



# **POWER FM ANNUAL COMPLIANCE REPORT**

**MARCH 2021**

# **2019/2020 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 2019/2020 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 licence<sup>1</sup> and a Radio Frequency Spectrum licence<sup>2</sup> 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.

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Control Structure**

##### **3.1.1 Ownership and Control**

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<sup>1</sup> Appendix A: Power 98.7 FM Broadcasting Service Licence

<sup>2</sup> Appendix B: Power 98.7 FM Frequency Spectrum Licence

Clause 1 of Power FM 98.7 provides that:

*"The licence is issued to:*

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

*1.2 Name of Station: Power 987 FM".*

The monitoring exercise indicates that the Licensee refers to itself as Power 98.7 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%

According to the Authority's records, Power FM did not file a notice with regards to the changes in shareholding, in line with the standard terms and conditions regulations. The Licensee was notified, previously, of this irregularity and advised to correct it accordingly. However, to date the Licensee has not rectified the irregularity.

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

**3.2 Contact Details**

Clause 2 of the schedule to Power 98.7 FM's licence provides that:

*1.3 "The contact person for the Licensee shall be:*

*1.3.1 Name: Mr. Adolph Letsoalo;*

*1.3.2 Tel: 010 014 9000;*

*1.3.3 Fax: 011 014 9099;*

*1.3.4 Email: [adolphi@power987.co.za](mailto:adolphi@power987.co.za)*

**3.3 Notices and Addresses**

Clause 3 of the licence provides that:

*3.1 "The Licensee chooses the following addresses as its principal addresses:*

*3.1.1 Postal Address: PO Box 5313*

*Rivonia  
Bryanston  
2191*

*3.1.2 Physical Address: 79 Central Street  
Houghton Estate  
2198*

The were no changes reported by the Licensee to its principal addresses during the period under review. The Licensee has however changed its contact person and is yet to notify the Authority formally of its new contact person.

**The Licensee did not comply fully with clause 2 of the schedule to its licence.**

### **3.4 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.**

### **3.5 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.**

### **3.6 Format**

Clause 4 of the schedule to Power 98.7 FM 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 broadcasts a full service, is 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.**

### **3.7 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".*

The Authority has on 23 March 2016 published ICASA South African Music Contents Regulations which repealed ICASA South African Music Content regulations published on 31 January 2006. The regulations were to be effective eighteen (18) months after publication i.e. 23 September 2017 which falls within the period under review. The quotas were revised from 25% to the 35% for commercial sound broadcasting services.

*"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".*

For the year under review, the Licensee reported to have broadcast 40% South African music.

The monitoring exercise confirmed that, of the total music played by the Licensee, at least 45% was South African music. The titles and artists featured include, Mome by Merriam Makeba, Nomkitha by Musa, Thojana ya Thesele by Press, Woza Friday by Mapaputsi ft, Congratulate Me by AKA, amongst others.

**The Licensee complies with regulation 3.2 above.**

### **3.8 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 broadcasts 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, in the recordings submitted by the licensee during the period under review.

**The Licensee did 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 to produce 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 hour, during performance period, on weekdays. Each bulletin is broadcast for approximately five minutes. The Licensee broadcasts an average of ninety (90) minutes of news per day. News headlines are also broadcast every half hour.

Some of the news that was broadcasted by the Licensee include:

- *"Premier Soccer League chairperson Irvin Khoza says his late wife Mantwa should be remembered for her humility. Family and friends as well as the soccer fraternity gathered at the Orlando Holy Cross Anglican Church in Soweto on Saturday to pay their final respects to the chairmen's wife.";*
- *"The National Education, Health and Allied Workers Union (Nehawu) has added its voice to calls for Enterprises Minister Pravin Gordhan and the Eskom board to be removed. It says it welcomes the resignation of Eskom board chairperson Jabu Mabuza and is now calling on the rest of the board and Gordhan to follow suit.".*
- *North West police have finalised their investigation into the death of Parktown Boys' High pupil Enock Mpianzi. 13-year-old Mpianzi died on a school camp in January after a makeshift raft he and other pupils had built capsized in the Crocodile River at the Nyati Bush resort in Brits.";*
- *"South African Airways says it will review further possible flight changes in the coming days in a desperate bid to save money. The embattled airline announced it had cancelled some domestic and international flights due to low demand.";*
- *"South African Reserve Bank Governor Lesetja Kganyago has announced that the repo rate will be reduced by 100 basis points to 5.25%. The repo rate is the rate at which the central bank lends money to commercial banks.";* and
- *"Home Affairs Minister Aaron Motsoaledi says the four suspects arrested in connection with the killing of a policeman in Diepsloot are undocumented migrants. Motsoaledi addressed angry residents in the township earlier on today,*

*alongside Police Minister Bheki Cele, amid heightened tensions over safety concerns."*

**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 overlap with regular programming and are not contained solely within the news bulletins.

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.**

**3.9 Ownership and Control Structure 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 per cent (30%) ownership and control of the station by persons from historically disadvantaged groups".*

The Licensee's submission carries no change in the ownership and control of the radio station in the period under review. The submission indicates that 94.84% of ownership is held by persons from historically disadvantaged groups.

The Licensee has not submitted its B-BBEE status verification certificate; however, the completed compliance manual does not reflect any change from the previous submission.

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

### **3.10 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 3% (three percent) of African music during the Performance Period. The African artists featured included among others, Khadja Nin, Salief Keita, Angelina Kidjo, etc.

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

## **4. REGULATIONS**

### **4.1 SA Music Content**

Regulation 3.2 of the Regulations on South African Music Content<sup>3</sup>, as published on 23 March 2016, 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 45% (forty five percent) of South African Music spread reasonably evenly throughout the Performance Period.

The South African artists featured included among others, Mome by Merriam Makeba, Nomkitha by Musa, Thojana ya Thesele by Press, Jerusalema by Master Kaygee ft Nomcebo Zikode, Congratulate Me by AKA, etc.

**The Licensee complies with regulation 3.2 above.**

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<sup>3</sup> Appendix C: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016 **(Repealed)** - ICASA South African Music Content Regulations, 2006 as published in *Government Gazette* No. 28453 dated, 31 January 2006).

## 4.2 Standard Terms and Conditions

Regulation 2 of the Regulations on Standard Terms and Conditions for Individual Licence<sup>4</sup>, as amended and published on 30 March 2016, 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."*

The Licensee has not complied with the above regulation. The Authority has identified a change in the license's contact details/person and the change was implemented without filing a formal notification in terms of the Regulations on Standard Terms and Conditions for Individual Licence. The Licensee has not submitted its notice regarding the changes in its shareholding structure.

**The Licensee did not comply 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)<sup>5</sup>, 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)".*

Further, Regulation 3 (3) stipulates that:

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<sup>4</sup> Appendix D: Standard Terms and Conditions for Individual Licences Regulations Amendment, 2016 published in *Government Gazette* No. 39875 dated, 30 March 2016.

<sup>5</sup> Appendix E: USAF Regulations, 2011 as published in *Government Gazette* No. 34010 dated, 10 February 2011.

*"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 February. The Licensee paid its Universal Service and Access Fund annual contribution on 5 March 2021 and submitted proof of payment<sup>6</sup> thereof, as required by the regulations. The Authority notes that the payment is however late (*twelve (12) months after the completion of the financial year*) as it was due on 31 August 2021, six (6) months after the licensee's financial year.

**The Licensee complies with the above regulations.**

#### **4.4 General Licence Fees Regulations**

Regulation 3 (1) of the General Licence Fees Regulations<sup>7</sup> 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.

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;*
- 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 end is February. The Licensee paid its license fee on 5 March 2021 and submitted proof of payment<sup>8</sup> thereof, as required by the regulations. The Authority notes that the payment is however late (*twelve (12) months after the*

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<sup>6</sup> Proof Licence Fees Payment for You FM 2019-2020

<sup>7</sup> Appendix F: **ICASA General License Fees Regulations 2012**, published in *Government Gazette* No. 36323 dated, 28 March 2013 as amended. (Amendment published in *Government Gazette* No. 37521 dated, 02 April 2014).

<sup>8</sup> Proof Licence Fees Payment for You FM 2019-2020

*completion of the financial year*) as it was due on 31 August 2021, six (6) months after the licensee's financial year.

**The Licensee partially complies with the above regulations.**

## **5. CONCLUSION**

Power 98.7 FM has substantially complied with its licence terms and conditions and regulations, for the period under review. However, the Licensee failed to comply with clause(s) 1.2 and 6.2 of the schedule to its licence terms and conditions. The Licensee has also failed to comply with Regulation 2 of Regulations on Standard Terms and Conditions for Individual Licences.

The non-compliance by the Licensee herein (i.e. change in shareholding without filing the relevant notice, to inform the Authority thereof, to date), it is of a serious nature and Power FM will be advised of the Authority's intention to refer them to the Complaints and Compliance Committee (CCC), for a hearing.

## **6. TERMS OF REFERENCE**

- 6.1 Appendix A: Power 98.7 FM's broadcasting service licence
- 6.2 Appendix B: Power 98.7 FM frequency spectrum licence
- 6.3 Appendix C: SA Music Content Regulations
- 6.4 Appendix D: Regulations on Standard Terms and Conditions for Individual Licences
- 6.5 Appendix E: Universal Service and Access Fund Regulations
- 6.6 Appendix F: General Licence Fees Regulations

**End**

**March 2021**