



POWER FM ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/19 ANNUAL COMPLIANCE REPORT

POWER 98.7 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 (“EC Act”) 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 Electronic Communications Act, the ICASA Act, 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 2018/2019 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 EC Act.

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 Power 98.9 provides that:

"The licence is issued to:

1.1 "Name of Company/Entity: Power 987 FM (Pty) Ltd

2 Name of Station: Power 987 FM".

The monitoring exercise indicates that the Licensee refers to itself as Power 987 FM (Pty) Ltd.

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. Power FM does not comply with the clause 1.2 on shareholding because according to the Authority's records, MSG Africa (Pty) Ltd which had a shareholding of 19% has been removed as a shareholder and there is no record of a change of name and or shareholders, filed with the Authority.

Further, the apparent new shareholder, Janistone (Pty) Ltd with 86.26% that is far beyond the allowed limit (20%), in terms of section 66 (5) of the ECA. Also, the change from MSG Africa (Pty) Ltd Janistone (Pty) Ltd, means that was a transfer which ought to be in terms of sec 13 of the ECA. If that was not followed, it means Power FM may be in contravention of the ECA and a potential referral to the CCC.

The Licensee does not comply with clause 1.2 of its license.

3.2 Geographic Coverage Area

Clause 2 of the schedule to Power 98.7 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 the schedule to its licence.

3.3 Broadcast Language

Clause 3 of the schedule to Power 98.7 FM's licence provides that:

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

Power 98.7 broadcasts programmes in English as its primary language.

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

3.4 Format

Clause 4 of the schedule to Power 88.7 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 the schedule to its licence.

3.5 Local Content Obligations

Clause 5 of the schedule to Power 98.7 FM 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% was South African music. The following music featured amongst others: *Vum Vum* by Brown Dash, *Fairytale* by Liquideep, *Stimela sase Zola* by Mbongeni Ngema, *Scatterlings* by Johnny Clegg, *Welela* by Meriam Makeba.

The Licensee complies with clause 5 of the schedule to its licence.

3.6 General Programming Obligations

Clause 6.1 of the schedule to Power 98.7 FM's 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 broadcast 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 broadcast 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 the schedule to its licence.

Clause 6.2 of the schedule to Power 98.7 FM's 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, during the period under review.

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

Clause 6.3 of the schedule to Power 98.7 FM's licence provides that:

"The Licensee shall emphasize 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 have confirmed that it has employed a news team specifically for the production of local news.

The Licensee complies with clause 6.3 of the schedule to its licence.

Clause 6.4 of the schedule to Power 98.7 FM's 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 on the during 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.

- *"Health Minister Aaron Motsoaledi says he is confident that the South African Defence Force's intervention in providing health care services at the Mahikeng provincial hospital will go a long way";*
- *"The African National Congress (ANC) in Gauteng says it is outraged by threats made against MEC Panyaza Lesufi and his children by a group of white people who have accused him of "raping Afrikaans".*
- *"Legendary Zimbabwean musician Oliver Mtukudzi has died at the age of 66 after a short illness. Mtukudzi was also a businessman, philanthropist, human rights activist and Unicef goodwill ambassador for Southern Africa Region";*
- *"Residents of Alexandra disrupted Joburg Mayor Herman Mashaba's address at the Marlboro community hall on Monday evening. They called for the mayor to come to Alexandra.";*

- *"Gauteng Sports and Recreation MEC Faith Mazibuko has demanded combi court sports facilities from her staff to help the ANC win elections. In a leaked recording, Mazibuko threatened her staff with dismissal if they failed to flout regulations and build sport facilities."; and*
- *"Zimbabwe President Emmerson Mnangagwa, a former spy chief installed after Robert Mugabe's removal in a coup in November, was elected on Thursday after a poll marred by the deaths of six people in an army crackdown on opposition protests."*

The Licensee complies with clause 6.4 of the schedule to its licence.

Clause 6.5 of the schedule to Power 98.7 FM's licence provides that:

"The Licensee will also broadcast breaking news as they unfold and these are likely take 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 schedule to Power 98.7 FM's 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 the schedule to its licence.

3.7 Ownership and Control Structures of the Licensee

Clause 7 of the schedule to Power 98.7 FM's 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 the schedule to its licence.

3.8 Specific Terms and Conditions

Clause 8 of the schedule to Power 98.7 FM's licence provides that:

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

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

The Licensee complies with clause 8 of the schedule to its licence.

4. REGULATIONS

4.1 SA Music Content

Regulation 3.2 of the ICASA South African Music Content Regulations, 2016⁴, 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 Power 98.7 FM played approximately forty five percent (45%) of South African Music spread reasonably evenly throughout the Performance Period.

³ Appendix C: B-BBEE Verification Certificate

⁴ Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016.

The South African artists featured included among others: Vum Vum by Brown Dash, Fairytale by Liquideep, Stimela sase Zola by Mbongeni Ngema, Scatterlings by Johnny Clegg and Welela by Meriam Makeba.

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 Licence, 2010⁵, as amended, stipulates that:

"(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 did not identify any instances of non-compliance by the Licensee with the above regulation.

The Licensee 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)".

⁵ 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

⁶ Appendix F: USAF Regulations, 2011 as published in *Government Gazette* No. 34010 dated, 10 February 2011

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 end is in February. The Licensee is yet to pay its contribution to the Universal Service and Access Fund as required by the 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; and*
- 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.

⁷ Appendix H: General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013, as amended.

5. CONCLUSION

Power 98.7 FM has reasonably complied with its licence terms and conditions and regulations, for the period under review. However, the Licensee has failed to comply with clauses 1.2 and 6.2 of the schedule to its licence terms and conditions. The Licensee also failed to comply with regulation 3.1 in respect to Annual Contribution to the Universal Service and Access Fund and Licence Fees. The Authority will attend to the matter with the urgency it calls for, including a potential referral to the Complaints and Compliance Committee (CCC).

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