



YOU FM ANNUAL COMPLIANCE REPORT

MARCH 2021

2019/2020 ANNUAL COMPLIANCE REPORT

NORTH WEST FM (PTY) LTD OPERATING AS YOU FM

Licence Period: 01 November 2017- 31 October 2027

1. PREFACE

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution,¹ the ICASA Act of 2000,² and the Electronic Communications Act ("EC Act") of 2005³ to regulate broadcasting activities in South Africa in the public interest. The main task of the Authority is to ensure compliance by broadcasters with the terms and conditions of their licence, relevant legislation and regulations.

The purpose of the report is to give account of the compliance by You FM (Pty), 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, Community Participation, Programming, Format, News and Information, Local Content Obligations, Language(s), South African Music Regulations, Regulations Regarding Standard Terms and Conditions and Universal Service and Access Fund (USAF).

2. BACKGROUND

In November 2007, the Authority granted You FM with an Individual Commercial Sound Broadcasting Service Licensee⁴, to provide a service in parts of the North-West Province including, but not limited to, Klerksdorp, Mmabatho, Rustenburg, Schweizer Reneke, Taung and Zeerust. The licence was renewed on 01 November 2017 and is valid until 31 October 2027 (*See licence conditions attached as Appendix A*).

You FM operates from a studio located at 214 Beyers Naude, Rustenburg.

¹ The Constitution No, 108 of 1996,

² The ICASA Act No, 13 of 2000,

³ The Electronic Communications Act No, 36 of 2005

⁴ Appendix A: You FM's Service License

3. COMPLIANCE ASSESSMENT

3.1. Geographic Coverage

According to Schedule B2 of the technical specifications, the Licensee covers the following areas:

"Klerksdorp, Mmabatho, Rustenburg, Schweizer Reneke, Taung and Zeerust" (See Appendix A).

The Licensee has not reported any changes to its coverage.

The Licensee complies with Schedule B2 of its licence.

3.2 Control Structure

Clause 1 of Schedule C of the licence stipulates that:

"The control structure of the licensee is and remains as follows:

Direng Investment Holdings (Pty) Ltd – 21%

SADTU Investment Holdings (Pty) Ltd – 16%

Motswere (Pty) Ltd (formerly Altivex 269 (Pty) Ltd) – 13%

Motswako Media Group (Pty) Ltd – 50%

The were no changes reported on the ownership structure during the period under review.

The Licensee complies with clause 1 of Schedule C of its licence.

3.3 Format

Clause 2 of Schedule C stipulates that:

"The licensee shall broadcast a predominantly inspirational and gospel music format."

The Authority's monitoring exercise found inspirational and gospel music however the volume of the content is insufficient to determine a favourable average of over fifty percent (50%) at the very least.

The Licensee submitted that it has made an amendment application to reformat Clause 2 of Schedule C. While the outcomes of amendment application are still pending, the Authority must measure compliance in terms of the existing licence conditions.

The Licensee does not comply with Clause 2 of Schedule C of its licence.

3.4 Language (s)

Clause 3 of Schedule C of the licence stipulates that:

"Setswana shall be the principal broadcast language with 80% and other languages (including English) 20%."

The monitoring exercise determined that You FM broadcasts its programmes in approximately 80% Setswana and approximately 20% English.

The Licensee complies with clause 3 of Schedule C of its licence

3.5 Programming⁵

3.5.1 General

Clause 4 of Schedule C of the licence stipulates that:

"The licensee's general programming will focus on the following:

- *Sport;*
- *Culture;*
- *Consumer;*
- *Education; and*
- *News and Current Affairs".*

The Authority's monitoring confirmed that the Licensee has an hour dedicated to local and international sporting events. During news bulletins there is a sports update, particularly during the morning drive and afternoon drive during weekdays and on weekends.

⁵ Appendix B: Compliance Reports

In addition, the Licensee broadcasts programmes that focus on consumer education, news and current affairs. 'You FM News Hour' is a current affairs programme broadcast on weekdays between 19h00 and 21h00.

The programme focuses on current affairs and information concerning the community. Further, listeners are provided with a wide variety of educational programming pertinent to the Licensee's audience.

The Licensee complies with clause 4 of Schedule C of its licence.

3.5.2 News

Clause 4 of Schedule D stipulates that:

"The licensee committed to broadcasting 50 minutes of news programming per day, of which 80% will be broadcast in Setswana and 20% in other official languages".

You FM broadcasts news every hour on the hour from 06h00 until 18h00. The news bulletins are for an average of four (4) to five (5) minutes. News headlines are broadcast every half hour from 06h30 until 17h30. A total of sixty-five (65) minutes of news was monitored. The news bulletins are broadcast in eighty percent (80%) Setswana and twenty percent (20%) in English. The following are some of the news items monitored:

- *"Ditlhopo kakaretso tsa Lwetse ngwaga o fetileng di tlile le tsholofelo ya gore gongwe badiredipele ba tlhophilweng batla tlisa diphetogo tse tlhokegang go tokafatsa matshelo a baagi ba naga eno. Seno ke go ya ka setheo sa Municipal IQ se se fitlheletseng gape fa go na le palo e tlase thata ya ditshupetso tsa baagi ba ba ngongoregelang tlamelo ya ditirelo ngwago o fetileng..."*;
- *"Mokhuduthamaga wa lefapha la Tshireletso ya Baagi kwa Gauteng Faith Mazibuko a re ba ga Mpianzi ba tlile gore bolella dikarabo tse dikaga se se bolaeleng morwa wa bona fa dipatlisiso di sena go konosediswa. Mazibuko o buile seno ko phitlhong ya ga Mpianzi mosong ono..."*;
- *"Lekoko la ANC le kgadile kgato ya maloko a lekoko leo mo North West mo go begwang ba tseetse lekoko ko kgotlatshekelo. Lekoko la re kgato eo ga e amogelesege gonne e diga serorumo sa lekoko ka kakaretso. Seboledi sa lekoko sa nakwana Dakota Lekwete are gaba tshosiwi ke kgato ya maloko ao a go tseela lekoko kwa kgotlatshekelo."*;

- *"The Economic Freedom Fighters say they are concerned about the resignations and the axing of black executives from state-owned entities (SOEs) under the leadership of Public Enterprises Minister Pravin Gordhan. The EFF has accused Gordhan of pushing axed CEO Siyabonga Gama out of Transnet, undermining Phakamani Hadebe as Eskom CEO and failing to support SAA CEO Vuyani Jarana....";*
- *"Eskom has announced there will be no load shedding on Saturday, but the utility has stressed that the system is still constrained. Earlier Eskom said load shedding would be implemented on Saturday, but the extent of the planned black out would be determined by how the system had recovered overnight.;"*
and
- *"Duduzane Zuma has concluded his first appearance at the Zondo Commission in Parktown where he denied_ _a number of allegations previously levelled against him before the very same commission by some political figures."*

The Licensee complies with clause 4 of Schedule D of its licence.

3.5.3 Current Affairs

Clause 5 of Schedule D stipulates that:

"The licensee committed to broadcasting a current affairs programme during weekdays within the performance period. The current affairs programme will be conducted in 80% Setswana and 20% in other official languages".

The Authority's monitoring confirmed that the Licensee broadcasts current affairs programming during weekdays.

- *'You FM News Hour'* was identified as one of the current affairs programmes broadcast by the Licensee. The programme is broadcast on weekdays between 18h00 and 19h00 and deals with a variety of current affairs issues, including economics, sports preview, update and review.
- *'Flight 2 to 6'* is a programme broadcast on weekdays between 14h00 and 18h00 and covers cultural, environmental issues and the latest trends in technology.

The topic that was discussed in one of the monitored programmes meant to advise South Africans on the implications of a positive growth of the country's economy from a financial point of view.

The programme also delves into how to be money savvy while interacting with audiences from social media and call ins. The programme featured a chief economist, Mr Makwe Masilela.

The Licensee complies with clause 4 of Schedule C of its licence.

4. Staff Incentive Scheme

Clause 1 of Schedule D stipulates that:

"You FM undertook to establish a trust for the benefit of staff members. The trust will hold 5% shareholding in the licensee".

The Licensee undertook to provide the status regarding the registration of a Staff Trust in the 2018/2019 Compliance report which information is still outstanding.

The Licensee did not comply with clause 1 of Schedule D of its licence.

5. Employment Equity⁶

Clause 3 of Schedule D stipulates that:

"You FM undertook to employ 50% men and 50% women in its staff complement. The licensee further undertook to appoint the majority of its staff from the You Province".

The Licensee did not submit any details regarding its employment equity, in compliance with the licence condition.

The Licensee does not comply with clause 3 of Schedule D of its licence.

5. REGULATIONS

5.1 SA Music Content Regulations⁷

⁶ **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).

Regulation 3.2 of the Regulations on South African Music Content as published on 23 March 2016 stipulates that:

"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" (Regulations on South African Music Content attached as Appendix D).

You FM plays approximately 40% South African music. The following are some of the songs identified: "Mad in love" by Musa, "Love Letter" by Blaq Diamond, "Tender Love" by Shasha ft Kabza Da Smal and "Lona ba ratang ho phela" by Lebo Sekgobela.

The Licensee complies with regulation 3.2 of the Regulations on South African Music Content.

5.2 Standard Terms and Conditions for Individual Licences Regulations⁸

During the year under review, the Authority did not identify any non-compliance by the You FM with the standard terms and conditions for individual licences.

The Licensee has complied with standard terms and conditions for individual licences of Schedule D of its licence.

5.3 Regulations in respect of the Prescribed Annual Contributions of

Licensees to the Universal Service and Access Fund⁹

Regulation 3 (1) of the prescribed annual contribution of licences to USAF regulations published on 10 February 2011 stipulates that:

"Every holder of the 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 the annual turnover, to the Fund".

⁸ Standard Terms and Conditions for Individual Licenses Regulations Amendment, 2016 published in Government Gazette No. 39875 dated, 30 March 2016.

⁹ USAF Regulations, 2011 as published in Government Gazette No. 34010 dated, 10 February 2011

Regulation 3 (2) stipulates that:

"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".

You FM's financial year ends on 29 February. The Licensee paid its USAF contribution on 28 August 2020 and submitted proof of payment¹⁰ thereof, as required by the regulations.

The Licensee complies with the above regulations.

5.4 General Licence Fees Regulations¹¹

The General Licence Fees Regulations came into effect on the date of publication in the government Gazette no. 32084, on 01 April 2009.

Regulation 3 (1) (a) 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 Licences, Individual and Class ECNS licences and Individual Commercial BS licences".

Schedule 2 under Annual Licences Fees stipulates that:

"Individual Commercial Broadcasting Service Licensees to pay an annual licence fee of 1.5% of gross profit to the Authority".

Schedule 3 (4) (b) (c) stipulates that:

"(b) in respect of payment, such 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"

¹⁰ Proof Licence Fees Payment for You FM 2019-2020

¹¹ **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).

You FM's financial year ends on 28 February. The Licensee paid its license fee on 28 August 2020 and submitted proof of payment¹² thereof, as required by the regulations.

The Licensee complies with the above Regulations.

6. CONCLUSION

You FM did not sufficiently comply with its licence terms and conditions and Regulations. You FM did not comply with clause 2 of Schedule C, clause 1 & 2 of Schedule D of its licence. The Authority will raise the instances of non-compliance, with You FM, so they may attend to and comply with all its licence terms.

However, in the event the Licensee may not address and resolve the areas of non-compliance, You FM will be referred to the Complaints and Compliance Committee (CCC), for a hearing.

7. TERMS OF REFERENCE

7.1 Appendix A: You FM's Individual Service Licence

7.2 Appendix B: Compliance Reports

7.3 Appendix F: South African Music Content Regulations

7.4 Appendix G: Standard Terms and Conditions for Individual Licences

7.5 Appendix H: Regulations in respect of the Prescribed Annual Contributions to the Universal Services and Access Fund

7.6 Appendix I: General Licence Fees Regulations

END

MARCH 2021

¹² Proof Licence Fees Payment by You FM 2019-2020