



# **NORTH WEST FM ANNUAL COMPLIANCE REPORT**

**MARCH 2020**

## **2018/2019 ANNUAL COMPLIANCE REPORT**

### **NORTH WEST FM (PTY) LTD BROADCASTING AS NORTH WEST FM**

**Licence Period: 01 November 2017- 31 October 2027**

#### **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 of 2000,<sup>2</sup> and the Electronic Communications Act (“EC Act”) of 2005<sup>3</sup> to regulate broadcasting activities in South Africa in the public interest. The main task of the Authority is to ensure compliance by broadcasters with the terms and conditions of their licence, relevant legislation and Regulations.

The purpose of the report is to give account of North West FM (Pty) Ltd.’s compliance with the terms and conditions as set out in its licence for the 2018/2019 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, Regulations Regarding Standard Terms and Conditions and Universal Service and Access Fund (USAF).

#### **2. BACKGROUND**

In November 2019, the Authority issued North West FM with the renewed Individual Commercial Sound Broadcasting Service Licensee<sup>4</sup>, to provide a service in parts of the North-West Province including, but not limited to, Klerksdorp, Mmabatho, Rustenburg, Schweizer Reyneke, Taung and Zeerust (*See licence conditions attached as Appendix A*). North West FM operates from a studio located at 214 Beyers Naude, Rustenburg.

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

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

According to Schedule B2 of the technical specifications, the Licensee covers the following areas:

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

<sup>2</sup> The ICASA Act No, 13 of 2000,

<sup>3</sup> The Electronic Communications Act No, 36 of 2005

<sup>4</sup> Appendix A: North West FM’s Service License.

"Klerksdorp, Mmabatho, Rustenburg, Schweizer Reyneke, Taung and Zeerust" (See Appendix A).

The Licensee has not reported any changes to its coverage.

**The Licensee complies with Schedule B2 of its licence.**

### **3.2 Control Structure**

Clause 1 of the licence stipulates that:

*"The control structure of the licensee is and remains as follows:*

*Direng Investment Holdings (Pty) Ltd – 21%*

*SADTU Investment Holdings (Pty) Ltd – 16%*

*Motswere (Pty) Ltd (formerly Altivex 269 (Pty) Ltd) – 13%*

*Motswako Media (Pty) Ltd – 50%*

**The Licensee complies with clause 1 of its licence.**

### **3.3 Format**

Clause 2 of the licence stipulates that:

*"The licensee shall broadcast a predominantly inspirational gospel music format."*

The Authority's monitoring confirmed that North West FM plays a variety of music genres including gospel music, however, insufficient to meet the required format.

**Therefore, the Licensee does not comply with its format.**

### **3.4 Language (s)**

Clause 3 of the licence stipulates that:

*"Setswana shall be the principal broadcast language with 80% and other languages (including English) 20%."*

North West FM broadcasts its programmes in approximately 80% Setswana and approximately 20% English.

**The Licensee complies with clause 3 of its licence**

### **3.5 Programming<sup>5</sup>**

#### **3.5.1 General**

Clause 4 of the licence stipulates that:

*"The licensee's general programming will focus on the following:*

- *Sport;*
- *Culture;*
- *Consumer;*
- *Education; and*
- *News and Current Affairs".*

The Authority's monitoring confirmed that the radio station has an hour dedicated to local and international sporting events. During news bulletins there is a sports update, particularly during the morning drive and afternoon drive on weekdays and on weekends. In addition, the Licensee broadcasts programmes that focus on consumer, education, news and current affairs. 'Viewpoint' is a current affairs programme broadcast on weekdays between 18h00 and 19h00. The programme focuses on current affairs and information concerning the community. Furthermore, listeners are provided with a wide variety of educational programming pertinent to the Licensee's audience.

One of the programmes monitored involved an interview with MEC Paul Sebege, from the Department of Local Government and Traditional Affairs. The interview discussed the economic impact of mining and the labour market in Rustenburg and the North West province at large.

**The Licensee complies with Clause 4 of its licence.**

#### **3.5.2 News**

Clause 4 of the licence stipulates that:

*"The licensee committed to broadcasting 50 minutes of news programming per day, of which 80% will be broadcast in Setswana and 20% in other official languages".*

North West FM broadcasts news every hour on the hour from 06h00 until 18h00. The news bulletins last for four (4) to five (5) minutes. News headlines are broadcast every half hour from 06h30 until 17h30. A total of fifty-two (52) minutes of news was monitored. The news

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<sup>5</sup> Appendix B: Compliance Reports

bulletins are broadcast in eighty percent (80%) Setswana and twenty percent (20%) in English. The following are some of the news items monitored:

- *"Two children have been killed and 11 others injured in a collision between a car and a taxi in Rustenburg on Tuesday morning. Emergency services say they arrived on the scene to find the taxi lying on its side and the car against a concrete fence a few metres away";*
- *"Residents say they are fed up that drugs and prostitution have become a norm in the city. Several alleged drug dens and brothels disguised as guest houses were torched by angry residents on Wednesday";*
- *"The case involving former North West Premier Supra Mahumapelo in the High Court in Johannesburg has been struck from the court roll, with the judge saying it's not urgent. Mahumapelo and the party's members were in court on Friday afternoon, challenging the African National Congress (ANC) national executive committee (NEC)'s decision to disband the provincial executive committee (PEC).";*
- *"Tona ya tsa matshelo Dr Aaron Motsoaledi a re o na tumelo ya gore sesole kgotsa SANDF e tla thuso go tisa meruso e eleng Mahikeng ka tlase ga taolo. Motsoaledi o boile se morago ga gore badiredi ba sa kgone go ya tirong ko maakelong a teropong-kgolo ya profense;"*
- *"Moeteledipele wa Democratic Alliance, Mmusi Maimane, a re mokgathlo o santse o ikaeletse go buisa le EFF tsamaisong ya mesepala wa City of Johannesburg le wa City of Tshwane. Maimane a re mokgathlo o tla emela dithlopho tsa May 2019 pele go tseiwa tshwetso.;" and*
- *"Babelaelwa ba le bararo ba ba golagantsweng le polao ya modiri wa mo malapeng, le go kgothosa bathapi ba gagwe ba ba setseng ba tsofetse kwa Mohadin, gaufi le Potchefstroom mono North West, ba ile go tlhagelela kwa kgotla-tshekelong ya magiseterata-wa-selegae gompiono ka ditatofatso tsa polao le kgothoso".*

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

### **3.5.3 Current Affairs**

Clause 5 of the licence stipulates that:

*"The licensee committed to broadcasting a current affairs programme during weekdays within the performance period. The current affairs programme will be conducted in 80% Setswana and 20% in other official languages".*

The Authority's monitoring confirmed that the Licensee broadcasts current affairs programming during weekdays. 'Viewpoint' was identified as one of the current affairs programmes broadcast by the Licensee. The programme is broadcast on weekdays between 18h00 and 19h00 and deals with a variety of current affairs issues, including sports preview, update and review. 'Flight 2 to 6' is a programme broadcast on weekdays between 14h00 and 18h00 and covers cultural, environmental issues and the latest trends in technology. The topic that was discussed in one of the monitored programmes meant to advise parents of the 21<sup>st</sup> Century on the importance of introducing their children to God, especially the youth, during this challenging times were they are exposed to drugs and crime when growing up. The programme featured an interview with a motivational speaker, Ms Johanna Mogoane.

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

### **3.6 Staff Incentive Scheme**

Clause 1 of the licence stipulates that:

*"Radio North West undertook to establish a trust for the benefit of staff members. The trust will hold 5% shareholding in the licensee".*

The Licensee reported in its compliance report dated 17 October 2012 that it will implement a staff trust by 31 January 2013 (See Appendix B). The Licensee has further expressed its difficulty in the form a letter with regards to complying with the Clause above attributing the challenges to the previous management. Further, there was a transfer of control to Motswako Media, in September 2018. In the public hearing of the renewal of the licence, the Licensee committed to fulfilling this licence conditions, by registering the trust by March 2019.

The Licensee further advised that the trust, post its registration would only be effective after 24-36 months, once the radios stations debt level has been reduced The Licensee undertook to provide the status regarding the registering of a staff trust in its Compliance report for quarter ending 28 February 2019, which information is still outstanding.

**Compliance on the above clause cannot concluded for the period under review.**

### **3.7 Employment Equity<sup>6</sup>**

Clause 3 of the licence stipulates that:

*"Radio North West undertook to employ 50% men and 50% women in its staff complement. The licensee further undertook to appoint the majority of its staff from the North West Province".*

The Licensee has submitted its organisational chart indicating that it has a staff complement is fifty-six percent (56%) female and forty-four percent (44%) male (See Appendix C).

**The Licensee has complied with clause 3 of its licence.**

## **4. REGULATIONS**

### **4.1. SA Music Content Regulations<sup>7</sup>**

Regulation 3 (2) of the ICASA South African Music Contents Regulations of 2016 stipulates that:

*"Every holder of a commercial sound broadcasting licence must ensure that after eighteen (18) months from the date of 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 reasonably evenly throughout the said period".*

North West FM broadcasts at least 35% South African music. The following are some of the songs identified: *"Love is blind" by Lady Zamar, "eGoli" by Mlindo the Vocalist, "Sbali" by Joe Nina and "Lion of Judah" by Lebo Sekgobela.*

**The Licensee complies with regulation 3.2 of the Regulations on South African Music Content.**

### **4.2 Standard Terms and Conditions for Individual Licences Regulations<sup>8</sup>**

During the year under review, the Authority did not identify any non-compliance by the North West FM with the standard terms and conditions for individual licences.

**The Licensee has complied with standard terms and conditions for individual licences.**

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<sup>6</sup> Appendix C: Management and Staff Structure

<sup>7</sup> Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016

<sup>8</sup> Appendix E: Standard Terms and Conditions for Class Broadcasting & Electronic Communications Network Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010, as amended

### **4.3 Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund<sup>9</sup>**

Regulation 3 (1) of the prescribed annual contribution of licences to USAF regulations published on 10 February 2011 stipulates 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".*

Regulation 3 (2) stipulates 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".*

Regulation 4 (2)(b) stipulates that:

*"Payments in respect of contributions to the fund are payable within 6 months from the end of the licensee's financial year."*

The Licensee paid its contribution to the Universal Service and Access Fund on 20 February 2020 and submitted proof of payment thereof, as required by the Regulations.

**The Licensee complies with Regulation 3(1) however does not comply with Regulation 4(2) (b) of the USAF Regulations.**

### **4.4 General Licence Fees Regulations<sup>10</sup>**

The General License Fees Regulations came into effect on the date of publication in the *Government Gazette* no. 32084, on 28 March 2013. Regulation 3 (1) stipulates that:

Schedule 2 under Annual Licences Fees Regulations stipulates that:

*"The annual Licence fees payable by Licensees in accordance with these Regulations are to be calculated using the formula set out herein, read with applicable percentages".*

Schedule 3; Regulation (7) (a) and (b) stipulates that:

*"(a) Annual payments are due annually based on the licensee's financial year;  
(b) Annual payments are due and payable within 6 months from the end of the licensee's financial year".*

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<sup>9</sup> Appendix F: USAF Regulations, 2011 as published in *Government Gazette* No. 34010 dated, 10 February 2011.

<sup>10</sup> Appendix G: General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013, as amended



The Licensees financial year end is 28 February, the Authority received payment on 20 February 2020, which is almost twelve (12) months after the financial year end. The Finance department will communicate the late payment penalty and an invoice will be issued to the Licensee accordingly.

**The Licensee complies with regulation 3 (1), however, failed to comply with Regulation 7 (b) of the Regulations.**

## **5. CONCLUSION**

North West FM has not sufficiently complied with its licence terms and conditions and regulations. The following were not complied with; clause 1 and clause 2 of its licence as well as schedule 3; Regulation 7 (b) of the General Licence Fees and Regulation 4 (2) (b) of the USAF Regulations.

The CCA will take up the matter with North West FM and the matter may be referred to the Complaints and Compliance Committee (CCC) for adjudication.

## **6. TERMS OF REFERENCE**

- 6.1** Appendix A: North West FM's Individual Service Licence;
- 6.2** Appendix B: Compliance Reports;
- 6.3** Appendix C: Management Structure;
- 6.4** Appendix D: South African Music Content Regulations;
- 6.5** Appendix E: Standard Terms and Conditions for Individual Licences;
- 6.6** Appendix F: Regulations in respect of the Prescribed Annual Contributions to the Universal Services and Access Fund; and
- 6.7** Appendix G: General Licence Fees Regulations.