Sunset Sweatshop "Move It".*

**The Licensee is compliant with clause 5.1.4 of the licence.**

**The Licensee was found to be compliant with clause 5.1 of the schedule to its licence.**

### **3.5. General Programming Obligations**

Clause 6 of the licence provides that:

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

OFM submits that approximately seventy-five (75) percent of its news is sourced externally<sup>9</sup>. These sources include Media24, SABC, African News Agency and the Internet. The monitoring

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<sup>9</sup> Appendix B: OFM Report.

exercise found that any news broadcast from sources outside of the Licensee is disclosed to its audience.

**The Licensee complies with clause 6.1 of the licence.**

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

The Licensee submits it spent R3 219 196.00 in respect of the provision of news<sup>10</sup>.

**The Licensee is compliant with clause 6.2 of the licence.**

**"6.3** *The Licensee shall emphasis local news."*

The monitoring exercise found that the Licensee places an emphasis on local news of its geographic coverage area, making up a minimum of forty-three percent (43%) of its total news content but the Licensee also informs its listenership about news happening outside of its coverage area, this makes up forty-two percent (42%) of national news and fifteen percent (15%) international.

The following are some examples of news inserts:

- *"A special ANC National Executive Council meeting has been scheduled for this afternoon. According to News24, NEC members received notice of the meeting in Pretoria yesterday morning."*
- *"Nog niemand is in hegtenis geneem in verband met die gru-aanval op die bejaarde koster, Jan McDonald, van Zeerust in Noord-Wes nie. Polisie woordvoerder, Adele Myburgh, het aan OFM Nuus gesê die 81 jarige man was vermoedelik Saterdag aand deur 'n onbekende aantal verdagtes in sy huis oorval."*
- *"The South African Municipal Workers Union (SAMWU) in the Free State believes the Maluti-A-Phofong Municipality should be dissolved. While the Union welcomes the Free State government's decision to place the municipality under administration, they believe residents in Harrismith and other surrounding towns have suffered enough."*
- *"The Hawks have confirmed a morning raid at the Gupta compound in Saxonworld. ENCA report details is still sketchy at this stage but the Hawks will issue an official*

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<sup>10</sup> Appendix B: OFM Report.

*media statement later today. News24 reports the road at the controversial Gupta residency in the elite Johannesburg suburb has been sealed off."*

- *"Die owerheidsondersoek en verhoor oor die beweerde bedrogspul sal heel moontlik uit kring en tot die val van rolspelers in die groter staatskaping lei, sê die politieke ontleder, Theo Venter, van die Noord-Wes Universiteit. Venter sê hoewel die vrede melkery maar 'n klein deel van die groter staatskaping is, is dit vir die Hawks en die Vervolgingsgesag 'n goeie wegspring plek."*

**The Licensee is compliant with clause 6.3 of the licence.**

- 6.4** *The Licensee shall broadcast an average of at least thirty five (35) minutes of news per weekday, reducing to an average of twenty (20) minutes over weekends, including half hourly bulletins during peak hours on week days.*

OFM submits that it broadcasts an average of fifty-four (54) minutes of news on weekdays and an average of thirty-five (35) minutes of news on weekends<sup>11</sup>. This submission was confirmed during the monitoring exercise. News is broadcast on the hour from 06h00 in the morning until 18h00 in the evening. Further, the Licensee broadcast half hourly bulletins during peak hours on week days. The average duration of the half hourly bulletins is thirty (30) seconds, while the full news bulletins are on average four (4) minutes in duration. The monitoring exercise further found that the Licensee places emphasis on local news.

**The Licensee is complaint with clause 6.4 of the licence.**

- 6.5** *The Licensee shall have an editorial charter to ensure independence and impartiality in its news coverage."*

The Licensee submitted its editorial charter that ensures the independence and impartiality of its news coverage to the Authority<sup>12</sup>.

**The Licensee is complaint with clause 6.5 of the licence.**

**The Licensee complies with the entirety of clause 6 of the licence.**

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<sup>11</sup> Appendix B: OFM Report.

<sup>12</sup> Ibid.

### **3.6 Community-related Obligations:**

Clause 7 of 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 submits that it provided one hundred and eighty (180) hours of on the job training to staff of CUT FM, Motheo FM, Kopsie FM and Gold FM<sup>13</sup>. This training included training on equipment, programming, marketing for radio, financial management and production of radio inserts amongst other. The Licensee submitted the training programme as well as the attendance register to the Authority.

**The Licensee complies with clause 7 of the licence.**

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

Clause 8.1 of OFM's 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 submits that four (4) out of the nine (9) Directors live within the broadcasting coverage area of the station<sup>14</sup>. This means that the Licensee maintains forty-four (44%) percent of control of the station within the broadcasting coverage area.

**The Licensee complies with clause 8.1 of the licence.**

Clause 8.2 of the licence states 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."*

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<sup>13</sup> Appendix B: OFM Report.

<sup>14</sup> Appendix B: OFM Report.



The Licensee submits that ownership and control of the stations by persons from historically disadvantaged groups is at 43.13%<sup>15</sup>. This is a culmination of the 25.96% as held by African Media Entertainment and the 100% as held by Kagiso Media Investments (Pty) Ltd.

**The Licensee complies with clause 8.2 of the licence.**

Clause 8.3 of the licence states that:

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

The Licensee submits that of the nine (9) directors, five (5) are women. The board members are as follows<sup>16</sup>:

- Jafta, C.D (Coloured, Male)
- Mtshali, D.S (Black, Male)
- Kolobe, R (Black, Female)
- Myburgh, E (White, Female)
- Prinsloo, M.J (White, Male)
- Stroebel, G.C (White, Male)
- Thamoe, P.N (Black, Female)
- Tihankana, I.I (Black, Female)
- Vermeulen, M.M.M (White, Female)

The Licensee complies with clause 8.3 of the licence.

**The Licensee complies clause 8 of the licence.**

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

Clause 9.1 of the licence states 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."*

The Licensee submits that for the period under review It spent two million nine hundred twelve thousand eight hundred and fourteen Rand (**R2 912 814.00**) on training and skills development. Of that amount two million two hundred sixty thousand one hundred and

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<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

seventy-eight Rand (R2 260 178.) was allocated to the training and skills development for persons from historically disadvantaged groups.<sup>17</sup>

**The Licensee complies with clause 9.1 of the licence.**

Clause 9.2 of the licence states that:

"The Licensee shall ensure that at least 30% of staff dedicated to the business of the Licensee are black."

The licensee submits that it has a staff component of fifty-seven (57). Out of the fifty-seven (57), twenty-five (25) are black. The twenty-five is made up of sixteen (16) African staff, one (1) Indian staff and eight (8) Coloured staff. As such the licensee has a black staff component of forty-three (43%) percent<sup>18</sup>.

The Licensee complies with clause 9.1.

**The Licensee is compliant with clause 9 of the licence.**

#### **4. REGULATIONS**

##### **4.1 Compliance Procedure Manual – Form 12A**

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A which reports on all complaints received during each financial year.

In the year under review, the Licensee submitted the required Form 12A<sup>19</sup>. The Licensee is a member of the National Association of Broadcasters (NAB) and as such complaints relating to its code of conduct are dealt with by the Broadcasting Complaints Commission of South Africa (BCCSA). During the period under review, no complaints were escalated to the BCCSA.

The Licensee however received the following complaints: three (3) regarding its presenters, eight (8) regarding its music, seven (7) regarding its content, twenty two (22) regarding competitions, fifteen (15) regarding its transmitter and ten (10) that were general complaints. These complaints were all addressed within a one day turnaround time. Further,

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<sup>17</sup> Appendix B: OFM Report.

<sup>18</sup> Appendix B: OFM Report.

<sup>19</sup> Ibid.

the Licensee regularly broadcasts advertisements from the BCCSA informing listeners as to the process of lodging a complaint with the before-mentioned commission.

**The Licensee complies with the Compliance Procedure Manual Regulations.**

#### **4.2 Regulations regarding Standard Terms and Conditions for Individual Licensees**

The Authority is satisfied that during the period under review the Licensee did not contravene the regulation in respect of the Standard Terms and Conditions for Class Licences<sup>20</sup>.

**The Licensee complies with the Standard Terms and Conditions for Individual Licence.**

#### **4.3 Regulations on South African Music**

Regulation 2 of the Regulations on South African Music as published on 23 March 2016 provides that:

*"A holder of a commercial sound broadcasting service licence must ensure that after eighteen (18) months of the gazetting of these regulations, a minimum of 35% of the musical works broadcast in the performance period, consist of South African music and that such South African music is spread evenly throughout the performance period"<sup>21</sup>.*

The monitoring exercise found that the **Licensee complies with the 35% South African Music Content as stipulated in the above Regulations.**

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

Regulation 3 (1) of the Regulations In respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund, 2011<sup>22</sup> state that:

*"Every holder of a 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 its Annual Turnover to the fund (USAF)."<sup>23</sup>*

<sup>20</sup> Appendix C: Regulations regarding Standard Terms and Conditions for Individual Licensees.

<sup>21</sup> Appendix D: Regulations on South African Music.

<sup>22</sup> As published in Government Gazette no. 31499.

<sup>23</sup> Appendix E: USAF Regulations

The Licensee made payment to the fund on the 1<sup>st</sup> of October 2018 and submitted the proof thereof to the Authority.

**The Licensee complies with the USAF Regulations.**

#### **4.5 General Licence Fees**

Regulation 3 (1) of the General Licence Fees Regulations state that:

*"The annual licence fees prescribed in these regulations and as set out in schedule 2 apply to holders of individual and class ECS licences, individual and class ECNS licences and individual commercial Broadcasting Service licences."*<sup>24</sup>

Schedule 2 of the General Licence Fees regulations provide for Individual Commercial Broadcasting Services Licensees to pay an annual licence fee of 1.5% of gross profit to the Authority.

Regulation 4(b) and (c) of Schedule 3 state that:

*"(b) In respect of payment, such are due and payable within 6 months from end of the licensee's financial year;*

*(c) May only be paid by way of an electronic transfer or via direct deposit into the Authority's bank account."*<sup>25</sup>

The Licensee made its general licence fees payment on the 1<sup>st</sup> of October 2018 and submitted the proof thereof to the Authority.

**The Licensee is compliant with the General Licence Fees Regulations.**

#### **4.6 Code on People with Disabilities**

The Licensee confirms that it is compliant with the Code on People with Disabilities<sup>26</sup> stating that people with disabilities have access to its facilities and studios. Further, the Licensee has a partnership with the Association for People with Disabilities (APS). The monitoring exercise found that the Licensee conducts interviews with people from the association to raise awareness on the challenges faced by people living with disabilities.

**The Licensee complies with the Code on People with Disabilities.**

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<sup>24</sup> Appendix F: General Licence Fees Regulations.

<sup>25</sup> Appendix F: General Licence Fees Regulations

<sup>26</sup> Appendix G: Code on People With Disabilities

## **5. CONCLUSION**

The Licensee complies with its licence terms and conditions and relevant Regulations. The Licensee often exceeds the minimum requirements regarding its obligations.

## **6. TERMS OF REFERENCE**

- 6.1 Appendix A: OFM's licence conditions;
- 6.2 Appendix B: OFM Report;
- 6.3 Appendix C: Regulations Regarding Standard Terms and Conditions for Individual Licensees;
- 6.4 Appendix D: South African Music Regulations;
- 6.5 Appendix E: USAF Regulations;
- 6.6 Appendix F: General Licence Fees Regulations; and
- 6.7 Appendix G: Code on People with Disabilities.