



OFM ANNUAL COMPLIANCE REPORT

MARCH 2017

2015/2016 ANNUAL COMPLIANCE REPORT

Central Media Group (Pty) Ltd broadcasting as OFM

LICENCE PERIOD : 17 DECEMBER 2008 - 16 DECEMBER 2018

1. PREFACE

The Independent Communications Authority of South Africa (the Authority¹) 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 OFM's performance for the 2015/2016 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Languages, Format, Local Content Obligations, General Programming Obligations, Complaints Received, Regulations on the Code on People with Disabilities, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations and General Licence Fees Regulations.

2. BACKGROUND

OFM is an Individual Commercial Sound Broadcasting Service Licensee providing an adult contemporary format, mix of music and information to the Free State and Northern Cape provinces and parts of North West province⁵.

¹ The Constitution of the Republic, No. 108 of 1996

² Act No. 13 2000, as amended

³ Act No. 36 of 2005

⁴ Act No. 4 of 1999

⁵ Appendix A: OFM's licence conditions

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage

Clause 1 of the schedule to the licence provides that the name of the station is:

"OFM"

The Licensee confirms that the name of the radio station is still OFM. This was further confirmed during the monitoring exercise.

The Licensee was found to be compliant with clause 1 of the Schedule to its licence.

Clause 2 of the schedule to the licence states that the Licensee's geographic coverage area is:

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

According to the frequency spectrum licence, the radio station covers the areas indicated above. The Licensee confirms that its coverage area is as defined in the frequency spectrum licence.

The Licensee was found to be in compliance with clause 2 of the Schedule to its licence.

3.2 Broadcast Language(s)

Clause 3 of the schedule to the licence lists languages of broadcast as follows

"English and Afrikaans".

The monitoring of OFM's programming content confirmed that the radio station broadcasts programmes in English and Afrikaans.

The Licensee was found to be in compliance with clause 3 of the Schedule to its licence.

3.3 Format

Clause 4 of the schedule to the 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 of OFM's programming content confirmed that the radio station offers a programming format of music in an adult contemporary format and a mix of music and information.

The Licensee was found to be in compliance with clause 4 of the Schedule to its licence.

3.4 Local Content Obligations

Clause 5 of the schedule to the licence conditions stipulates that:

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

5.1.1 Supporting 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 submitted proof indicating that it supports live music performances. OFM reported that during the year under review it was partner, supporter and sponsor of the BloemSkou Music Stage, Parlotones on Tour, Vrystaat Kunstefees, Gariiep Kunstefees, Aardklop Kunstefees, Macufe Festival of Lights, Voetspoere Fees, Bloemfontein City Orchestra in Concert, Watershed on OFM, Cherry Festival, Carols by Candlelight Concert, Kameeldoring Ope Konsert, OFM Birthday Tour, CANSA Shavathon and Lush Festival Clarens.

The Licensee was found to be in compliance with clause 5.1.1 of the Schedule to its licence.

Further, the Licensee submitted proof indicating that OFM does profile South African composers. The list of South African composers as appearing in the submission includes Elvis Blue, Arno Carstens and Monique.

The Licensee was found to be in compliance with clause 5.1.2 of the schedule to its licence.

OFM submitted proof indicating that it complied with clause 5.1.3 by partnering with SKYBOX/STEERS, No. 16 Stoep & beer garden, Britney Spear Wkd Sovereign Bloemfontein, Carfind, LUSH COMP Breakout Events, Johnny & Jesse Clegg and WKD DIY SUPERSTORE.⁶

The Licensee was found to be in compliance with clause 5.1.3 of the Schedule to its licence.

Information submitted to the Authority indicates that the radio station plays and promotes local music. According to OFM, 35% of the music played by the radio station is South African. The Licensee's submission was corroborated by the Authority's monitoring exercise. During the period under review, the Licensee interviewed and played music of the following artists: Elizma Theron; Pieter Koen; Ampie; Nianell; Jak De Priester; Francois Van Coke; Gerrie Pretorius; Heinz Winckler; Justin Serrao; DJ Shaxe, 2Nyce, Four Flexboogie, Little Fite and many more artists

The Licensee was found to be in compliance with clause 5.1.4 of the Schedule to its licence.

3.5 General programming obligations

Clause 6.1 of the schedule to the licence states that:

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

The Licensee stated that acknowledgement is given to all other news sources, either at the beginning or end of the clip.

⁶ Ibid

The monitoring exercise revealed that the Licensee discloses its sources of news whenever it reports on news that has not been obtained by its news journalists. News sources include Gallo Images (Pty) Ltd, OFM Regional Correspondents, African News Agency, South African Press Association (SAPA), Kagiso Media and AME Group Stations.

The Licensee was found to be in compliance with clause 6.1 of the Schedule to its licence.

Clause 6.2 of the schedule to the licence provides that:

"The Licensee shall spend a minimum of R900 000 (nine hundred thousand Rand) per annum on the provision of news, including locally-based news gathering".

The Licensee submitted that over the past 12 months (01 April 2015 to 31 March 2016) the Licensee spent R 1 321 652 on the training and development of HDI's, thus exceeding its target by 46.85%.

The Licensee was found to be in compliance with clause 6.2 of the Schedule to its licence.

Clause 6.3 of the schedule to the licence provides that:

"The Licensee shall emphasise local news".

The monitoring exercise revealed that a significant amount of OFM's news bulletins is local news.

The Licensee was found to be in compliance with clause 6.3 of the Schedule to its licence.

Clause 6.4 of the schedule to the licence states that:

"The Licensee shall broadcast an average of at least thirty-five (35) minutes of news per day including half hourly bulletins during peak hours".

OFM submits that it broadcasts 54.5 minutes of news bulletins per day, from Monday to Friday.⁷ The radio station states that it broadcasts 35 minutes of news bulletins on Saturdays, Sundays and on public holidays. This was confirmed during Authority's monitoring. The monitoring confirmed that the Licensee broadcasts 19 news bulletins every hour on the hour and half hour between 06h00 and 18h00 Mondays to Fridays.

During the period under review, OFM broadcast 56 minutes of news each day during the South African performance period. News bulletins and headlines are broadcast in both English and Afrikaans. Further, OFM broadcasts broadcast 35 minutes of news on weekends and public holidays. The news bulletins are broadcast every hour on the hour from 7h00 to 13h00.

Among the news stories covered for the period under review were excerpts from certain broadcasts, as follows:

- *'Western Cape High Court Judge, Dennis Davis says a rational decision maker should have interrogated further the fact that SABC COO, Hlaudi Motsoeneng lied when he applied for a job at the broadcaster in 1995';*
- *'Almost two weeks after it was revealed that senior police officers had unsuccessfully demanded access to the office of suspended KwaZulu-Natal Hawks boss, Johan Boysen the locks to his office have been changed';*
- *'The trial of the alleged kidnapper, Fani Mathebula is expected to resume in the Bloemfontein Regional Court today';*
- *'Free State Government Departments irregularly spent more than 1,5 billion rand in 2014/15 financial year'; and*
- *'Police in the Northern Cape have release the identikit of three women who were allegedly drugged, kidnapped and repeatedly raped by the man';*

The Licensee was found to be in compliance with clause 6.4 of the Schedule to its licence.

⁷ Appendix C: OFM's Report.

3.6 Community-Related Obligations

Clause 7 of the schedule to the 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 submitted proof indicating that it trained staff members from a community radio within its coverage area on 25 April 2015 and on 25 June 2015. The staff trained was from Central University of Technology FM (CUT FM). The training programmes were provided to the Authority and were on both technology and operations.

The Licensee was found to be in compliance with clause 7 of the Schedule to its licence

3.7 Ownership and Control Obligations

Clause 8.1 of the schedule to the licence provides that:

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

The Licensee's submission indicates that out of eleven (11) directors, five (5) directors live within the radio station's coverage area. This translates to forty-five percent (45%) control of the radio station within the broadcasting coverage area.

The Licensee was found to be in compliance with clause 8.1 of the Schedule to its licence.

Clause 8.2 of the schedule to the 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 submits that ownership and control by historically disadvantaged groups (HDI/G) in the radio station is currently at 39.65%.

The Licensee was found to be compliant with clause 8.2 of the Schedule to its licence.

Clause 8.3 of the schedule to the licence provides that:

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

OFM's Board of Directors is constituted of twelve (11) people. Of this number five (5) are women which translates to 45.5% female and 54.5% male. The Board members are as follows:

- Mr A.J. Grobbelaar – Board Member (White, male)
- Rev C.D. Jaftha – Deputy Chairperson (Black, male)
- Mr D.S. Mtshali – Board Member (Black, Male)
- Ms E. Myburgh - Board Member (White, female)
- Ms M. Mynhardt – Board Member (White, female)
- Mr M.J. Prinsloo – Chairperson (White, male)
- Mr G.S. Stroebel - Chief Executive Officer (White, male)
- Ms I.I. Tihankana – Board Member (Black, female)
- Mr N.C.L. Grubb– Board Member (White, male)
- Ms M.M.M. Vermeulen – Board Member (White, female)
- Prof W. Viviers - Board Member (White, female)⁸.

The Licensee was found to be in compliance with clause 8.3 of the Schedule to its licence.

⁸ Appendix C: OFM's Report.

3.8 Training and Skills Development Obligations

Clause 9.1 of the schedule to the licence provides 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".

During the year under review, the Licensee spent R1 321 652 on training and development of HDI⁹.

The Licensee was found to be in compliance with clause 9.1 of the Schedule to its licence.

Clause 9.2 of the schedule to the licence states that:

"The Licensee shall ensure that at least thirty percent (30%) of its total full time staff complement is Black".

The Licensee has a full-time staff compliment of 51 people. Of this number, 20 are black which translates to 39.2% black people.

The Licensee was found to be in compliance with clause 9.2 of the Schedule to its licence.

4. REGULATIONS

4.1 Complaints Received

The Licensee is required, in terms of the Compliance Procedure Manual Regulations, to submit a Form 12A¹⁰ which reports on all complaints received during the financial year under review. The Licensee submitted its complaints report in accordance with the Regulations regarding the Code of Conduct for Broadcasting Service Licensees.

The Licensee is a member of the National Association of Broadcasters (NAB). Any complaint related to code of conduct is dealt with by the Broadcasting

⁹ Ibid.

¹⁰ SABC Form 12A.

Complaints Commission of South Africa (BCCSA). According to the Licensee, there were no complaints received by OFM during the period under review.

The Licensee was found to be in compliance with Compliance Procedure Manual Regulations.

4.2 Regulations on the Code on People with Disabilities

Regulation 3.1(a) of the Regulations on the Code on People with Disabilities states that:

“Broadcasting service licensees must ensure that their services are made available and are accessible to people with disabilities”.

The Licensee states that OFM works together with Associations for people with disabilities in order to involve people with disabilities in the activities of the radio station. Further, OFM reported that People with Disabilities are able to visit their studio without a challenge since they have lifts.

The Licensee was found to be compliant with clause 3.1(a) of the Regulations on the Code on People with Disabilities.

Regulations 3.1(c) of the Regulations on the Code on People with Disabilities states that:

“Broadcasting service licensees must monitor the effectiveness of their service through surveys as well as contact with organisations of and for people with disability and stakeholders”.

The Licensee reported that there are surveys conducted by the radio station in order to understand the impact of its work relationship with organisations for people with disability. Further, OFM conducts surveys to get perceptions of people with disabilities on the radio station.

The Licensee was found to be compliant with clause 3.1(c) of the Regulations on the Code on People with Disabilities.

4.3 Regulations Regarding Standard Terms and Conditions

During the year under review, the Authority did not identify any non-compliance by the Licensee with the standard terms and conditions for individual licensees¹¹.

4.4 South African Music Content

Regulation 3.2 of the Regulations on South African Music Content as published on 31 January 2006 states 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"

The monitoring exercise confirmed that OFM plays 25% of South African music and thus is in compliance with clause 3.2 of the South African Music Content Regulations.

The Licensee was found to be in compliance with Regulation 3.2 of the Regulations on South African Music Content.

4.5 Universal Service and Access Fund

Regulation 3 (1) of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund as published in the Government Gazette, no 31499 states 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 (USAF)".

Further, Regulation 3 (3) states that:

¹¹ Appendix D: Regulations Regarding Standard Terms and Conditions for Individual Licences.

"A broadcasting service licensee who has paid an annual contribution to the Media Development and Diversity Agency (MDDA) must set off that contribution against its prescribed annual contribution to the Fund".

The Licensee paid its annual contribution fee to the fund on 30 September 2016 and duly submitted proof of payment to the Authority.

The Licensee was found to be in compliance with regulation 3(1) and 3(3) of the USAF regulations.

4.6 General Licence Fees

Regulation 3(1) of the General Licence Fees Regulations states 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 BS licences".

Schedule 2 of the Annual Licences Fees regulations provides for Individual Commercial Broadcasting Service Licensees to pay an annual licence fee of 1.5% of gross profit to the Authority.

Regulations 4 (b) and (c) of Schedule 3 states 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"

During the period under review, OFM made a payment of its licence fees on 30 September 2016. Proof of payment was submitted to the Authority.

The Licensee was found to be in compliance with regulation 3 (4) (b) and (c).

5. CONCLUSION

The Licensee has complied with its licence terms and conditions, ICASA's regulations and relevant regulations.

6. APPENDICES:

- 6.1 Appendix A: OFM's licence conditions
- 6.2 Appendix B: General Programming Obligations Report
- 6.3 Appendix C: OFM's Report
- 6.4 Appendix D: Regulations on a Code on People with Disabilities
- 6.4 Appendix E: Regulations Regarding Standard Terms and Conditions for Individual Licences
- 6.5 Appendix F: USAF Regulations
- 6.6 Appendix G: OFM's Complaints Report