



OFM ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/2019 ANNUAL COMPLIANCE REPORT

CENTRAL MEDIA GROUP (PTY) LTD BROADCASTING AS OFM

Licence Period: 17 December 2018 – 16 December 2028

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution¹, the Independent Communications Authority of South Africa Act² (ICASA Act), the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ 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 Central Media Group (Pty) Ltd broadcasting as OFM ("OFM") compliance for the 2018/2019 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, General Licence Fees Regulations.

2. BACKGROUND

OFM is an Individual Commercial Sound Broadcasting Service Licensee ("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 Provinces⁵.

3. COMPLIANCE ASSESSMENT

3.1 Name of Station

Clause 1 of the Schedule to OFM's licence provides that the name of the station is:
"OFM"

¹ The Constitution of the Republic of South Africa, No 108 of 1996.

² Act No. 13 of 2000, as amended.

³ Act No. 36 of 2005.

⁴ Act No. 4 of 1999.

⁵ Appendix A: OFM's Broadcasting Service License.

During the period under review the Licensee did not make any changes to its name. This was further confirmed during the monitoring exercise as the licensee identifies itself as 'OFM' during its broadcast as well as in its corporate branding.

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

3.2 Geographic Coverage

Clause 2 of the Schedule to OFM's 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."

The Licensee confirms that it provides geographic coverage to the areas as specified in its Radio Frequency Spectrum licence. Further, the Authority did not receive complaints in relation to the Licensee operating outside of its geographic coverage area.

The Licensee was found to be compliant with clause 2 of the Schedule to its licence.

3.3 Broadcast Language(s)

Clause 3 of the Schedule to OFM's licence provides that the broadcast language(s) is:

"English and Afrikaans"

The monitoring exercise confirmed that the Licensee broadcast in English and Afrikaans. The music that is played, is further representative of the broadcast languages identified in the Licensee's licence.

The Licensee was found to be compliant with clause 3 of the Schedule to its licence.

3.4 Format

Clause 4 of the Schedule to OFM's 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 information includes news, traffic and weather updates, sports coverage, current affairs discussions, raising awareness regarding various health, money and social issues and community announcements amongst others. The music as broadcast by the Licensee is of adult contemporary nature.

The Licensee was found to be compliant with clause 4 of the Schedule to its licence.

3.5 Local Content Obligations

Clause 5 of the Schedule to OFM's 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."

The Licensee during the period under review demonstrated its support for live music performances by South African artists such as Anton Goosen, Desmond and the Tutus, Aking Boo!, Jack Parow, Goodluck, Fokofpolisiekar, Edine Halloway, Sky Ocean, DJ Jakes, Lady Lea, Chunda Munki and Johnnie Takbok, amongst others. The following live music performance events were promoted and/or sponsored by the Licensee:

- *Lush Music Festival in Clarence from 29 February – 2 March 2019.*
- *Bloem Show Live Music Festival from 29 April – 3 May 2018.*
- *Free State Arts Festival from 8 – 14 July 2018.*
- *Gimme Tekkie Festival from 31 August – 1 October 2018.*
- *Carols by Candlelight on 27 November 2018.*
- *Reconciliation Day Celebrations on 15 December 2018.*

The Licensee was found to be compliant with clause 5.1.1 of the Schedule to its service licence.

The Licensee during the period under review regularly profiled South African composers⁶. Some of the interviews that was conducted with South African composers include interviews with:

⁶ Appendix B: OFM Report.

Ard Matthews; Jacobus Silwer; Majozi, Justin Sereo; Anna Davel. The 1925 Band; Jehtro Tait; Kahn Morbee; Caroline Grace; Jak de Preister; Chris Chameleon; Francois van Coke; The Parlotones; Rocco de Villiers and Daniel Barron.

The Licensee was found to be compliant with clause 5.1.2 of the Schedule to its service licence.

The Licensee submitted information regarding competitions and promotions that were held during the period under review. Some of the joint promotions and competitions that the Licensee had during the period under review include⁷:

- *Potch Jool Concert ticket giveaway.*
- *Tamryn Lamb CD competition.*
- *Albert Hanmond Concert Competition.*
- *Absolutely ABBA Concert ticket giveaway.*
- *Queen Day on OFM.*
- *Backstreet Boys Promotion.*

The Licensee was found to be compliant with clause 5.1.3 of the Schedule to its service licence.

The Licensee in the period under review played and promoted local music demonstration tapes or equivalent. Some of the new South African releases that was promoted include:

Charlie Finch "No Escape"; Janie Bay "The Fear Inside"; Roan Ash "If I Ever Saw Heaven"; Avida X Carla France "1,2,3"; Armand Joubert "So Gone"; Caroline Grace "Eindelse Liefde"; Dan Fuel "Loving Me Wrong"; Heuning "Maatstaaf" and Mai Bosman "Hou Vas".

The Licensee was found to be compliant with clause 5.1.4 of the Schedule to its service licence.

The Licensee was found to be compliant with the entirety of clause 5.1 of the Schedule to its service licence.

3.6 General Programming Obligations

Clause 6 of the Schedule to OFM's licence provides that:

⁷ *Ibid.*

"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 a minimum of seventy percent (70%) of its news is sourced from external sources⁸. These sources include Media24, SABC, African News Agency and the internet. The monitoring exercise found that any news that is broadcasted from sources outside of the Licensee is disclosed to its audience. The rest of the news is sourced by the OFM Content team and OFM regional correspondence.

The Licensee was found to be compliant with clause 6.1 of the Schedule of its service 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 020 481.00 in respect of the provision of news⁹.

The Licensee was found to be compliant with clause 6.2 of the Schedule to its service licence.

"6.3 The Licensee shall emphasis local news."

The monitoring exercise found that the Licensee does emphasis local news. Local news made up a minimum of fifty percent (50%) of news during the period under review. The following are some examples of news that was broadcast by the Licensee under the period under review:

- "The MT Steyn statue will be relocated to the War Museum in Bloemfontein. The University of the Free State rector and vice-chancellor, Professor Francis Petersen, told OFM News the council and the Steyn family have agreed to move the statue off campus. He adds the University submitted a proposal for the relocating process and are still awaiting an outcome."*
- "Selfoon netwerk konneksie kan binnekort ontwurg word as beurtkrag voortduur. Dit is volgens Suid-Afrika se twee grootste netwerk verskaffers soos ESKOM verlede week vir die eerste keer in die land se geskiedenis, fase vier beurtkrag"*

⁸ Appendix B: OFM Report.

⁹ *Ibid.*

geïmplementeer het. Sewe krag generasie eenhede het ophou werk wat sowat 20% van Suid-Afrika sonder elektrisiteit gelaat het.”

- *"Opposition parties in the Free State have voiced their displeasure at Premier Sisi Ntombela's inaugural state of the province address. Freedom Front Plus MP, Tammy Wessels, slammed Ntombela's address telling OFM News that the Premier was merely trying to score cheap votes with her many promises that cannot be realised. Wessels pointed out that Ntombela's announcement of the registration of close to five thousand people for land sites in the province is no feasible considering the existing backlog."*
- *"Vrae oor die wettigheid van die Vrystaat se ANC se verkiesingskonferensie sal na verwagting vandag beantwoord word. Regter van die Vrystaatse Hoogeregshof, Fouchè Jordaan, sal die uitspraak lewer oor die wettigheid van die konferensie en sy uitkomst voor vanmiddag. Regter Jordaan het die uitspraak twee weke verlede voorbehou nadat die opponerende raad elkeen hul argumente op 7 Februarie gelewer het."*

The Licensee was found to be compliant with clause 6.3 of the Schedule to its service 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 forty (40) minutes of news on weekdays and an average of twenty-one (21) minutes of news on weekends¹⁰. The aforementioned totals exclude the minutes of sports news. This submission was confirmed during the monitoring exercise. News is broadcast on the hour from 06h00 in the morning until 18h00 in the evening for an average duration of three (3) minutes. In addition, the Licensee broadcast half hourly bulletins during peak hours on week days for an average duration thirty (30) seconds per bulletin.

The Licensee was found to be compliant with clause 6.4 of the Schedule to its service licence.

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

¹⁰ Appendix B: OFM Report.

The Licensee submitted its editorial charter to the Authority¹¹. The objective of the editorial charter is to provide guidelines for the administration, style and management of the content on air and digital news as well as ensuring that the news coverage of OFM is fair, impartial and balanced.

The Licensee complies with clause 6.5 of the Schedule to its service licence.

Therefore, the Licensee was found to be compliant with the entirety of clause 6 of the Schedule to its service licence.

3.6 Community-related Obligations:

Clause 7 of the Schedule to OFM's 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 two hundred and ninety-eight (298) hours of on the job training to staff of CUT FM, Dihlabeng FM, LA FM, Motheo FM, Kopsie FM and Gold FM¹². The Licensee submitted the training programme as well as the attendance register to the Authority for the period under review. The training programme included training on: 'News Reporting and Fake News'; 'Imaging for your radio station'; 'Radio Clock Maintenance'; 'Research for Radio'; 'Legislation for Radio'; and 'Script writing for client commercials and Radio Station promotions.'

The Licensee was found to be compliant with clause 7 of the Schedule to its service licence.

3.7 Ownership and Control Obligations

Clause 8.1 of the Schedule to OFM's licence states that:

¹¹ *Ibid.*

¹² Appendix B: OFM Report.

"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 station¹³. Therefore, the Licensee maintains forty-four (44) percent of control of the station within the broadcasting coverage area.

The Licensee was found to be compliant with clause 8.1 of the Schedule to its service licence.

Clause 8.2 of the Schedule to OFM's service 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."

The Licensee submits that ownership and control of the stations by persons from historically disadvantaged groups is at 36.65%¹⁴. This is a culmination of the 14.12% as held by African Media Entertainment Ltd and the 100% as held by Kagiso Media Investments (Pty) Ltd.

The Licensee was found to be compliant with clause 8.2 of the Schedule to its service licence.

Clause 8.3 of the Schedule to OFM's licence states:

"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 follows¹⁵:

- Jafta, C.D (Coloured, Male)
- Mtshali, D.S (Black, Male)
- Kolobe, R (Black, Female)
- Myburgh, E (White, Female)
- Prinsloo, M.J (White, Male)
- Efstathiou, N.D (White, Male)

¹³ *Ibid.*

¹⁴ Appendix B: OFM Report

¹⁵ *Ibid.*

- Thamoe, P.N (Black, Female)
- Tlhankana, I.I (Black, Female)
- Vermeulen, M.M.M (White, Female)

The Licensee was found to be compliant with clause 8.3 of the Schedule to its service licence.

Therefore, the Licensee was found to be compliant with the entire clause 8 of the Schedule to its service licence.

3.8 Training and Skills Development Obligations

Clause 9.1 of the Schedule to OFM's 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 one million five hundred fifty-one thousand seven hundred and thirty-eight Rand (R1 551 738) on training and skills development for persons from historically disadvantaged groups.¹⁶

The Licensee was found to be compliant with clause 9.1 of the Schedule to its licence.

Clause 9.2 of the Schedule to OFM's 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 fifteen (15) African staff, nine (9) Coloured and one (1) Indian staff. As such the licensee has a black staff component of forty-three-point eighty-six (43, 86%) percent¹⁷.

The Licensee was found to be compliant with clause 9.2 of the Schedule to its licence.

Therefore, the Licensee was found to be compliant with the entire clause 9 of the Schedule to its service licence.

¹⁶ Appendix B: OFM Report.

¹⁷ *Ibid.*

4. REGULATIONS

4.1 Compliance Procedure Manual Regulations, 2011 – 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 12A¹⁸. 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. Complaints received and resolved internally were all addressed within a one-day turnaround time.

Further, the Licensee has published its complaints procedure on its website as well as regularly broadcasts advertisements from the BCCSA informing listeners as to the process of lodging a complaint with the before-mentioned commission.

The Licensee was found to be compliant with the Compliance Procedure Manual, as stated above.

4.2 Regulations regarding Standard Terms and Conditions for Individual Broadcasting Licensees, 2010 as amended

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 Licences¹⁹.

The Licensee was found to be compliant with the Standard Terms and Conditions for Class Broadcasting Service Licensees, 2010 as amended.

4.3 ICASA South African Music Content Regulations, 2016

Regulation 2 of the ICASA South African Music Content Regulations, 2016 provides that:

¹⁸ ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

¹⁹ Appendix C: Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010 as amended.

*"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"*²⁰.

The Licensee submits that it broadcasts an average of forty (40) percent of South African music tracks. In addition, the Licensee 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 of total South African music content as broadcasted by the Licensee is above forty (40) percent. The submission was confirmed during the monitoring exercise.

The Licensee was found to be compliant with the Regulations on South African Music.

4.4 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, 2011²¹ 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)."*²²

The Licensee made payment to the fund on the 30th of September 2019 and submitted the proof thereof to the Authority.

The Licensee was found to be compliant with the USAF Regulations, 2011

4.5 General Licence Fees Regulations, 2012

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."*²³

²⁰ Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016.

²¹ Published in *Government Gazette* No. 34010 dated, 10 February 2011.

²² Appendix E: USAF Regulations, 2011 as published in *Government Gazette* No. 34010 dated, 10 February 2011.

²³ Appendix F: General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013.

Schedule 2 of the Annual Licenses Fees regulations provide for Individual Commercial Broadcasting Services Licensees to pay an annual licence fee of 1.5% to the Authority. Regulation 4(b) and (c) of Schedule 3 states 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."*²⁴

The Licensee made its general licence fees payment on the 30th of September 2019 and submitted the proof thereof to the Authority.

The Licensee was found to be compliant with the General Licence Fees Regulations, 2012.

5. CONCLUSION

The monitoring exercise confirms that the Licensee was found to be compliant with all the obligations as per its licence and the relevant Regulations during the period under review. The Authority will continue to monitor the compliance of the Licensee for the next period under review.

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 Broadcasting Licensees, 2010 as amended;
- 6.4 Appendix D: South African Music Regulations, 2016;
- 6.5 Appendix E: USAF Regulations, 2011 AND
- 6.6 Appendix F: General Licence Fees Regulations, 2012.

²⁴ *Ibid.*