



M NET ANNUAL COMPLIANCE REPORT

MARCH 2022

**2020/2021 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 purpose of the report is to give an account of M NET's compliance with the terms and conditions as set out in its licence for the 2020/21 financial year. Furthermore, the report will measure compliance with regulations that includes South African Music Content, Standard Terms and Conditions for Individual Licensees, Universal Service and Access Fund, General Licence Fees, Code of Conduct for Broadcasters and the ICT Covid-19 Regulations first published in April 2020 and the subsequent amendments following the proclamation of the State of National Disaster.

The ICT Covid-19 Regulations as amended have introduced exemptions with specific service licence conditions and/or revised quotas and such will be reflected in the body of the report accordingly.

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 2021 was, 1 0 65 000.

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".

Majority of the show on M Net are broadcast in English with some such as drama and soapies programmes broadcast in Afrikaans.

The Licensee complies with its language of broadcast.

3.3 Format

Clause 5 of the schedule to M Net 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 different genres of programming which includes blockbuster films on Sunday evening, to weekly talk shows such as *"The Kelly Clarkson Show"*,

⁵ Form 6B of CPMR

drama shows like the “*Good Doctor*” and lifestyle programmes such “*Nantes Kookboek Met Nataniël En Erik*” amongst others.

The Licensee complies with its format.

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 in their annexure of Form 1⁶ of the Compliance Procedure Manual Regulations a breakdown on the number of employees at fixed and permanent basis. The submission reflects that the Licensee most positions at almost 85% are occupied by historically disadvantaged groups in all different occupational levels.

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 an average of thirty six percent (36%) ownership held by historically disadvantaged groups.

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

⁶ Form 1 of CMPR

⁷ *Ibid*

4. REGULATIONS

4.1 ICASA Must Carry Regulations

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, M Net is exempt 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"

M Net submitted their Commissioning Protocol to the Authority and a copy of the Commissioning protocol is available in the Licensee's website⁸. Further, the Licensee has submitted a report to the Authority for the 2020/2021 financial year accordingly.

The Licensee complies with the Commissioning Protocol Regulations.

4.3 Standard Terms and Conditions

The Authority did not find 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".

M Net have paid their contribution for the year under review.

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:

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

"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".*

M Net's paid their licence fees for the year under review.

The Licensee complies with the General Licence Fees Regulations.

4.6 South African Television Content Regulations

Regulation 8 (A) of the amended ICT Covid – 19 National Disaster Amendment Regulations published on 05 May 2020 stipulates that:

"Television broadcasting service Licensees are exempted from compliance with the local television content quotas and specific advertising and programming requirements in terms of licence conditions during the National State of Disaster".

Therefore, M NET won't be accessed in relation to the television content regulation for the year under review due to the above-mentioned exemption in the ICT Covid 19 National Disaster Amendment 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).

4.8 Code on People with Disabilities

Regulation 3 of the Regulations on a Code on People with Disabilities published on 07 November 2007 stipulates that:

"3.1 Improving accessibility (a) broadcasting service licensees must ensure that their services are made available and are accessible to people with disabilities"

The Licensee submits that for the period under review, they have broadcast across the M-Net channels an average of 932 hours per week with subtitles. Further, they submitted that they have a partnership with Deaf SA and assisting members to create and understand the user experience and feedback, to make the services more accessible and user-friendly moving forward.

"(3.2.) Broadcasting service licensees must ensure that the broadcasting content does not stereotype people with disabilities. Regulations 3.2.1 stipulates that broadcasting services must consult organisations of and for people with disabilities on the way disability is portrayed on programming"

The Licensee submits that it uses its programming to increase awareness of the issues confronted by people with disabilities by attaching an association slide and/or broadcast with the contact details of the relevant organization. In addition, they submit that they have a voice over person from the Association of the Blind on certain programmes, to assist those who are visually impaired.

The Licensee complies with Regulation 3 of Code on People with Disabilities.

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