



CLASSIC 102.7 FM

ANNUAL

COMPLIANCE REPORT

MARCH 2022

2020/2021 ANNUAL COMPLIANCE REPORT

Classic FM 102.7 (Pty) Ltd BROADCASTING AS CLASSIC 102.7 FM

Licence Period: 17 December 2008 – 16 December 2018

1. PREFACE

The Independent Communications Authority of South Africa ("Authority") has a statutory mandate in terms of the Constitution, the ICASA Act and the Electronic Communications Act ("ECA") to regulate broadcasting activities in South Africa in the public interest. Among the responsibilities of the Authority, it is to ensure compliance by broadcasters with the terms and conditions of their licence, the Electronic Communications Act ("ECA"), the ICASA Act and any relevant legislation and Regulations.

This report seeks to give an account of Classic 102.7 FM's compliance with the terms and conditions, as set out in its licence¹, in the financial year that ended March 2021. Aspects of compliance that are measured in this report will be different to the norm. The deviation from the norm is brought about by the introduction of the ICT Covid-19 Regulations in April 2020², following the proclamation of the State of National Disaster.

The Regulations considered the envisaged effect of the National Lockdown on the Broadcasting sector and exempt Licensees from compliance with most of their obligations. Apart from the exemptions provided by the ICT Covid-19 Regulations; the shortened South African Performance Period, is likely to distort the licensees' programming output when measured against the licence obligations.

Consequently, therefore, this report will measure and conclude on fewer aspects of compliance compared to ordinary annual compliance reports.

¹ Classic FM's Broadcasting Service Licence

² ICT Covid-19 Regulations as amended

2. BACKGROUND

Classic 102.7 FM's is an Individual Broadcast Service Licensee broadcasting in and around Johannesburg.

Classic FM has an obligation to carry out its service as per the terms and conditions of the broadcasting service licence granted to it by the Authority. In 2018, the Authority received an application to renew the above-mentioned licence as it would have expired in December of that year.

In handling this renewal process, the Authority found other parts of the application that required handling by processes outside of that of the renewal itself. This resulted in a delay on the issuing of the renewed licence which was issued in April 2021. Because of this, the compliance assessment to be recorded in this report will be measured against the licence expired in December 2018.

3. COMPLIANCE ASSESSMENT

a. Ownership and Control

Clause 1.1 of Classic FM's licence stipulates that the licence is issued to:

"The name of company/entity: Classic FM 102.7 (Pty) Ltd."

Clause 1.2 of Classic FM's schedule to the licence provides that the shareholders are as follows:

- i. Huntrex 144 (Pty) Ltd – 51.91%*
- ii. Golden Pond Trading 183 (Pty) Ltd – 25.15%*
- iii. Ingoma Trust – 15.09%*
- iv. Boitshepo Investments (Pty) Ltd – 7.85%*

Clause 1.3 of Classic FM's schedule to the licence stipulates that:

"Ownership held by people from disadvantaged groups:

- i. Huntrex 144 (Pty) Ltd – 51.91%*
- ii. Golden Pond Trading 183 (Pty) Ltd – 25.15%*
- iii. Ingoma Trust – 15.09%*
- iv. Boitshepo Investments (Pty) Ltd – 7.85%*

In January 2018, Classic FM submitted a Form 0 to the Authority which indicated a transfer of shares from Boitshepo Investments (7.85%) to Africa Media Entertainment Ltd. Perusal of the said transfer found some irregularities which were – according to the Authority – in breach of section 65(2) of the Electronic Communications Act.

The matter was heard by the Complaints and Compliance Committee (“CCC”)³ which ruled in favour of the Licensee citing that their decision was not bound by a preceding case presented by ICASA against KZN Talk Radio (Pty) Limited. Subsequently the Council of ICASA sought legal opinion on the ruling of the CCC. The legal advice concluded that there is precedence – referenced in the KZN Talk Radio vs ICASA matter – in the case of Classic FM and that all rulings are subject to it. The Licensee was then directed to go back and remedy their breach of section 65 (2).

Classic FM carried out the decision of the Council of ICASA and submitted a new transfer of shares notice which was acceptable. The details of the new shareholding – a process that started in 2018 – are in the April 2021 licence document. In essence, it is unlikely that, during the period that this report seeks to review, the shareholding at Classic FM was as mentioned above.

3.2 Name of Station

Clause 1 of Classic FM’s schedule to the licence prescribes that the name of the station shall be:

“Classic 102.7”

During the year that ended March 2021, the Licensee still carried its name. All correspondence received from the Licensee featured “Classic 102.7”.

The Licensee complied with clause 1 of the schedule to the licence.

3.3 Geographic coverage area

Clause 2 of the schedule to the licence provides that Classic FM’s coverage area shall be...:

³ CCC Referral for the case on the breach of Section 65

"Johannesburg, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence⁴".

In its submissions, Classic FM maintains that it broadcasts in and around Johannesburg and as specified in their radio frequency spectrum licence. In the year that is currently under review, the Authority received no complaints indicating interference by the Licensee in areas outside its footprint.

The Licensee complies with clause 2 of its licence.

3.4 Language (s)

Clause 3 of Classic 102.7's schedule to the licence provides that Licensee's language of broadcast shall be:

"Principal Language: English"

A monitoring exercise carried out by the Authority's confirmed that Classic 102.7 broadcasts all its programmes in English.

The Licensee complies with clause 3 of its licence.

3.4 Format

Clause 5.1 of Classic 102.7's schedule to the licence stipulates that:

"The Licensee shall provide classical music."

In the year under review, Classic FM continued to offer classical music as prescribed in its Licence. The Licensee's music line up featured a lot of international classical music while sufficiently providing for local classical music lovers.

The Licensee complies with the Clause 5.1 of its licence.

Clause 5.2 of Classic 102.7's schedule to the licence further provides that:

⁴ Classic 102.7's Frequency Spectrum Licence

"The Licensee shall not change more than 15 percent (15%) of its format between 05h00 and 23h00".

According to the Licensee's submission, their programming format – in the year under review – had no changes to it.

The ICT Covid-19 Regulations exempt Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause and no conclusion will be drawn.

3.5 Local Content Obligations

Clause 6.1 of Classic FM's schedule to the licence provides as follows:

"The Licensee shall develop local music and contribute towards the Licensee's South African music quota by hosting soirees at least quarterly. This shall be accompanied by an on-air promotion of the artists concerned."

Classic FM's Form 3 Supplementary Report⁵ reads: "Due [to] the "lockdown" measures to prevent the spread of COVID-19 Classic 1027 was unable to host any soirees in the year under review". The Licensee continued to mention that they promoted the development of local music through supporting several local artists and their virtual concerts.

The ICT Covid-19 Regulations exempt Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause and no conclusion will be drawn.

Clause 6.2 of Classic FM's schedule to the licence provides that:

"The Licensee shall continue to be involved in the development of local music by offering a minimum of one million rand (R1 000 000.00) per annum in free on-air advertising for concerts at a reduced cost, allocated at its discretion for concerts, workshops, free live on-air interviews, the promotion of soirees and development of new artists whose music aligns with its format."

⁵ Classic FM's Form 3 Supplementary Report

Classic FM's report in response to how they fared in complying with this clause read: *"Due the "lockdown" measures to prevent the spread of COVID-19, concerts and live music performances were prohibited or restricted. In accordance with 8B of Section 2 of the Amendment of Regulations 5, this requirement was waived"*.

The ICT Covid-19 Regulations exempt Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause and no conclusion will be drawn.

3.6 General Programming Obligations

Clause 7.1 of Classic FM's schedule to the licence stipulates that:

"The Licensee shall broadcast news on a regular basis for a minimum of fifty (50) minutes each day between 05h00 and 23h00".

The Licensee's Programming Log Sheets⁶ suggest that – in the year ended March 2021 – Classic 102.7 scheduled at least 110 minutes of news per day during the South African Performance Period. The entries on the Licensee's submission indicate that the bulk of their news output was national news, followed by regional news content and that most of their news content is self-originated.

The Licensee complies with clause 7.1 of its licence.

Clause 7.2 of Classic 102.7's schedule to the licence stipulates that:

"Should the Licensee source news material from a source other than itself, the source(s) thereof shall be disclosed during the news broadcast."

Classic FM discloses news material that it obtains from other sources other than its journalists during the relevant news bulletin. The Licensee's news sources are:

- i. British Broadcasting Corporation (BBC)
- ii. News24; and
- iii. Reuters.

The Licensee complies with clause 7.2 of its licence.

Clause 7.3 of the schedule to the licence provides as follows:

⁶ Classic FM's Programming Log Sheets

"The Licensee shall provide the Classic Business programme on all weekdays".

Classic FM 102.7's log sheets indicate that the Classic Business remained a constant feature in the Breakfast show slot during the year under review.

The programme featured twice a day and contributed at least 2 and a half hours in each day's programming schedule.

The Licensee complies with clause 7.3 of its licence.

3.7 Training and Skills Development Obligations

Clause 8.1 of the Licensee's schedule to the licence makes the following prescription:

"The Licensee shall train its staff on an ongoing basis."

The Licensee submitted that training is provided to its staff on an ongoing basis. The Licensee reports of training its staff on a wide range of training offerings from administration to on air preparation. However, for the period under review, the Licensee's report does not mention any training interventions sourced for their staff.

The ICT Covid-19 Regulations exempt Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause and no conclusion will be drawn.

Clause 8.2 of the Licensee's schedule to the licence stipulates that:

"The Licensee shall train and provide at least short-term employment opportunities to empower two (2) interns per year."

The Licensee responded that *"Classis FM, operating in accordance with 8B of Section 2 of the Amendment of Regulations 5, did not comply with this requirement. The station applied strict access protocols and did not allow guests or visitors into the operating facility"*.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority

will not measure the Licensee's compliance with this clause and no conclusion will be drawn.

Clause 8.3 of Classic 102.7's schedule to the licence stipulates that:

"The Licensee shall conduct presentation training throughout the year".

The Licensee responded that *"Classis FM, operating in accordance with 8B of Section 2 of the Amendment of Regulations 5, did not comply with this requirement. The station applied strict access protocols and did not allow guests or visitors into the operating facility".*

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. As such, the Authority will not measure the Licensee's compliance with this clause and no conclusion will be drawn.

3.8 Community-related obligations

Clause 9.1 of Classic FM's schedule to the licence stipulates that:

"The Huntrex creates a trust with shareholding equal to that held by the Liberty Foundation with the express aim of ensuring the direction of dividends earned, to the development of South African arts and culture".

According to Classic FM's report, Ingoma Trust remained a shareholder of Classic FM South Africa (PTY) LTD and that the specific objective of the trust met the aim as meant by this licence obligation. In the year that this report seeks to review, the Ingoma Trust maintained a shareholding equal to that which the Liberty Foundation previously held.

Clause 9.2 of Classic 102.7's schedule to the licence makes the following prescription:

"The Licensee shall offer presentation training to two (2) individuals from community radio stations annually".

In their response, Classic FM cited the waiver of this obligation by *"8B of Section 2 of the Amendment of Regulations 5 [of the ICT Covid-19 Regulations]"*. The Licensee continued to confirm that they did not comply with this requirement as

they applied strict access protocols and did not allow guests or visitors into the operating facility.

The ICT Covid-19 Regulations exempted Licensees from upholding the specific terms and conditions as set out in their licence documents. Therefore, the Authority will not measure the Licensee's compliance with this clause and no conclusion will be drawn.

4. REGULATIONS

4.1 ICASA South African Music Content Regulations, 2016

Regulation 3(2) of the ICASA South African Music Content Regulations, 2016⁷ as published on 23 March 2016 stipulates that:

"A holder of a commercial sound broadcasting service 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 evenly throughout the performance period."

Classic FM's compliance with this clause is linked to their format factor offering in the form of their compliance with clauses 6.1 and 6.2 of their licence. Previously, the two obligations contributed close to 40% of the Licensee's compliance with this clause. However, the Licensee submits that their South African Music output met the requirements of this regulation.

In the year under review, Classic FM featured pre-recorded works of different Opera Houses from within the country. The Licensee's music offering featured previously recorded works from various opera houses such as the Johannesburg Philharmonic and the Cape Town Philharmonic Orchestras. The classical music ensembles enjoying air play at Classic FM, were the following: The Buskaid Ensemble and the University of Stellenbosch Orchestra ensemble.

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

⁷ ICASA South African Music Content Regulations, 2016

4.4 Universal Service and Access Fund

Regulation 3(1) 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"⁸.

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".

Classic FM 102.7 paid its contribution to the Universal Service and Access fund for the year ended March 2021.

The Licensee complies with Universal Service and Access Fund Regulations.

4.5 General Licence Fees Regulations

Regulation 3 (1) of the General License Fees Regulations⁹ published in the Government Gazette No. 32084 on 01 April 2009 states as follows:

"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) states 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."*

Classic 102.7 paid its annual contribution towards the General Licence Fees.

⁸ Universal Service and Access Fund Regulations

⁹ General License Fee Regulations

Classic FM complied with regulation 3(1) and schedule 3 (4) (b) of the General Licence Fee Regulations.

5. CONCLUSION

Classic FM has a record of non-compliance with clause 6.1 and the last report, Broadcasting Compliance Unit came close to a referral to the Complaints and Compliance Committee. However, this year's reporting could not conclude on the Licensee's non-compliance with the said clause because of the ICT Covid-19 Regulations. Additionally, the Licensee has also applied for an amendment to its format and therefore the next compliance report will factor in, the format changes.

6. TERMS OF REFERENCE

Appendix A: ICT Covid-19 Regulations, 2022 as amended

Appendix B: Classic 102.7 FM's Service License

Appendix C: CCC referral on breach of section 65 of the ECA (Act No. 36 of 2005) as amended.

Appendix D: Classic 102.7's Frequency Spectrum License

Appendix E: Classic FM's Form 3 Supplementary Report

Appendix F: Classic FM's Programming Log Sheet

Appendix G: ICASA South African Music Content Regulations, 2016

Appendix H: Universal Service and Access Fund Regulations, 2011

Appendix I: General License Fee Regulations, 2012

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