



POWER 98.7 FM ANNUAL COMPLIANCE REPORT

MARCH 2019

2017/18 ANNUAL COMPLIANCE REPORT

POWER 987 FM (Pty) Ltd BROADCASTING AS POWER 98.7 FM

LICENCE PERIOD: 25 May 2012 – 24 May 2022

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution, the ICASA Act and the Electronic Communications Act of 2005 (ECA) 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, the Broadcasting Act and any relevant legislation and regulations.

The following report is intended to give account of Power 98.7 FM's compliance with the terms and conditions as set out in its licence for the 2017/2018 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Broadcasting Languages, Format, General Programming Obligations, Training and Skills Development, Community-Related Obligations, South African Music Regulations, Regulations Regarding Standard Terms and Conditions and Universal Service and Access Fund (USAF) Regulations.

2. BACKGROUND

In May 2012, the Authority issued Power 98.7 FM (Pty) Ltd (the Licensee) with an Individual Commercial Sound Broadcasting Service licence¹ and a Radio Frequency Spectrum licence² in terms of the ECA.

The Licensee broadcasts as Power 98.7 FM and provides a service in the Gauteng province. The radio station is broadcasting from the studios situated at 79 Central Street, Houghton. The signal distribution service is conducted by Sentech (Pty) Ltd.

¹ Appendix A: Power 98.7 FM Broadcasting Service Licence

² Appendix B: Power 98.7 FM Frequency Spectrum Licence

3. COMPLIANCE ASSESSMENT

3.1 Control Structure

3.1.1 Ownership and Control

Clause 1 of the licence provides that:

"The licence is issued to:

1.1 Name of Company/Entity: Power 98.7 FM (Pty) Ltd.

Name of Station: Power 987 FM."

The monitoring exercise indicates that the Licensee refers to itself as Power 98.7 FM.

The Licensee complies with clause 1 of its licence.

1.2 Shareholders: *Janistone (Pty) Ltd – 86.26%*

MIB Radio & Media (Pty) Ltd – 5.12%

AiH Media (Pty) Ltd -2.79%

Friedshelf 1136 (Pty) Ltd – 2.15%

Friedshelf 1125 (Pty) Ltd – 1.12%

Friedshelf 1135 (Pty) Ltd – 1.31%

Friedshelf 1122 (Pty) Ltd – 0.79%

Friedshelf 1134 (Pty) Ltd – 0.48%

During the period under review, there were no changes reported by the Licensee with regards to its shareholding structure. However, the monitoring exercise revealed that changes were effected in the shareholding structure without formal notification and following due processes. It has been noted that 'Janitone (Pty) Ltd' and 'MIB Radio & Media (Pty) Ltd' have replaced 'MSG Afrika Media' and Zungu Investment Company respectively. The Licensee has been notified of this irregularity and advised to correct accordingly.

The Licence does not comply with clause 1.2 of its licence.

3.2 Contact Details

Clause 2 of the licence provides that:

1.2 "The contact person for the Licensee shall be:

1.2.1 Name: Ms Pamela Ntozini;

1.2.2 Tel: 011 014 9000;

1.2.3 Fax: 011 014 9099;

1.2.4 Email: pamela@power987.co.za."

3.3 Notices and Addresses

Clause 3 of the licence provides that:

3.1 "The Licensee chooses the following addresses as its principal addresses:

3.1.1 Postal Address: PO Box 5313

Rivonia

Bryanston

2191

3.1.2 Physical Address: 79 Central Street

Houghton Estate

2198

The were no changes reported by the Licensee to its principal addresses during the period under review.

The Licensee complies with clause 2 of its licence.

3.4 Geographic Coverage Area

Clause 2 of the licence provides that:

"Geographic coverage:

"Gauteng, as indicated in the attached coverage map, from time to time".

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

The Licensee complies with clause 2 of its licence.

3.5 Broadcast Language

Clause 3 of the licence provides that:

"Principal Language: English, however the other common languages spoken in the area will be flexibly used in accordance with listeners".

The Licensee broadcasts programmes in English as its primary language.

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

3.6 Format

Clause 4 of the licence provides that:

"The Licensee shall be a full-service adult contemporary talk radio station with up to 70% of the airtime devoted to talk and at least 30% to music".

The Authority's monitoring exercise found that the Licensee's broadcast a full service made up of predominantly adult contemporary talk and at least 30% music, as required by the clause above.

The Licensee complies with clause 3 of its licence.

3.7 Local Content Obligations

Clause 5 of the licence provides that:

"The Licensee shall broadcast 25% of South African music".

For the year under review, the Licensee reported to have broadcast 25% South African music.

The monitoring exercise confirmed that, of the total music played by the Licensee, at least 45% (forty five percent) was South African music. Kgomo by Jonas Gwangwa, Bang Bang by Zakes Bantwini, Nguwe by Ntando, Mnqobi Nxumalo, Babsy Mlangeni, Nomvula by Bongani Radebe, etc.

The Licensee complies with clause 5 of its licence.

3.8 General Programming Obligations

Clause 6.1 of the licence provides that:

"The Licensee shall primarily dedicate current affairs programmes in the morning, during its midday and afternoon show. The Licensee will further broadcast programmes beyond current affairs as they will also include entrepreneurship, sports, arts entertainment and lifestyle content".

The Licensee confirmed that it primarily dedicates current affairs programmes in the morning, during its midday and afternoon show. The Licensee further broadcasts programmes beyond current affairs as they will also include entrepreneurship, sports, arts, entertainment and lifestyle content as required by the above clause.

The monitoring exercise also confirmed that Power 98.7 FM broadcasts current affairs programmes in the morning, midday and afternoon, and other programmes beyond current affairs which include entrepreneurship, sports, arts, entertainment and lifestyle content. The Licensee broadcasts Power Breakfast between 06h00 and 09h00, Power Update between 12h00 and 13h00 and Power Hour between 17h00 and 18h00 as part of its current affairs programming. The Licensee also broadcast Power Talk, Power Drive and Power Business as part of its entrepreneurship, sports, arts, entertainment and lifestyle programmes.

The Licensee complies with clause 6.1 of its licence.

Clause 6.2 of the licence provides that:

"The Licensee shall broadcast reports from correspondent reporters in various African countries on current events in their regions on Sunday mornings".

The monitoring exercise did not find reports by correspondent reporters in various African countries on current events in their regions on Sunday mornings, in the recordings submitted by the Licensee during the period under review.

The Licensee does not comply with clause 6.2 of its licence.

Clause 6.3 of the licence provides that:

"The Licensee shall emphasise local and regional news and employ a news team specifically for the production of local news".

The monitoring exercise confirmed that Power 98.7 FM puts more emphasis on local and regional news and the Licensee has confirmed that it has employed a news team specifically for the production of local news.

The Licensee complies with clause 6.3 of its licence.

Clause 6.4 of the licence provides that:

"The Licensee shall broadcast news on a regular basis for a minimum of forty-nine (49) minutes each day between 05h00 and 23h00".

The monitoring exercise revealed that Power 98.7 FM carries news bulletins every hour during the performance period on weekdays. Each bulletin is broadcast for approximately five minutes. The Licensee broadcast an average of ninety (90) minutes of news per day. News headlines are also broadcast every half hour. The following are excerpt from news bulletins broadcast by Power 98.7 FM.

1. *"South Africa's rand scaled nine-month highs on Monday after Deputy President Cyril Ramaphosa became the new leader of the ruling African National Congress, succeeding President Jacob Zuma."*;
2. *"Legendary musician Hugh Masekela has passed away in a Johannesburg hospital. A few months ago, he announced that he was getting treatment for cancer. The Arts and Culture Department has confirmed the death. Masekela had been in and out of hospital. He had been receiving treatment since 2008"*.
3. *"President Jacob Zuma has reshuffled his Cabinet yet again. Nzimande has been replaced by Home Affairs Minister Hlengwe Mkhize, with Communications Minister Ayanda Dlodlo now to take over from her."*;
4. *"Zimbabwe's First Lady, Grace Mugabe, has denied assaulting South African model Gabriella Engels with an electric cable in a Johannesburg hotel suite last month, saying an "intoxicated and unhinged" Engels attacked her with a knife."*;
and
5. *Gauteng Premier David Makhura and Education MEC Panyaza Lesufi have been urged to urgently intervene and stop an illegal strike by South African Democratic Teachers Union (SADTU) members that has resulted in the disruption of teaching and learning at some schools in the province. The Democratic Alliance (DA) visited Eldorado Park Secondary School in the south of Joburg on Wednesday following a teachers' strike on Monday."*

The Licensee complies with clause 6.4 of its licence.

Clause 6.5 of the licence provides that:

"The Licensee will also broadcast breaking news as they unfold, and these are likely taken over a programme being broadcast instead of being contained solely within the news bulletin".

The monitoring exercise confirmed that Power 98.7 FM broadcast breaking news as they unfold; news which at times take over programmes broadcast and not contained solely within the news bulletin.

Clause 6.6 of the licence provides that:

"Should the Licensee source news material from a news agency/source other than itself, the source(s) thereof shall be disclosed to the Authority".

The monitoring exercise revealed that most of Power 98.7 FM's news bulletins are self-originated. However, it was confirmed that the Licensee discloses sources of news whenever it reports news obtained from other sources other than itself.

The Licensee complies with clause 6.5 of its licence.

3.9 Ownership and Control Structures of the Licensee

Clause 7 of the licence provides that:

"The Licensee shall for the duration of this licence maintain at least thirty percent (30%) ownership and control of the station by persons from historically disadvantaged groups".

The Licensee submitted that ownership and control of the radio station held by persons from historically disadvantaged groups is 94.84%. The Licensee submitted its limited assurance engagement on the B-BBEE Status as at 25 August 2016, as set out on the Broad-Based Black Economic Empowerment ("B-BBEE") Verification Certificate³, as evidence.

The Licensee complies with clause 7 of its licence.

3.10 Specific Terms and Conditions

Clause 8 of the licence provides that:

"The Licensee shall broadcast a minimum of 3% African music (excluding music from South Africa) per month between 05h00 and 23h00".

³ Appendix C: B-BBEE Verification Certificate

During the year under review, the monitoring exercise revealed that Power 98.7 FM played approximately 3% (three percent) of African music during the Performance Period. The African artists featured included among others, Oliver Mutukudzi, Kidjo, Fela Kuti, etc.

The Licensee complies with clause 8 of its licence.

4. REGULATIONS

4.1 SA Music Content

Regulation 3.2 of the Regulations on South African Music Content⁴, as published on 23 March 2016, stipulates that:

"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that 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 reasonably evenly throughout the said period".

During the year under review, the monitoring exercise revealed that Licensee played approximately 45% (forty five percent) of South African Music spread reasonably evenly throughout the Performance Period. The South African artists featured included among others, Tsepo Tshola, Prince Kaybee, Shekinah, Musa, Robbie Malinga, Kelly Khumalo, Ayanda Jiya.

The Licensee complies with regulation 3.2 above.

4.2 Standard Terms and Conditions

Regulation 2 of the Regulations on Standard Terms and Condition for Individual Licensees⁵, as amended and published on 30 March 2016, stipulates that:

⁴ Appendix D: SA Music Content Regulations

⁵ Appendix E: Regulations on Standard Terms and Conditions for Individual Licences

"(1) A Licensee must submit written notice to the Authority within seven (7) days of the occurrence of the following changes:

- (a) the name of the Licensee;*
- (b) contact details including the contact person;*
- (c) shareholding;*
- (d) Physical address; and*
- (e) Financial year end."*

During the year under review, the Authority identified instances of non-compliance by the Licensee with the above regulation.

The Licensee partially complies with the above regulations.

4.3 Regulations in respect of the Prescribed Annual Contributions of Licensees to the 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 (USAF)⁶, as published in the Government Gazette, No. 31499 of April 2009, stipulates that:

"Every holder of a Licence granted in terms of Chapter 3 or converted in terms of chapter 15 of the Act, must pay an annual contribution of 0.2% of the annual turnover, derived from the Licensee's licence activity, to the Fund (the Fund)".

Further, Regulation 3 (3) stipulates that:

"A broadcasting service Licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution against its prescribed annual contribution to the Fund"

Power 98.7 FM's financial year ends at the end of February. The Licensee is yet to pay its contribution to the Universal Service and Access Fund as required by the regulations.

⁶ Appendix F: USAF Regulations

The Licensee does not comply with the above regulations.

4.4 General Licence Fees Regulations

Regulation 3 (1) of the General Licence Fees Regulations⁷ provides 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 Licences".

Schedule 2 of the Annual Licences Fees regulations provides for Licensees to pay an annual licence fee in accordance with their licensed revenue and to be calculated using the set formula, read with the applicable percentages.

Regulation 7(a), 7(b) and 7(c) of Schedule 3 provides that:

- a) "Are due annually based on the Licensee financial year;*
- b) Are due and payable within 6 months from the end of the 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".*

Power 98.7 FM's financial year ends at the end of February. The Licensee is yet to pay licence fees, as required by the regulations.

The Licensee does not comply with the above regulations.

5. CONCLUSION

Power 98.7 FM has complied with its most of its licence terms and conditions and regulations, for the period under review. However, the Licensee failed to comply with clauses 1.2 and 6.2 of the schedule to its licence terms and conditions. The Licensee

⁷ Appendix H: General Licence Fees Regulations

also failed to comply with regulation 3.1 in respect to Annual Contribution to the Universal Service and Access Fund and Licence Fees.

Non-compliance by commercial Licensees shows disregard for the Authority, legislation and regulatory framework. Power 98.7 FM will therefore be advised of the Authority's intention to refer its non-compliance findings to the CCC and given an opportunity to make representations.

6. TERMS OF REFERENCE

Appendix A: Power 98.7 FM's broadcasting service licence

Appendix B: Power 98.7 FM frequency spectrum licence

Appendix C: B-BBEE Verification Certificate

Appendix D: SA Music Content Regulations

Appendix E: Regulations on Standard Terms and Conditions for Individual
Licences

Appendix F: Universal Service and Access Fund Regulations

Appendix H: General Licence Fees Regulations