



M NET ANNUAL COMPLIANCE REPORT

MARCH 2021

2019/2020 ANNUAL COMPLIANCE REPORT

ELECTRONIC MEDIA NETWORK LIMITED BROADCASTING AS M NET

LICENCE PERIOD: 17 December 2008 – 16 December 2023

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution¹, the ICASA Act², the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ 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, and any relevant legislation and regulations.

The following report is intended to give account of M Net's compliance with the terms and conditions as set out in its licence for the 2019/2020 financial year. Aspects of compliance that are measured comprise of licence conditions pertaining to Geographic Coverage, Language (s) of broadcast, Format, Training and Skills Development and Ownership by persons from historically disadvantaged groups. Furthermore, the Licensee will be measured in relation to the following regulations, the ICASA South African Television Content Regulations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund (USAF), Regulations on Commissioning Protocols, ICASA Must Carry Regulations, General Licence Fee Regulations and the Code of Conduct for Broadcasters.

2. BACKGROUND

The Authority issued a subscription broadcasting licence on 17 December 2008 to Electronic Media Network Limited broadcasting as M Net valid for fifteen (15) years from the effective date. The Licensee provides subscription television broadcasting services in the Republic of South Africa.

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.

According to Form 6B⁵ of the Compliance Procedure Manual Regulations submission, the subscription figures for period ending March 2020 was 1,328 000.

3. COMPLIANCE ASSESSMENT

3.1. Geographic Coverage Area

Clause 2 of the schedule to M Net service licence stipulates that:

"The licence area of the Licensee is the Republic or any part thereof".

The coverage area is as per the coverage map on the frequency spectrum licence. The signal distribution is provided for by Orbicom (Pty) Ltd.

The Licensee complies with its geographic coverage area.

3.2 Broadcast Language (s)

Clause 4 of the schedule to M Net service licence stipulates that:

"This is left to the discretion of the Licensee".

MNet's programming is predominantly in English with some drama programmes broadcast in Afrikaans.

The Licensee complies with its language of broadcast.

3.3 Format

Clause 5 of the schedule to MNet service licence stipulates that:

"The Licensee is licensed to provide an entertainment service, including but not limited to feature films, sports events, magazine and community programming, documentary features, news, information programming and drama".

The Licensee's broadcast their weekday breakfast show called "Die Groot Ontbyt" which includes news bulletins, drama programmes such as *Grey's Anatomy*, their Sunday blockbuster movie segment from 20H30 with sports coverage for Rugby and Cricket games, among others.

The Licensee complies with its format.

⁵ Form 6B of CPMR

3.4 Training and Skills Development Obligation

Clause 6 of the schedule to M Net service licence stipulates that:

- (1) *"The Licensee must adopt equal employment opportunities."*
- (2) *The Licensee must ensure that its management and staff are representative of South African society and that its human resource policies, particularly with regards to persons from historically disadvantaged groups, take into account the development of managerial, production and technical skills and expertise".*

The Licensee submitted its Form 1⁶ in line with the Compliance Procedure Manual Regulations. The submission provides a breakdown of the total number of employees (permanent and non-permanent) to a total of two hundred and eight five (285) for the year under review. There is a significant number of persons from historically disadvantaged groups in Top Management, Senior Management, Professional and skilled levels with the overall of over 80% of the work force, being from historically disadvantaged groups. That demonstrates that the Licensee is committed to equal employment opportunities

The Licensee complies with its training and skills development obligation.

3.5 Ownership by persons from historically disadvantaged groups

Clause 7 of the schedule to M Net service licence stipulates that:

"The Licensee shall have no less than thirty percent (30%) ownership from historically disadvantaged groups"

The Licensee's submits in their Form 1⁷ of the Compliance Procedure Manual Regulations that it has no less than the required ownership threshold from historically disadvantaged groups.

The Licensee complies with clause 7 of the schedule to its service licence.

4. REGULATIONS

4.1 ICASA Must Carry Regulations

⁶ Form 1 of CMPR

⁷ Ibid

Regulation 5 of ICASA Must Carry Regulations as published on government gazette No. 31500 on 10 October 2008 stipulates that stipulates that:

"(1) subject to regulation (5) (3) a subscription broadcasting service (SBS) whose service offering has twenty-nine (29) channels or less is exempt from the obligation to carry the television programmes of the PBS Licensee"

"(2) (a) a SBS may be exempted where a written notice has been submitted to the Authority by the SBS Licensee; and (b) Approval of such exemption has been granted in writing by the Authority"

The Licensee has less than twenty-nine channels and therefore, MNet has been exempt by the Authority from the above-mentioned regulations.

The Licensee complies with the ICASA Must Carry Regulations.

4.2 Regulations on the Commissioning of Independently Produced South African Programming

Regulation 3 (a) of the Regulations on Commissioning Protocols as published in the government gazette no 32767 on 01 December 2009 stipulates that:

"(i) A Licensee must compile and maintain a Commissioning Protocol for Independently Produced South African Programming" (referred to as "the Protocol").

"(iii) ensure that copies of the Protocol are always available on their websites and to independent producers or their agents, a reasonable fee for the printing and/or copying thereof".

Regulation 4 Commissioning Protocol stipulates that:

"A licensee must submit an annual report to the Authority setting out its respective procurement activities in respect of independently produced South African programming from independent producers for the year preceding the date of the report"

MNet submitted their Commissioning Protocol to the Authority and a copy of the Commissioning protocol is available in the Licensee's website⁸. Furthermore, the

⁸ <https://m-net.dstv.com/page/commissioning-protocol>

Licensee has submitted a report to the Authority for the 2019/2020 financial year accordingly.

The Licensee complies with the Commissioning Protocol Regulations.

4.3 Standard Terms and Conditions

The Authority did not identify instances of non-compliance by the Licensee with the Regulations regarding Standard Terms and Conditions for Individual Licences during the year under review.

4.4 Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund

Regulation 3 of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF), published in Government Gazette, No. 34010 of 10 February 2011, stipulates that:

(1) "Every holder of a licence granted in terms of Chapters 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".

(2) "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".

MNet have paid their contribution to the Universal Service and Access Fund on 30 September 2020.

The Licensee complies with the USAF regulations.

4.5 General Licence Fees Regulations

Regulation 3 (1) of the General Licence Fees Regulations published on Government Gazette No. 36323 dated, 28 March of 2013 stipulates 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 BS Licences".

Schedule 2 provides for Licensees to pay an annual licence fee in accordance with their licensed revenue and to be calculated using the set formula.

Regulation 7(a) (b)(c) of Schedule 3 provides that Annual Licence Fees:

- a) *"Are due annually based on the licensee's financial year;*
- b) *Are due and payable within 6 months from 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".*

MNet's financial year end is March and they paid their licence fees on 30 September 2020 which is within the six months after their year-end.

The Licensee complies with the General Licence Fees Regulations.

4.6 South African Television Content Regulations

Regulation 6 (2) of the South African Television content regulations as published in the Government Gazette No 39844 on 23 March 2016 stipulates that:

"A subscription television broadcasting licensee that acquires channels must ensure that, a minimum of 15% of their total annual channel budget, measured across its services as a whole, is spent on channels with local television content that are compiled and up linked from South Africa"

The Licensee submitted that it allocates eight four (84%) percent of its annual channel acquisition budget to local content television content.

Regulation 7 stipulates that:

- (1) *Public, commercial, community, and subscription television broadcasting licensees must ensure that a minimum of 40% of their local television content programming consists of programmes which are independent television productions and the independent television production are spread evenly between, South African arts programming, South African drama, South African documentary, South African knowledge- building, South African children's and South African educational programming.*

- (2) *A Public, commercial, community, and subscription television broadcasting licensees must ensure that after twenty-four (24) months of the gazetting of these regulation or such longer period as the Authority may determine, that a fifty (50%) percent of annual independently produced programmes budget is spent on previously marginalised local African languages and/or programmes commissioned from regions outside the Durban, Cape Town and Johannesburg Metropolitan cities”*

The Licensee submitted that it allocates its local content budget to the independent production sector in compliance with Regulation 7 (1). Further, the majority of the independent production content has been allocated to marginalised local African languages in compliance with regulation 7 (2). A copy of the Auditors’ submission in relation to the local content provision has been submitted accordingly. The table below shows the Licensee’s compliance with the above-mentioned regulations.

Table 1. Allocation to the independent production sector

Regulation	Requirement	M-Net performance
6.2	15% of total channel acquisition budget spent on local channels	84%
7.1	40% of the above local programming commissioned to the independent production sector (40% of 1869 hours = 747.60 hours)	1869 hours
7.2	50% of the budget for the above spent on programmes which have African languages or produced by companies outside JHB, CT and Durban	99,7%

M-Net’s local content performance has been reviewed by its auditors.

The Licensee complies with the South African Television Content Regulations.

4.7 Code of Conduct for Broadcasters

The Licensee is a member of the National Association of Broadcasters (NAB) and complaints in relation to the Code of Conduct for Broadcasters, are administered by the Broadcasting Complaints Commission of South Africa (BCCSA).

5. CONCLUSION

The Licensee has complied with the relevant Regulations and its service license terms and conditions for the year under review

6. TERMS OF REFERENCE

- 6.1 Appendix A: M Net broadcasting service licence
- 6.2 Appendix B: Form 6B of the CPMR
- 6.3 Appendix C: Form 1 of the CPMR
- 6.4 Appendix D: Employment Equity and Recruitment Report
- 6.5 Appendix E: Commissioning Protocols Regulations
- 6.6 Appendix F: General Licence Fees Regulations
- 6.7 Appendix G: Universal Service and Access Fund Regulations
- 6.8 Appendix H: Must Carry Regulations
- 6.9 Appendix I : Standard Terms and Conditions for Individual Licensees
- 6.10 Appendix J: South African Television Content Regulations
- 6.11 Appendix K: Code on People with Disabilities Regulations

End

March 2021