



# **YOU FM ANNUAL COMPLIANCE REPORT**

**MARCH 2022**

# **2020/2021 ANNUAL COMPLIANCE REPORT**

## **NORTH WEST FM (PTY) LTD OPERATING AS YOU FM**

**Licence Period: 01 November 2007- 31 October 2017**

### **1. PREFACE**

The Independent Communications Authority of South Africa ("the Authority") has a statutory mandate in terms of the Constitution,<sup>1</sup> the ICASA Act of 2000,<sup>2</sup> and the Electronic Communications Act ("EC Act") of 2005<sup>3</sup> 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 You FM (Pty) Ltd'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, 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) and the ICT Covid-19 National Disaster Regulations<sup>4</sup> first published in April 2020 and the subsequent amendments following the proclamation of the State of National Disaster.

The 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.

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<sup>1</sup> The Constitution of the Republic of South Africa Act, 1996 (Act No 108 of 1996)

<sup>2</sup> The ICASA Act No, 13 of 2000,

<sup>3</sup> The Electronic Communications Act No, 36 of 2005

<sup>4</sup> The ICT COVID-19 National Disaster Regulations, 2020 as published in *Government Gazette* No. 43207 dated, 06 April 2020, as amended.

## **2. BACKGROUND**

In November 2007, the Authority issued You FM with an Individual Commercial Sound Broadcasting Service Licensee<sup>5</sup>, to provide a service in parts of the North-West Province including, but not limited to, Klerksdorp, Mmabatho, Rustenburg, Schweizer Reneke, Taung and Zeerust (*See licence conditions attached as Appendix A*).

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

## **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:*

*SADTU Investment Holdings (Pty) Ltd – 16%*

*Motswako Media Group (Pty) Ltd – 84%*

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

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<sup>5</sup> Appendix A: You FM's Service License

### 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 did find 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 submits 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%."*

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 Programming<sup>6</sup>

#### 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;*

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<sup>6</sup> Appendix B: Compliance Reports

- *Education; and*
- *News and Current Affairs”.*

The Authority’s monitoring confirmed that the radio station 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 on weekdays and on weekends.

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.

**Sound broadcasting Licensees were exempt from compliance with specific programming requirements and promises of performance during the National State of Disaster. Therefore, findings on compliance with this clause of the licence were not made/determined.**

### **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 last for four (4) to five (5) minutes. News headlines are broadcast every half hour from 06h30 until 17h30. A total of fifty-two (55) 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 tsa puso ya selegae kgotsa 'by-elections' di tla sutiswa ka ntlha ya Covid 19. Tuna ya botsamaisi ba ditlhopo wa IEC Sy Mamolo are baagi batla tshwanela ke go naganisisa tsela e enngwe ya go tsamaisa ditlhopo.*
- *Tona kantorong ya moPresidente Jackson Mthembu o re tlogetse. Mthembu o tlhokofaletse bookelong mesong ya gompiano, morago ga go amogelwa ka bolwetsi ba Covid 19.*
- *MoPresidente wa maloba wa Afrika Borwa Jacob Zuma o neilwe di iri tse masome a mane le rodedi gore a itlhagise kgolegong ya Escourt go la KwaZulu Natal. Kopo ya Zuma ya gore molato wa gagwe o boele kgorong tshekelo e beilwe thoko.*
- *"The ANC in the North West referred five members including its premier Job Mokgoro for disciplinary hearing after they defied the party during the election of chair of chairs in the legislature. The party said members disregarded its directive and voted with the opposition against their preferred candidate during Friday's sitting;*
- *"South Africa has put a hold on the rollout of the AstraZeneca COVID-19 vaccine. Early scientific data released on Sunday revealed that the vaccine offered "minimal protection" against mild disease for people infected with the second variant of the coronavirus discovered at the end of last year;" and*
- *"Deputy Chief Justice Raymond Zondo has requested that the secretary of the state capture inquiry to lay a criminal complaint with the police against former President Jacob Zuma after he left the inquiry without permission last week. Zuma walked out after Zondo dismissed the former president's application for recusal on the grounds that Zuma failed to meet the test for a reasonable apprehension of bias."*

**Sound broadcasting Licensees were exempt from compliance with specific programming requirements and promises of performance during the National State of Disaster. Therefore, findings on compliance with this clause of the licence were not made/determined.**

### **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 19h00 and 21h00 and deals with a variety of current affairs issues, including economics, sports preview, update and review.

'You in the Afternoon' is a programme broadcast on weekdays between 15h00 and 18h00 and covers cultural, environmental issues and the latest trends in technology.

**Sound broadcasting Licensees were exempt from compliance with specific programming requirements and promises of performance during the National State of Disaster. Therefore, findings on compliance with this clause of the licence were not made/determined.**

## **4. Staff Incentive Scheme**

Clause 1 of Schedule D stipulates that:

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

The Licensee has furnished the Authority with the Trust registration documentation, trust terms of reference and a comprehensive list of all trustees.

**The Licensee complies with clause 1 of Schedule D of its licence.**

## **5. Employment Equity<sup>7</sup>**

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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 North West Province".*

The monitoring exercise demonstrates that Licensee employs 60% male to 40% female of its staff complement.

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

## **5. REGULATIONS**

### **5.1 SA Music Content Regulations<sup>6</sup>**

Regulation 3.2 of the Regulations on South African Music Content as published on 31 January 2006 stipulate that:

*"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that a minimum of 25% 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 30% South African music. The following are some of the songs identified: "Mhlobo wami" by Teargas, "Happy Birthday" by Samthing Soweto, "Summer yo muthi" by Blaq Diamond and "Naledi" by Press.

**The Licensee has complied with regulation 3.2 of the Regulations on South African Music Content.**

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<sup>6</sup> 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*).



## **5.2 Standard Terms and Conditions for Individual Licences Regulations<sup>9</sup>**

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 Fund<sup>10</sup>**

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".*

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 12 January 2022 and submitted proof of payment<sup>11</sup> thereof, as required by the regulations.

**The Licensee complied with the above USAF Regulations.**

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<sup>9</sup> Standard Terms and Conditions for Individual Licenses Regulations Amendment, 2016 published in Government Gazette No. 39875 dated, 30 March 2016.

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

<sup>11</sup> Proof Licence Fees Payment for You FM 2020-2021

## 5.4 General Licence Fees Regulations<sup>12</sup>

The General License 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"*

You FM's financial year ends on 29 February. The Licensee paid its license fee on 12 January 2022 and submitted proof of payment<sup>13</sup> thereof, as required by the Regulations.

**The Licensee complied with the above General Licence Fees Regulations.**

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<sup>12</sup> 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>13</sup> Proof Licence Fees Payment for You FM 2020-2021

## **6. CONCLUSION**

The Licensee did not comply with clause 3 of Schedule D of its licence on an equal 50% male and female staff complement representation in the workplace. The Broadcasting Compliance unit will take up the matter with the Licensee and if needs be, escalate the matter further to the CCC, for a hearing.

The exemptions and suspensions imposed on Licensees due to the National State of Disaster have been lifted for the next review period. Complete monitoring of compliance with licence conditions and Regulations will be conducted for the next review.

## **APPENDICES**

Annexure A : You FM's Service and Spectrum Licences;

Annexure B : You FM's Trust Deed and beneficiary list;

Annexure C : Regulations on Standard Terms and Conditions for Individual Broadcasting & Individual Electronic Communications Services, 2010 as published in *Government Gazette* No. 33294 dated, 14 June 2010, as amended;

Annexure D : USAF Regulations 2011, published in *Government Gazette* No. 34010 dated, 10 February 2011;

Annexure E : Processes and Procedures Regulations for Individual licences published in *Government Gazette* No. 33293 dated, 14 June 2010, as amended;

Annexure F : ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No.39844 dated, 23 March 2016;

Annexure G : Proof of payment for You FM's Licence Fee and Contribution to USAF; and

Annexure H :The ICT COVID-19 National Disaster Regulations, 2020 as published in *Government Gazette* No. 43207 dated, 06 April 2020, as amended.

**END**