



# **MOSUPATSELA FM STEREO ANNUAL COMPLIANCE REPORT**

**MARCH 2021**

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# 2019/2020 ANNUAL COMPLIANCE REPORT

## MOSUPATSELA FM STEREO

**LICENCE PERIOD: 27 OCTOBER 2018 to 26 OCTOBER 2023**

### 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<sup>2</sup>, the Electronic Communications Act<sup>3</sup> (ECA) and the Broadcasting Act to regulate broadcasting activities in the public interest. The Authority has a mandate to ensure compliance by broadcasters with the terms and conditions of the licence, the ECA, the ICASA Act and any other relevant legislation and Regulations.

The purpose of the report is to give account of Mosupatsela FM Stereo's compliance with the terms and conditions as set out in its licence for the 2019/2020 financial year. Aspects of compliance that will be measured comprise Geographic Coverage, Community Participation, Programming, Format, News and Information, Local Content Obligation, Language(s), South African Music Content Regulations, Regulations Regarding Standard Terms and Conditions.

### 2. BACKGROUND

Mosupatsela FM Stereo is a class broadcasting service Licensee providing services to a geographic community residing in Botshabelo, Morakge, Thaba Nchu, Klipfontein, Masham, Wolwepoort and surrounding areas in the Free State Province. The radio station provides a programming format that is a mix of talk radio and music.

### 3. COMPLIANCE ASSESSMENT

#### 3.1 Control Structure

Clause 1 of the schedule to the licence provides that:

*"The Licence is issued to:*

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<sup>1</sup> The Constitution of the Republic of South Africa, No 108 of 1996

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

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

- 1.1 *Name of company/entity: Mosupatsela FM Stereo.*
- 1.2 *Name of Station: Mosupatsela FM Stereo.*
- 1.3 *Control of the Licensee: Control shall vest in the Board of Directors of Mosupatsela FM Stereo”.*

The company registration documents that were submitted by the Licensee indicate that the Licensee changed its company name. However, these changes were not reported to the Authority.

**The Licensee did not comply with clause 1 of the schedule to its licence.**

### **3.2 Licence Period**

Clause 2 of the schedule to the licence provides that:

- 2.1 The effective date of the licence is 27 October 2018; and*
- 2.2 The licence shall expire on 26 October 2023.”*

The licence is currently up to date and only expires on 26 October 2023.

**The Licensee complies with clause 2 of the schedule to its licence.**

### **3.3 Licence Area**

Clause 3 of the schedule to the licence provides that Mosupatsela FM Stereo’s coverage area is as follows:

*“The Licensee shall provide services to Botshabelo, Morakge, Thaba Nchu, Klipfontein, Masham, Wolwepoort and surrounding areas in the Free State Province. as set out in the Licensee’s radio frequency spectrum licence”.*

The Licensee confirmed that it provides a service to licensed area as set out in the Licensee’s radio frequency spectrum licence.

In the year under review, the Authority did not receive any reports or complaints indicating that the radio station has gone beyond its licenced area.

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

### **3.4 Community**

Clause 4.1 of the schedule to the licence provides that:

*"The Licensee shall provide services to a geographic community residing within the geographic coverage area specified herein".*

The Licensee submitted and confirmed that it provides a sound broadcasting service as prescribed in its licence document.

#### **The Licensee complies with clause 4.1 of the schedule to its licence.**

Clause 4.2 of the schedule to the licence provides that:

*"The Licensee shall provide for the participation of community members in the affairs of the station in the following ways:*

*4.2.1 The Licensee shall hold at least two (2) meetings annually with its community on programming and programme-related matters for the selection and provision of programmes; and*

*4.2.2 The Licensee shall furnish the Authority with proof of such meetings as well as the attendance thereof by members of the community".*

During the period under review, the Licensee did not submit any information regarding meetings held with its community regarding programming and programming policies of the station, for the year under review.

#### **The Licensee did not comply with clause 4.2 of the schedule to the licence.**

Further, clause 4.2.3 provides that:

*"The Licensee shall hold an Annual General Meeting for the following purposes:*

*4.2.3.1 To provide feedback on the Licensee's compliance with licence conditions;*

*4.2.3.2 To provide feedback on the Licensee's operational and financial performance, an any Special Annual General Meeting as and when required by the Constitution; and*

*4.2.3.3 To elect members of the controlling structure e.g. Board of Directors, Trustees etc. subject to the Licensee's founding documents".*

The Licensee confirmed that it did not hold an Annual General Meeting during the period under review.

**The Licensee did not comply with sub-clause 4.2.3 of the schedule to its licence.**

### **3.5 Programming**

Clause 5.1 of the schedule to the licence provides that:

*“The Licensee shall provide programming as follows”:*

*5.1.1 Local News and Information: The Licensee shall broadcast a total of thirty (30) minutes of news during the week and fifteen (15) minutes during weekends. These shall include community, national and international news.*

The Authority’s monitoring exercise revealed that the Licensee broadcasts more than two hundred and fifty (250) minutes of news during the week and more than fifty (50) on weekends. The news bulletins are all Sesotho and they cover community and national news. No international news was identified during the monitoring exercise.

The following are some of the news items that were identified:

- *“Tebello ke ho re MoPresidente Cyril Ramaphosa o tlilo tshetlehela batjha ba banna ba sekete puo, Motseng wa Tweeling, Mafahlaneng; ha mmoho le Tonakgolo ya Free State, e leng Mme Sisi Sefora Ntombela. Sena se bonahala ha e le hore ke ho tla lemosa batjha le ho ba eletsa ba sa ntsane ba le banyane dilemong, ho re ba ka lwantsha ditlhekefetso kgahlano le basadi le bana ka mokgwa o jwang.”*
- *Baahi ba motse wa Botshabelo ba tswhenyehileng ke diketsahalo tse soto tse etsahalang ka hare ho motse wa Botshabelo, ba memela baahi ba Botshabelo kopanong e tlilo tshwarelwa pakeng motseng wa Botshabelo haufi le lebala la dipapadi la Kaizer Sebothelo. Dibuseng Atoro ho hlaha komiting ya baahi o hlalosa ka botlalo sepheo sa kopano eo ya bona. O boletes ha ba sa kgethe bong kapa dilemo bakeng sa batho ba ka tlang kopanong eo hoba diketso tsa botlokotsebe di ama batho bohle.*
- *Modulasetulo wa komiti ya nakwana ya Palemente e ntseng e nonya setjhaba maikutlo ka ho fetolwa ha karolo ya bomashome a mabedi le metso e mehlano ya Molaotheo, ya kgapo ya mobu ntle le ditlhapiso, e le Dr Mathole Motshekga, o re taba yak abo ya mobu e hlokolotsi haholo mme e lokelwa ho rarollwa kapele. O re maAfrika Borwa a momme masoko ha ho fihlwa ntlheng ena, mme ba tseka kabo ya mobu ka potlako.*

- *O buile sena Welkom moo komiti ena e neng e nonya baahi maikutlo maobane ka kgapo ya mobu ntle le ditlhapiso. Kajeno teng, komiti ena e leba Bohlokong, Bethlehem, Free State botjhabela ho ya nonya setjhaba maikutlo ka ho fetolwa ha molao wa bomashome a mabedi a metso e mehlano ya Molao wa Motheo ya kgapo ya mobu.*

The Licensee broadcasts more than the prescribed minutes of news per week.

### **The Licensee was found to be compliant with its news obligation.**

*Clause 5.1.2 of the licence provides that:*

*"South African Music Content: 70%"*

The reports submitted by the Licensee show that it broadcast an average of seventy percent (70%) of South African music content.

The Authority's monitoring exercise revealed that the radio station broadcasts approximately sixty percent (60%) of South African music content.

### **The Licensee did not comply with its South African Music Content obligations.**

Clause 5.1.3 of the licence provides that the format is as follows:

*"60% Talk and 40% Music"*

The Licensee's shows are a mixed blend of music and talk though with more talk. The radio station has talk shows throughout the day whereby important discussions and interviews on issues that affect the community, are held. Motivational talk, relationship issues, health and employment matters were among the topics that were discussed during the monitoring exercise. There is also listener interaction in most of the shows and the station also has two (2) current affairs shows for one hour each daily.

The monitoring exercise confirmed that the Licensee's format is as prescribed in the licence.

### **The Licensee complies with its prescribed format.**

Clause 5.1.4 of the licence provides that:

*Language(s) of broadcast:*

*5.1.4.1 Sesotho – 65%;*

5.1.4.5 English – 5%;

5.1.4.3 isiXhosa – 10%; and

5.1.4.4 Setswana – 20%.

The monitoring exercise revealed that Sesotho was the Licensee's main language of broadcast. The other languages are used interchangeably throughout the station's programmes. However, the monitoring exercise revealed that Setswana is used more than isiXhosa in the station's programming.

**The Licensee substantially complies with its languages of broadcast obligation.**

**The Licensee substantially complies with clause 5.1.4 of the schedule to its licence.**

Clause 5.2 of the schedule to the licence provides that:

*"The Licensee shall keep a log of programmes broadcast which must be submitted on a monthly basis to the Authority. A pro-forma of the log to be kept will be supplied by the Authority".*

The Licensee did not submit programme logs to the Authority on a monthly basis during the period under review.

**The Licensee did not comply with clause 5.2 of the schedule to its licence.**

#### **4 PROMISE OF PERFORMANCE**

Clause 8.1 of the schedule to the licence provides that:

*"The Licensee shall establish advisory committees of members of the community to ensure participation in all aspects of the station".*

The Licensee did not submit any information under this clause.

**The Licensee did not comply with clause 8.1 of the schedule to its licence.**

Clause 8.2 of the schedule to the licence provides that:

*"The Licensee shall develop broadcasting training programmes for the youth, elderly and people with disabilities in the community".*

The Licensee submitted that they have a Volunteer programme where they give the volunteers on the job training as they interact with experienced members of staff. Licensee however, did not give demographic details of candidates.

**The Licensee complies with clause 8.2 of the schedule to its licence.**

Clause 8.3 of the schedule to the licence provides that:

*"The Licensee's programming shall include programmes on education, health and community development issues."*

The monitoring exercise revealed that the Licensee's programming includes education, health and community development issues. The morning drive show has a slot that gives small businesses, an opportunity to promote themselves. Employment opportunities are also shared with job seekers on air. Experts on legal matters like family law, health professionals, women and youth empowerment were heard discussing their respective fields during the monitoring exercise.

**The Licensee complies with clause 8.3 of the schedule to its licence.**

## **5 COMPLAINTS**

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A which reports on all complaints received during the financial year under review.

The Licensee has not submitted a Form 12A (Complaints Report) as required by the Compliance Procedure Manual Regulations.

**The Licensee did not comply with the relevant clause of the Compliance Procedure Manual Regulations.**

### **5.1 ICASA Regulations on South African Music**

Regulation 3 (3) of the Regulations on South African Music Content as published on 23 March 2016 stipulates that:

*"A holder of a community sound broadcasting licence must ensure that after eighteen (18) months of the gazetting of these regulations, a minimum of 60%, increasing by 10% annually*



*to reach 80% 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”.*

For the period under review, the obligation in accordance with the SA Music Regulations above, it is that for at community sound broadcasting Licensees play least eighty percent (80%) of South African music content.

The reports submitted by the Licensee shows that it broadcasts an average of seventy (70) percent South African music content. The Authority’s monitoring exercise revealed that the radio station broadcasts approximately seventy percent (70%) of South African music content. Various genres were identified on the station’s music line-up including House, Hip Hop, Gospel and Kwaito with artists such as *Kholeka, Semito, Holly Rey, Mango Groove, Ntando, Lucky Dube, Moneoa, Karabo, Steve Kekana* and many others being played.

**The Licensee did not comply with the ICASA Regulations on South African Music.**

## **5.2 Regulations Regarding Standard Terms and Conditions for Class Broadcasting Licences**

The Licensee did not adhere to the Regulations on Standard Terms and Conditions for class licences, as it did not submit all the information required by the Authority. The monitoring exercise also revealed that the Station Manager occupies dual roles by also being a presenter on the station, which is in contravention of Clause 10A (7) (d) of the Regulations on Amended Standard Terms and Conditions for Class Licences, 2016 published in *Government Gazette* No. 39872 dated, 30 March 2016. The regulation provides that:

*“The Board of Directors/Trustees and station management must not occupy dual roles with regard to being managers/presenters at the station”.*

**The Licensee did not comply with the relevant clause of the Standard Terms and Conditions for Class Broadcasting Licences.**

## **6 CONCLUSION**

The Licensee generally complies with most provisions of its licence conditions and applicable Regulations. The areas of non-compliance will be brought to the attention of the Licensee. The Authority will engage the Licensee regarding these areas, to guide and assist the Licensee to remedy the non-compliance.

However, where the Licensee does not satisfactorily remedy the non-compliance as outlined in the report here, Heartbeat FM will be referred to the Complaints and Compliance Committee ("CCC"), for a hearing and adjudication.

## **7 TERMS OF REFERENCE**

- 7.1** Appendix A: Mosupatsela FM Stereo's Service and Spectrum Licences;
- 7.2** Appendix B: Class Broadcasting & Electronic Communications Network Services, 2010 as published in *Government Gazette* No. 33296 dated, 14 June 2010, as amended;
- 7.3** Appendix C: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016, and
- 7.4** Appendix D: ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

**END**

**March 2021**