



# **M-NET ANNUAL COMPLIANCE REPORT**

**MARCH 2017**

# **ANNUAL COMPLIANCE REPORT FOR 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 Constitution<sup>1</sup>, the ICASA Act<sup>2</sup> and the Electronic Communications Act (ECA)<sup>3</sup> 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 ICASA Act, the ECA, the terms and conditions of their licence, any relevant legislation and regulation.

The purpose of this report is to provide an overview of Electronic Media Network Limited's (M-Net)'s annual compliance with its licence terms and conditions and relevant regulations for the 2015/2016 financial year. Aspects of compliance that are measured comprise of Geographic Coverage Area, Signal Distribution, Language, Format, Training and Skills Development Obligations which are outlined in the service licence conditions and the following regulations including Must Carry Regulations, Commissioning Protocol Regulations, General Licence Fees Regulation, Universal Service and Access Fund Regulations, Regulations Regarding Standard Terms and Conditions for Individual Licensees, Code on People with Disabilities, South African Television Content Regulations and the Code of Conduct for Broadcasters.

The assessment is based on the information submitted by the Licensee to the Authority, giving account of its activities and the extent to which it has complied with its licence terms and conditions and relevant regulations. The information received from the broadcaster was analysed and verified, through monitoring exercise, where applicable, in order to determine compliance.

## **2. BACKGROUND**

On 17 December 2008, the Authority issued M-Net with a converted licence in terms of the ECA to M-Net in order to provide a national subscription television broadcasting service. The M-Net channel is also offered on Multichoice's digital satellite platform DSTV.

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<sup>1</sup> The Constitution of the Republic No 108, 1996

<sup>2</sup> ICASA Act No 13, 2000 as amended

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

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Licensee<sup>4</sup>**

Clause 1.1 of the licence stipulates that:

*Name of Company/Entity: Electronic Media Network Limited ("M-Net")*

**The Licensee complies with clause 1.1 of its licence.**

Clause 1.2 of the service licence stipulates that:

*"Shareholders: Multichoice South Africa Holdings (Pty) Ltd (100%)*

Clause 1.3 of the service licence stipulates that:

*"Ownership held by persons from disadvantaged groups: 50.07%*

The Licensee submits that Multichoice South African Holding has 100% shareholding and has a provision of 50.07 shareholding by persons from previously disadvantaged groups.

**The Licensee complies with clause 1.2 and 1.3 of its licence.**

#### **3.2 Geographic Coverage Area**

Clause 2 of the service licence stipulates that:

*"The licence area of the Licensee is the Republic or any part thereof."*

The Licensee submits that they provide services in the Republic of South Africa.

**The Licensee complies with clause 2 of its licence.**

#### **3.3 Signal Distribution**

Clause 3 of the service licence stipulates that:

*"The Licensee shall use the licensed electronic communications network service of Orbicom (Pty) Ltd".*

The Licensee utilises Orbicom (Pty) Ltd for signal distribution.

**The Licensee complies with clause 3 of its licence.**

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<sup>4</sup> Appendix A: M Net Service Licence

### **3.4 Language (s)**

Clause 4 of the service licence provides that:

*"This is left to the discretion of the Licensee".*

The Licensee's programmes are broadcast predominantly in English.

**The Licensee complies with clause 4 of its licence.**

### **3.5 Format**

Clause 5 of the service licence stipulates that:

*"The Licensee is licensed to provide an entertainment service, included but not limited to feature films, sports events, magazine and community programming, documentary features, news, information programming and drama".*

The Licensee's programming format consists of content that caters for the genres as stipulated in the service licence.

**The Licensee complies with clause 5 of its licence.**

### **3.6 Training and Skills Development obligations**

Clause 6.1 of the service licence stipulates that:

*"The Licensee must adopt equal employment opportunities".*

The Licensee submitted that of the available vacancies for the period under review, 90% were occupied by historically disadvantaged persons. The submission further outlines that the recent workforce profile with a total of 462 is represented by 388 being made up of previously disadvantaged persons, which equates to more than 84% of the total workforce.

Furthermore, the Licensee has employed people with disability with a majority being previously disadvantaged persons albeit being at four percent of the total workforce.

**The Authority is satisfied that the Licensee has, for the period under review, complied with clause 6.1 of its licence.**

Clause 6.2 of the service licence stipulates that:

*"The Licensee must ensure that its management and staff are representative of South African Society and that its human resource policies, particularly with regard to people from historically disadvantaged groups, take into account the development of managerial, production and technical skills and expertise".*

The current occupational levels for the year under review consist of an average of 58% of previously disadvantaged person at top, senior management and professional level. The percentages for skilled technicians with regards to historically disadvantaged persons is at 87.8% with semi and unskilled workers at hundred percent. The Licensee has made great strides in terms of representation of historically disadvantaged groups in its workforce at middle to top management and professional levels.

**The Licensee has, for the period in review, complied with clause 6.2 of its licence.**

### **3.7 Ownership by Persons from Historically Disadvantaged Groups**

Clause 7 of the service licence stipulates that:

*"The Licensee shall have no less than 30% ownership by persons from historically disadvantaged groups".*

The Licensee submitted that ownership by persons from historically disadvantaged groups constitutes 50.07%. **Accordingly, the Licensee complies with clause 7 of its licence.**

## **4. REGULATIONS**

### **4.1 Must Carry Regulations**

The Regulations regarding the extent to which subscription broadcasting services must carry the television programmes provided by the Public Broadcast Service Licensee provide as follows:

Regulation 5 (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"*

Regulation 5 (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"*.

On 3 April 2009, the Licensee notified the Authority that its subscription broadcasting service consists of only two channels and were given written approval in terms of Regulation 5(2) (b) for exemption<sup>5</sup>.

### **The Licensee complies with the Must Carry Regulations.**

#### **4.2 Commissioning Protocol**

Regulation 3 (a) (i) -(iii) of the Regulations on Commissioning Protocols stipulates that:

*"A Licensee must compile and maintain a Commissioning Protocol for Independently Produced South African Programming" (referred to as "the Protocol"), (ii) within 120 days of promulgation of these regulations, submit its proposed protocol to the Authority for approval and will be advised of the outcome thereof within 30 days of submission; and (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"*.

The Licensee submitted its proposed protocol to Authority within 120 days of the promulgation of the regulations. The Authority approved M-Net's protocol a copy of which is available on the M-Net website<sup>6</sup>.

### **The Licensee complies with Regulation 3 (a) of Commissioning Protocol.**

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<sup>5</sup> Appendix C: Must Carry Regulation Notification Letter

<sup>6</sup> Appendix D: Commissioning Protocol submission

<http://www.mnetcorporate.co.za/ContentImages/MNetCorporate/Documents/PDF/MNet%20Commissioning%20Protocol.pdf>

### **4.3 General Licence Fees Regulations**

Regulation 3 (1) (a) of the General Licence Fees Regulations 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 the applicable formula for calculation of annual licence fees.

Regulation 7 (b) under Schedule 3 of the General Licence Fees stipulates that:  
*"(b) are due and payable within 6 months from the end of the licensee's financial year"*.

The Licensee made a payment in accordance with the Licence Fees Regulations on 30 September 2016 which falls within six (6) months after their financial year end of March 2016.

**The Licensee complies with General Licence Fees Regulations.**

### **4.4 Universal Service and Access Fund Regulations**

Regulation 3 (1) of the Universal Service and Access Fund (USAF) Regulations 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 (the Fund)"*.

The Licensee paid its Universal Service and Access Fund to the Authority on 30 September 2016.

**The Licensee complies with Universal Service and Access Fund Regulations.**

### **4.5 Standard Terms and Conditions Regulations for Individual Licensees**

During the period under review, the Authority did not identify any non-compliance by the Licensee with the Standard Terms and Conditions for Individual Licensees.

## **4.6 Code on People with Disabilities**

Regulation 3.1 of the Code on People with Disabilities stipulates that:

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

The regulations further outline a list of the different options that the Licensee can focus on in order to make its services accessible to people with a disability. The Licensee submitted that it has now implemented audio descriptive AD tracks in respect of some of the programmes on its channel and on some channels, it supplies to Multichoice.

Further, the Licensee reported that it has approached all major studios about providing these tracks for their international content, and have received confirmation that, where available, these AD tracks will be included on material delivery. With regard to AD tracks for locally produced content, the Licensee reported that it is at an advanced stage with regards to getting a supplier and costing of those services.

Regulation 3.2 of the Code on People with Disabilities stipulates that:

*"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, it attaches a visual promo directly after the end credits of each programme to direct viewers to the relevant support group or association.

The Licensee has demonstrated efforts to make its services accessible to people with disabilities with the current initiatives for the period under review focusing on people with visual and hearing impairment.

**The Licensee complies with Regulations on Code for People with Disabilities.**



#### 4.6 South African Television Content Regulations

Regulation 5.1 of the South African Television content regulations stipulates that:

*"A terrestrial or cable subscription television broadcasting Licensee must ensure that a minimum weekly average of 10% during the South African television performance period, measured over the period of a year, consists of South African television content. In fulfilling this obligation, a terrestrial or cable subscription television broadcasting licensee may broadcast the South African television content on dedicated channel (s) or across its bouquet"*

Table 1 below demonstrates compliance by the Licensee with its obligations for the period under review:

**Table 1: South African Television Content**

<b>MONTH</b>	<b>TOTAL HOURS LOCAL CONTENT</b>	<b>% LOCAL CONTENT</b>	<b>TOTAL HOURS LOCAL DRAMA</b>	<b>% LOCAL DRAMA</b>
Apr	40.50	4.86%	6.00	0.60%
May	52.50	5.71%	10.50	1.05%
Jun	46.50	5.13%	11.00	1.10%
Jul	73.98	7.76%	13.50	1.35%
Aug	108.75	14.09%	13.00	1.30%
Sep	120.50	16.72%	13.00	1.30%
Oct	103.50	14.95%	11.50	1.15%
Nov	114.00	16.58%	13.50	1.35%
Dec	96.50	13.09%	31.00	3.10%
Jan	105.50	14.40%	44.50	4.90%
Feb	117.00	17.36%	33.00	3.95%
Mar	120.00	17.24%	26.50	3.35%
<b>Annual average local content</b>		<b>12.32%</b>	<b>16.70%</b>	<b>2.04%</b>

The Licensee's local content consists of among others "Carte Blanche" which is a current affairs and investigative journalism programme broadcasts on Sundays with

repeats during the week. The Licensee also has other local shows like "Feast" and "Celebrity MasterChef" which are presented in reality show format focused on cooking. The total local content output for the year under reviews is 12.32%.

**The Licensee has complied with Regulation 5.1 of the South African Television Content Regulations.**

Regulation 5.2 of the South African Television Content Regulations stipulates that:

*"in complying with its obligation in terms of Regulation 5.1 above, a terrestrial or cable subscription television broadcasting licensee must, to the extent that it is applicable to the type of broadcasting service, ensure that a minimum of 2% of its South African television content programming consists of South African drama programming".*

The Licensee has local drama programming such as "Binnelanders" broadcast for 30 minutes weekdays between 17h30 and 18h00 and repeats different days of the week. As reflected in Table 1 above, the Licensee broadcasts an average of 16,70% local drama programming for the year under review.

**The Licensee complies with regulation 5.2 of the South African Television Content Regulations.**

**5. Code of Conduct for Broadcasters**

The Licensee is a member of the National Association of Broadcasters (NAB) thus all complaints related to the Code of Conduct are adjudicated by the Broadcasting Complaints Commission of South Africa (BCCSA).

**6. CONCLUSION**

M-Net has complied with the obligations as set out in the licence terms and conditions and relevant regulations.

## **7. TERMS OF REFERENCE**

- 7.1 Appendix A: M-Net Service Licence
- 7.2 Appendix B: Employment Equity and Recruitment Report
- 7.3 Appendix C: Must Carry Regulation Letter
- 7.4 Appendix D: Commissioning Protocol submission
- 7.5 Appendix E: USAF Contribution