

# **OFM ANNUAL COMPLIANCE REPORT**

**MARCH 2023**

## **2021/2022 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 Constitution<sup>1</sup>, the Independent Communications Authority of South Africa Act<sup>2</sup> (ICASA Act), the Electronic Communications Act<sup>3</sup> (ECA) and the Broadcasting Act<sup>4</sup> 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 an account of Central Media Group (Pty) Ltd broadcasting as OFM's compliance for the 2021/2022 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 Provinces<sup>5</sup>.

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

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

<sup>3</sup> Act No. 36 of 2005.

<sup>4</sup> Act No. 4 of 1999.

<sup>5</sup> 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"*

The name of the station remained unchanged during the period under review as the Licensee has continued to broadcast under the name of "OFM".

**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 services provided by the Licensee were for the geographic coverage area of the Free State, Northern Cape, and parts of the North West. The coverage is aligned to the coverage map attached to the radio frequency spectrum licence of the Licensee.

**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 found that the programming and music as broadcast by the licensee were in the English and Afrikaans languages.

**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 programming format of the Licensee was found to be categorised as adult contemporary. The programming format was further found to include a mixture of music and information as well as the coverage of community affairs.

Community affairs are discussed during OFM's "Community Calendar" segment that is broadcast daily, on weekdays at 10h45 and weekends at 07h45. The Community Calendar is a service offered by the Licensee to the community where they can submit their events to be broadcast free of charge.

### **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 supported various live music performances during the period under review such as "Bloem In Concert", which took place on 19 March 2022 and featured Cezanne Yzelle, Gerduan Kemp, Mario Lategan, Ella Kotze, Corneil Müller, Lise-Maré Markgraaf and Arend Brink Jr., accompanied by an 11-piece ensemble, under the baton of musical producer and arranger Heinrich Lategan.

The monitoring exercise further confirmed that the Licensee on a regular basis profiles South African composers and engages in joint competitions with record companies and advertisers.

The licensee profiles South African plays and promotes local music demonstration tapes or the equivalent during its "Klanktoets" program.

**The Licensee 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 news sources utilised by the Licensee for its news broadcast include African News Agency; OFM Regional Correspondence; OFM Content Team; Media24; SAFM/RSG/5FM and Kagiso Media. The Monitoring exercise found that the majority of the Licensee's news broadcast is from external sources.

The monitoring exercise confirmed that in circumstances where the news as broadcast by the Licensee is from a source other than itself, it discloses such news source. The source is disclosed either at the start or end of the broadcast.

**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 (one million eight hundred thousand) per annum on the provision of news, including locally based gatherings."*

The Licensee submits that during the period under review, the Licensee spent an amount of R3 012 415 (three million twelve thousand four hundred and fifteen rand) in respect of the provision of news. The Licensee has met its obligatory requirement of spending a minimum of R1 800 000 per annum on the provision of news, including locally based gatherings.

**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:

- *"Yet another Free State educator is facing allegations of physically assaulting a learner. This time the alleged perpetrator is the deputy*

*principal of a primary school in the Free State. According to the written complaint in OFM News' possession, the alleged assault dates back to 2020, when the deputy head of the school allegedly laid his hands on a minor. The learner isn't the only one being victimised over the incident."*

- *"Disgruntled residents of the Phomolong and Dinaweng informal settlements on the outskirts of Bloemfontein this morning brought traffic on the R702 to a grounding halt. The normally busy road, which separates the Caleb Motshabi and the Klipfontein farmstead on either side, was barricaded with burning tyres, road infrastructure, and bits of refuse strewn on the road. Bloemfontein police spokesperson, Thabo Covane, tells OFM News that the protesting group is unhappy with the incumbent ward councillor and demand a rerun of the election process. Covane further adds that the protesting group wants to be addressed by the Coordinator of the Interim Provincial Committee (IPC) in the Free State ANC, Paseka Nompondo, and the Premier of the province, Sisi Ntombela."*
- *"Adjunk-voorsitter van die Nasionale Raad van Provinsies, Silvia Lucas, het die Noord-Kaapse LUR vir Samewerkende Regering, Bentley Vass, daarop gewys dat te veel geld sedert die begin van die Covid-19 pandemie tot op hede aan watertenkwaens bestee is. Sy sê verder dat 'n langtermyn-oplossing nodig is. Lucas het verder Vass daarvan beskuldig dat hy probeer het om uitgawes rondom watertenkwaens voor die deur van die nasionale regering te lê. Die provinsiale Departement van Landbou het ook onder skoot gekom, na hul voorlegging oor die invloed van natuurrampe."*
- *"Die DA in die Vrystaat het vrae ingedien oor miljoene rande wat oor verskeie boekjare aan 'n maatskappy oorbetal is. OFM-nuus het vroeër berig dat daar onsekerheid bestaan oor of die Lejweleputswa-ontwikkelingsagentskap 'n openbare of private maatskappy is. Dié agentskap het egter sedert 2005 geleidelik meer en meer geld van die Lejweleputswa-distriksmunisipaliteit gekry. Volgens antwoorde op vrae, het die agentskap tot meer as R14 miljoen in die 2019/20 boekjaar ontvang. Die agentskap se jaarverslag vir dieselfde boekjaar sê die maatskappy is as 'n private maatskappy geregistreer."*

The monitoring exercise confirmed that on average 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 confirms that the Licensee during weekdays broadcast an average of forty-five (45) minutes of news per day, this includes half hourly bulletins during peak hours. News broadcast during weekdays start at 06h00, with the last news bulletin broadcast at 18h00.

During weekends the news output of the Licensee is reduced to an average of twenty (20) minutes. News is broadcast between 07h00 and 13h00 on weekends.

**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 monitoring exercise perused the editorial charter of the Licensee and found that the editorial charter guarantees independent and impartial news coverage.

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

**Consequently, the Licensee complies 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 submits that COVID-19 impacted its normal training schedule as during the period under review the country was faced with the different variants, but it managed to provide a three-day training course to the National Community Radio Forum that consisted of training modules such as "*Managing a Newsroom*"; "*Journalism 101*" and "*Compliance, Court and Crime Reporting*". The attendance register submitted by the Licensee, indicates that the training was attended by twenty (20) delegates. The course started at 08h00 and ended at 16h00 daily, amounting to eight (8) hours per day and a total of twenty-four (24) hours over the three days.

The Licensee did not request to be exempt for compliance with this clause and did not advise the Authority of any challenges it faced in terms of conducting the required training during the period under review.

**The Licensee is partially compliant with clause 7 of the Schedule to its licence.**

### **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 submits that it maintained a sixty-two-comma five percent (62,5%) control of the station within the broadcasting coverage area.

**The Licensee 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 confirmed that it maintained ownership and control of the station by persons from historically disadvantaged groups (HDI) at 41,06% 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's board of directors consists of eight (8) members, of which four (4) are female.

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

**Consequently, the Licensee complies with the entirety 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 submitted its training schedule for the period under review. The schedule shows that an amount of R 409 824 on training, however upon inspection of the schedule, the monitoring exercise found that R163 125 of that amount was spent on the training and skills development for employees from historically disadvantaged groups, a further R 78 560 was spent on sponsorship of Nozala Primary School and more than R75 000 was spent on the training and skills development of non-employees from historically disadvantages groups. The total amount spent on persons from historically disadvantaged groups is still, however, more than R250 000 for the period under review.

**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 during the period under review had a staff component of fifty (50). This staff component consists of twenty-nine (29) white, thirteen (13) black, one (1) Indian and seven (7) coloureds. The Licensee, therefore, had a forty-two (42%) percent black staff component for the period under review.

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

**Consequently, the Licensee complies with the entirety 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 duly submitted its Form 12A during the period under review. The form showed that the Licensee had an average turnaround time of one (1) day for complaints resolution and it further indicated that no complaints were escalated to the Authority or Broadcasting Complaints Commission of South Africa.

**The Licensee complies with the Compliance Procedure Manual Regulations.**

**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 Services<sup>6</sup>.

**The Licensee complies 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 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"*<sup>7</sup>.

*During the period under review, the monitoring exercise found the following South African music tracks were broadcast by the Licensee:*

*CheraLee "As More Kom"; Christian Heath "Give It Up"; Jarrad Ricketts "Mamma I Made It"; Chad Saaiman "Wrong Again"; Tayla Hunter "Out Of Mind"; Vaughn Prangley "Green Eeys"; Kalinka Killian "Falling"; Mila Smith "Liars and Fakes"; Zaan Sonnekus "Ek Kan Net Bid"; Juan Casey "Vry"; Steve Umculo "Your Eyes Through Mine", amongst others.*

During the period under review, the Licensee covered live music from the following South African musicians such as:

*William Wolf; Devon; Zebraman; Ricus Nel; Gerduan Kemp; Louise Carver; Riaan Benade; Sunset Sweatshop and Horison; amongst others.*

During the period under review, the Licensee held interviews with South African musicians such as:

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

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

*CheraLee; Christian Heath; Chad Saaiman; Jarrad Ricketts; Tayla Hunter; Cece Vee; Charlize Berg; Neon Dreams; Lee Cole; Adam; Elvis Blue; John Neil; Mila Smith; Jackie Louw; Pedri; Static Space and Sehle Mosole; amongst others.*

The monitoring exercise found that the Licensee broadcast an average of fifty (50) percent South African music content and confirms that the South African music is spread evenly throughout the performance period.

### **The Licensee complies with the ICASA 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, 2011<sup>8</sup> 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)."*<sup>9</sup>

The Licensee made the required payment to the fund on 30 September 2022 and submitted the proof of payment to the Authority.

### **The Licensee complies 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."*<sup>10</sup>

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<sup>8</sup> Published in Government Gazette No. 34010 dated, 10 February 2011.

<sup>9</sup> Appendix E: USAF Regulations, 2011 as published in Government Gazette No. 34010 dated, 10 February 2011.

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

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."*<sup>11</sup>

The Licensee made the required general licence fees payment on 30 September 2022 and submitted the proof of payment to the Authority.

### **The Licensee complies with the General Licence Fees Regulations, 2012.**

## **5. CONCLUSION**

The monitoring exercise as undertaken by the Authority during the period under review found that the Licensee complied with all its regulatory obligations, save for one obligation to which the Licensee did not fully comply. The area where the Licensee did not fully comply relates to its obligation to 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. The information submitted by the Licensee indicated that the Licensee only provided twenty-four (24) hours of on-the-job training and fell short of the 100 hours. The Licensee did state that COVID-19 impacted its compliance and therefore the Authority will monitor its compliance in the next period under review.

## **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.

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<sup>11</sup> *Ibid.*