



OFM ANNUAL COMPLIANCE REPORT

MARCH 2022

2020/2021 ANNUAL COMPLIANCE REPORT

CENTRAL MEDIA GROUP (PTY) LTD BROADCASTING AS OFM

Licence Period: 17 December 2018 – 16 December 2028

1. PREFACE

The Independent Communications Authority of South Africa (the Authority) has a statutory mandate in terms of the Constitution¹, the Independent Communications Authority of South Africa Act² (ICASA Act), the Electronic Communications Act³ (ECA) and the Broadcasting Act⁴ to regulate broadcasting activities in South Africa, in the public interest. Among the responsibilities of the Authority is the task to ensure compliance by broadcasting service Licensees with the terms and conditions of their licence and any relevant legislation and/or regulations.

This report gives account of Central Media Group (Pty) Ltd broadcasting as OFM's compliance for the 2020/2021 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Languages, Format, Local Content Obligations, General Programming Obligations, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations, and General Licence Fees Regulations.

2. BACKGROUND

Central Media Group (Pty) Ltd broadcasting as OFM ("the Licensee") is an Individual Commercial Sound Broadcasting Service Licensee, providing an adult contemporary format, with a mix of music and information (including the coverage of community affairs) to the Free State, Northern Cape, and parts of the North West Provinces⁵.

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.

⁵ Appendix A: OFM's Broadcasting Service License.

3. COMPLIANCE ASSESSMENT

3.1 Name of Station

Clause 1 of the Schedule to the Licensee's licence provides that the name of the station is:

"OFM"

During the period under review, the name of the station remained as prescribed in the licence of the Licensee. The monitoring exercise further confirmed that the Licensee identifies itself as OFM to its listeners and uses the OFM name in its station branding.

The Licensee complies with clause 1 of the Schedule to its service Licence.

3.2 Geographic Coverage

Clause 2 of the Schedule to the Licensee's licence provides that the geographic coverage of the Licensee is:

"Free State, Northern Cape and parts of the North West, as defined in the coverage map attached to the radio frequency spectrum licence."

The Licensee provided services to the geographic coverage areas as prescribed in the coverage map attached to its radio frequency spectrum licence.

The Licensee complies with clause 2 of the Schedule to its service licence.

3.3 Broadcast Language(s)

Clause 3 of the Schedule to the Licensee's licence provides that the broadcast language(s) is:

"English and Afrikaans"

The monitoring exercise confirmed that the broadcast languages of the Licensee is English and Afrikaans, as prescribed in the licence of the Licensee.

The Licensee complies with clause 3 of the Schedule to its service license.

3.4 Format

Clause 4 of the Schedule to the Licensee's licence provides that:

"The Licensee shall have a programming format of music in an adult contemporary format, providing a mix of music and information (including coverage of community affairs)."

The monitoring exercise confirmed that the Licensee's broadcast consists of a mix between music and information. The music as broadcast by the Licensee, is of an adult contemporary nature and the monitoring exercise found that the information as broadcast by the Licensee includes the coverage of community affairs.

The Licensee complies with clause 4 of the Schedule to its service licence.

3.4 Local Content Obligations

Clause 5 of the Schedule to the Licensee's licence provides that:

"5.1 The Licensee shall annually adhere to a four-point plan, namely:

- 5.1.1 Support live music performances;*
- 5.1.2 Profiling South African composers;*
- 5.1.3 Engaging in joint promotions and competitions with record companies and advertisers; and*
- 5.1.4 Playing and promoting local music demonstration tapes or equivalent."*

The Licensee regularly profiles South African composers during its broadcast. For the period under review, the licensee profiled the following South African composers:

Jimmy Nevis; Francois van Coke; Kahn Morbee; The Kiffness; Karen Zoid; Jeremy Loops; Jesse Clegg; Demi-Lee Moore and Arno Carstens, amongst others.

The Licensee, during the period under review, had various cash competitions with advertiser, however no evidence was submitted to indicate joint competitions with record companies. The joint competitions with advertisers included:

RSA Search; Adcock Ingram (US); Coopers Environmental; Herholdt's Electrical; Caltex (US); and Motus Aftermarket (Midas) amongst others.

The Licensee, during the period under review, played and promoted local artists such as:

Appel; Kayla Gouws; Marco Basson; Bonnie Jackson; Refentse; Bernice West; Rooksein and Caroline Grace.

The Covid-19 pandemic influenced the Licensee's annual four-point insofar as the support for live music performances is concerned and therefore the Authority did not monitor the Licensee's compliance with the clause.

The Licensee partly complies with clause 5.1 of the Schedule to its service licence.

3.5 General Programming Obligations

Clause 6 of the Schedule to the Licensee's licence provides that:

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

The Authority's monitoring exercise confirmed that the Licensee discloses the source of news material in circumstances where the news material is from external sources.

The Licensee complies with clause 6.1 of the Schedule of its service licence.

"6.2 The Licensee shall spend a minimum of R1 800 000 (nine hundred thousand Rand) per annum on provision of news, including locally based gatherings."

The Licensee spent R2, 704, 787 on the provision of news for the period under review and provided the Authority with the necessary proof thereof.

The Licensee complies with clause 6.2 of the Schedule to its service licence.

"6.3 The Licensee shall emphasis local news."

Some of the local news stories that were covered, during the period under review, were:

- *According to the South African Human Rights Commission's provincial head, Thabang Kheswa, several municipalities in the Free State are in bad shape and require urgent intervention. Kheswa says the state of local government in the Free State and its inability to provide residents with sustainable water is proving to be a major concern.*
- *The bulk of the 1.4 billion rand allocated to Free State Social Development will go towards initiatives that address the surge of gender-based violence and improved childhood development, amongst others. According to Social Development MEC, Mamiki Motlagomang Grazy Qabathe, the covid-19 pandemic has aggravated the harsh realities of poverty and unemployment, leading more people to rely on social relief programmes.*
- *Die verkiesing van die studente raad by die Universiteit van die Vrystaatse Bloemfontein kampus begin vanmiddag enkele weke na die Fees Must Fall protes op die kampus wat gelei het tot die arestasie van 25 studente. Die uitslae sal vanaand bekend gemaak word.*
- *Met die naderende paas-vakansie het die provinsie se LER vir polisie, Sam Mashinini, 'n beroep om motoriste gedoen om versigtig te wees. Mashinini wat sy departement se begroting vir 2020/2021 voorlêdig aan die provinsiale wetgewer ter tafel gelê het, sê hulle verwag dat verkeersvolumes die komende week sal styg.*

The monitoring exercise confirmed that more than fifty (50) percent of the total news broadcast by the Licensee, was local news.

The Licensee complies with clause 6.3 of the Schedule to its service licence.

"6.4 The Licensee shall broadcast an average of at least thirty-five (35) minutes of news per weekday, reducing to an average of twenty (20) minutes over weekends, including half hourly bulletins during peak hours on weekdays."

The monitoring exercise confirmed that the Licensee during weekdays broadcasts an average of sixty (60) minutes of news per day. This average is decreased to an average of twenty-five (25) minutes during weekend and/or public holidays. Further, the monitoring exercise found that during peak hours, the Licensee also broadcast half-hourly news bulletins.

The Licensee complies with clause 6.4 of the Schedule to its service licence.

"6.5 The Licensee shall have an editorial charter to ensure independence and impartiality in its news coverage."

The Licensee has submitted its updated editorial charter to the Authority. Analysis of the editorial charter confirms that it ensures the Licensee's independence and impartiality regarding its news coverage.

The Licensee complies with clause 6.5 of the Schedule to its service licence.

Consequently, the Licensee was found to be compliant with the entirety of clause 6 of the Schedule to its service licence.

3.6 Community-related Obligations:

Clause 7 of the Schedule to OFM's licence states that:

"The Licensee shall provide no fewer than 100 hours of training "on the job" for staff members at all such community radio stations in its coverage area as may apply for such training per annum. A programme of training on both technology and operations shall be developed by the Licensee and provided to the Authority, along with confirmation of the number of attendees, the name of the community radio station where they were employed, and the number of training hours completed by the Licensee, at least once per year."

The Licensee has suspended its training programme due to the COVID-19 pandemic and therefore the Authority did not monitor the Licensee's compliance with this clause.

3.7 Ownership and Control Obligations

Clause 8.1 of the Schedule to OFM's licence states that:

"The Licensee shall maintain a minimum of thirty percent (30%) control of the station within the broadcasting coverage area."

The Licensee maintained a thirty percent (30%) control of the station within the broadcasting coverage area during most of the period under review, however during the month of March 2021 one of the Directors passed away and therefore the Licensee did not maintain the thirty (30%) control of the station within the broadcasting coverage area for one of the twelve months for the period under review. The Licensee however has indicated that it is attending to the non-compliance as a matter of urgency.

The Licensee partly complies with clause 8.1 of the Schedule to its service licence.

Clause 8.2 of the Schedule to OFM's service licence states that:

"The Licensee shall maintain ownership and control of the station by persons from historically disadvantaged groups at 30% or such other level as may be acceptable to the Authority, pending the determination by the Authority of a generally applicable ownership quota in relation to all broadcasting licences in accordance with section 9 (2)(b) of the applicable law."

The Licensee has confirmed that the level of ownership and control of the station by persons from historically disadvantaged groups was 36,65% for the period under review.

The Licensee complies with clause 8.2 of the Schedule to its service licence.

Clause 8.3 of the Schedule to OFM's licence states:

"The Licensee shall ensure that at all times, at least two women are on its board of directors."

The Licensee has four (4) female directors out of the total eight (8) directors. The female directors are: *Kolobe, R.; Reynolds, R.; Thamae, P. N and Tlhankana, I. I.*

The Licensee complies with clause 8.3 of the Schedule to its service licence.

The Licensee was found to be compliant with the most of clause 8 of the Schedule to its service licence.

3.8 Training and Skills Development Obligations

Clause 9.1 of the Schedule to OFM's licence states that:

"The Licensee shall spend a minimum of R250 000 (two hundred and fifty thousand Rand) per annum on training and skills development for persons from historically disadvantaged groups."

The Licensee has shown a commitment to the training and skills development for persons from historically disadvantaged groups. During the period under review the Licensee spent over R300 000 (three hundred thousand rand) on training and skills development for persons from historically disadvantaged groups.

The Licensee complies with clause 9.1 of the Schedule to its licence.

Clause 9.2 of the Schedule to OFM's licence states that:

"The Licensee shall ensure that at least 30% of staff dedicated to the business of the Licensee are black."

The Licensee has provided information that indicates that it has met the requirement to maintain at least 30% of staff dedicated to the business of the Licensee are black. The percentage of black staff dedicated to the business of the Licensee for the period under review was 47,17%.

The Licensee complies with clause 9.2 of the Schedule to its licence.

The Licensee was found to be compliant with the entire clause 9 of the Schedule to its service licence.

4. REGULATIONS

4.1 ICASA Compliance Procedure Manual Regulations, 2011 as published in Government Gazette No. 34863, dated 15 December 2011.

The Licensee is required, in terms of the ICASA Compliance Procedure Manual Regulations, 2011 to submit a Form 12A which reports on all complaints received during each financial year.

The Licensee submitted Form 12A regarding the complaints received during the period under review. The Licensee is also a member of the BCCSA and regularly broadcast its complaints procedure.

The Licensee was found to be compliant with the Compliance Procedure Manual, as stated above.

4.2 Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in Government Gazette No. 33294 dated, 14 June 2010, as amended

The Authority is satisfied that during the period under review the Licensee did not contravene the regulation in respect of the Standard Terms and Conditions for Individual Broadcasting Services⁶.

The Licensee was found to be compliant with the Standard Terms and Conditions for Individual Broadcasting Service, 2010 as amended.

4.3 ICASA South African Music Content Regulations, 2016 as published in Government Gazette No. 39844 dated, 23 March 2016.

Regulation 2 of the ICASA South African Music Content Regulations, 2016 provides that:

"A holder of a commercial sound broadcasting service licence must ensure that after eighteen (18) months of the gazetting of these regulations, a minimum of

⁶ Appendix C: Standard Terms and Conditions for Individual Broadcasting Services, 2010 as published in Government Gazette No. 33294 dated, 14 June 2010 as amended.

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”⁷.

The monitoring exercise found that the Licensee broadcast an average of thirty-five (35) percent of South African music tracks. Further, the music is spread evenly throughout the performance period. In addition to the South African music tracks broadcast by the Licensee, the monitoring exercise found that the Licensee regularly conducts interviews with South African musicians and promotes new releases from South African artists. These format factors contribute on average an additional three (3) percent to the Licensee’s South African music content, which increases the Licensee’s South African music content from thirty-five (35) percent to thirty-eight (38) percent on average.

The Licensee complies with the South African Music Content Regulations.

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

Regulation 3 (1) of the Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund, 2011⁸ state that:

"Every holder of a 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 its Annual Turnover to the fund (USAF).”⁹

The Licensee made payment to the fund and submitted the proof thereof to the Authority.

⁷ Appendix D: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016.

⁸ Published in *Government Gazette* No. 34010 dated, 10 February 2011.

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

The Licensee was found to be compliant with the USAF Regulations, 2011.

4.5 General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013, as amended

Regulation 3 (1) of the General Licence Fees Regulations state 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 Service licences."*¹⁰

Schedule 2 of the Annual Licences Fees regulations provide for Individual Commercial Broadcasting Services Licensees to pay an annual licence fee of 1.5% to the Authority.

Regulation 4(b) and (c) of Schedule 3 states that:

"(b) In respect of payment, such are due and payable within 6 months from 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."*¹¹

The Licensee made its general licence fees payment and submitted the proof thereof to the Authority.

The Licensee was found to be compliant with the General Licence Fees Regulations, 2012.

5. CONCLUSION

The Licensee for the period under review was generally compliant with its licence conditions and relevant Regulations.

¹⁰ Appendix F: General Licence Fees Regulations, 2012 as published in *Government Gazette* No. 36323 dated, 28 March 2013.

¹¹ *Ibid.*

The areas where the Authority did not monitor the Licensee's compliance were due to the impact of the COVID-19 pandemic on the operations of the Licensee.

6. TERMS OF REFERENCE

- 6.1 Appendix A: OFM's licence conditions
- 6.2 Appendix B: OFM Report
- 6.3 Appendix C: Regulations Regarding Standard Terms and Conditions for Individual Broadcasting Licensees, 2010 as amended.
- 6.4 Appendix D: South African Music Regulations, 2016.
- 6.5 Appendix E: USAF Regulations, 2011.
- 6.6 Appendix F: General Licence Fees Regulations, 2012.