



# **POWER FM ANNUAL COMPLIANCE REPORT**

**MARCH 2025**

# **2023/2024 ANNUAL COMPLIANCE REPORT**

## **POWER FM (PTY) LTD BROADCASTING AS POWER FM**

**LICENCE PERIOD: 25 MAY 2022 – 24 MAY 2032**

### **1. PREFACE**

The Independent Communications Authority of South Africa (“Authority”) has a statutory mandate in terms of the Constitution, the ICASA Act and the Electronic Communications Act of 2005 (“EC Act”) 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, the Electronic Communications Act, the ICASA Act, and any relevant legislation and Regulations.

The report is intended to give an account of Power FM’s compliance with the terms and conditions as set out in its licence for the 2023/2024 financial year. Aspects of compliance that are measured comprise of Geographic Coverage, Broadcasting Languages, Format, General Programming Obligations, Training and Skills Development and Community-Related Obligations.

Further, the report will measure compliance with regulations that include South African Music Content, Standard Terms and Conditions for Individual Licensees, Universal Service and Access Fund, General Licence Fees and the Code of Conduct for Broadcasters.

### **2. BACKGROUND**

In May 2023, the Authority issued Power FM (Pty) Ltd broadcasting as Power FM (“the Licensee”), with a renewed commercial broadcasting licence to continue providing a broadcasting service to Gauteng as indicated in its radio frequency spectrum licence.

The radio station is broadcasting from the studios situated at 79 Central Street, Houghton. The signal distribution service is conducted by Sentech (Pty) Ltd.

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Control Structure**

##### **3.1.1 Ownership and Control**

Clause 1 of Power FM's licence stipulates that:

*"The licence is issued to:*

1.1 *Name of Company/Entity: Power 987 (Pty) Ltd*

1.2 *Name of the Station: Power FM*

1.3 *Shareholders:*

<i>Janistone (Pty) Ltd</i>	<i>- 87.02%</i>
<i>AiH Media (Pty) Ltd</i>	<i>- 1.92%</i>
<i>MIB Radio &amp; Media Investments (Pty) Ltd</i>	<i>- 5.16%</i>
<i>Friedshelf 1136 (Pty) Ltd ("Ndalo Radio Broadcasting")</i>	<i>- 2.17%</i>
<i>Friedshelf 1125 (Pty) Ltd ("Kgalakgadi Media")</i>	<i>- 1.13%</i>
<i>Friedshelf 1134 (Pty) Ltd ("Thonga Media")</i>	<i>- 0.48%</i>
<i>Friedshelf 1135 (Pty) Ltd ("TT Media and staff")</i>	<i>- 1.32%</i>
<i>Friedshelf 1122 (Pty) Ltd ("Jacobs the 4")</i>	<i>- 0.80%".</i>

The Licensee was previously found to be non-compliant under this clause, particularly with clauses 1.1 and 1.2 as it used Power 987 (Pty) Ltd as the name of its entity instead of the licensed name, Power FM (Pty) Ltd. The Licensee also broadcasts as Power 98.7 FM, instead of Power FM.

The Licensee has since updated its entity name to Power 987 (Pty) Ltd and it was issued with an updated licence. The Licensee has further taken steps to address the non-compliance with its broadcast name, whereas it has applied for an amendment of its broadcast name from Power FM to Power 98.7 FM. The amendment application is still under consideration by the Licensing and Compliance Division ("the Division").

Updated service and frequency spectrum licenses will be issued to the Licensee as soon as the Division concludes processing the application and if the amendment is approved.

**The Licensee does not fully comply with clause 1 of its licence.**

### **3.4 Geographic Coverage Area**

Clause 3 of the schedule to Power FM's licence provides that:

*"Geographic coverage:*

*"Gauteng, as indicated in the attached coverage map, from time to time".*

The Authority did not receive reports suggesting the Licensee broadcasts outside the defined coverage area.

**The Licensee complies with clause 2 of the schedule to its licence.**

### **3.5 Broadcast Language**

Clause 4 of the schedule to Power FM's licence provides that:

*"Principal Language: English, however, the other common languages spoken in the area will be flexibly used in accordance with listeners".*

It was confirmed that the Licensee's primary language of broadcast is English.

**The Licensee complies with clause 3 of the schedule to its licence.**

### **3.6 Format**

Clause 5 of the schedule to Power FM's licence provides that:

*"The Licensee shall be a full-service adult contemporary talk radio station with up to 70% of the airtime devoted to talk and at least 30% to music".*

The Authority's monitoring exercise revealed that the Licensee is a full service, adult contemporary talk radio station. The radio station's programming is predominantly talk, especially on weekdays, with music dominating weekend programming. It was confirmed that the Licensee complies with its format of 70% talk and 30% music.

**The Licensee complies with clause 5 of the schedule to its licence.**

### **3.7 Local Content Obligations**

Clause 6 of the schedule to Power FM's licence provides that:

*"The Licensee shall broadcast 35% of South African music".*

The Licensee's quarterly submissions indicate that it broadcasts an average 40% of South African music content.

The monitoring exercise confirmed that the Licensee broadcasts more than 40% of South African music content. Format factors such as interviews with local artists, playing new local music and live broadcasts of South African music were considered.

**The Licensee complies with clause 6 of the schedule to its licence.**

### **3.8 General Programming Obligations**

Clause 7.1 of the schedule to Power FM's licence provides that:

*"The Licensee shall primarily dedicate current affairs programmes in the morning, during its midday and afternoon show. The licensee will further broadcast programmes beyond current affairs as they will also include entrepreneurship, sports, arts entertainment and lifestyle content".*

The Licensee's submissions indicate that it primarily broadcasts current affairs shows in the morning, midday and in the afternoon. Its submissions also highlight programmes that demonstrate that it broadcasts beyond current affairs with programming that includes entrepreneurship, sports, arts, entertainment and lifestyle content as per clause 7.1.

The monitoring exercise confirmed that Power FM broadcasts current affairs programmes in the morning, midday and afternoon. The Licensee broadcasts *Power Weekend Breakfast* on weekends, *Power Breakfast* daily between 06h00 and 09h00 and *Power Lunch* between 12h00 and 15h00 as part of its current affairs programming. These programmes go beyond current affairs, and they broadcast content that includes entrepreneurship, sports, arts, entertainment and lifestyle.

Other programmes such as *Power Up*, *Power Talk*, *Power Drive* and *Power Business* also offer listeners programming that covers entrepreneurship, sports, arts, entertainment and lifestyle. Robust discussions and discourse on a variety of topics are held with analysts and experts from different fields such as business, politics, health, sports, among others. Listeners are also given a platform to engage with guest for interactive discussions on different topics.

**The Licensee complies with clause 6.1 of the schedule to its licence.**

Clause 7.2 of the schedule to Power FM's licence provides that:

*"The Licensee shall broadcast reports from correspondent reporters in various African countries on current events in their regions on Sunday mornings".*

The *Power Weekend Breakfast* on Sunday mornings has a segment, *Across the Continent* where previous monitoring exercises revealed reports on current affairs from correspondent reporters in different African countries. However, there were no reports that were identified during the current monitoring period. Even though there were some discussions about African issues, these were not news reports. Some of the discussions that were identified include a discussion with Professor De Jager about Cape Verde being the third African country to eliminate Malaria, and there was also a discussion with Professor Nkwala from the University of the Western Cape, about one hundred (100) years of radio in Africa.

**The Licensee did not comply with clause 7.2 of the schedule to its licence.**

Clause 7.3 of the schedule to Power FM's licence provides that:

*"The Licensee shall emphasize local and regional news and employ a news team specifically for the production of local news".*

The monitoring exercise confirmed that Power FM puts more emphasis on local and regional news as it mostly covers news and events within South Africa and other parts of Africa. The Licensee confirmed that it has employed a news team specifically to produce local news.

**The Licensee complies with clause 7.3 of the schedule to its licence.**

Clause 7.4 of the schedule to Power FM's licence provides that:

*"The Licensee shall broadcast news on a regular basis for a minimum of forty-nine (49) minutes each day between 05h00 and 23h00".*

The monitoring exercise revealed that Power FM broadcasts approximately eighty (80) minutes of news per day on weekdays and approximately sixty (60) minutes on weekend. The Licensee broadcasts news bulletins every hour during the performance period on weekdays, and twelve (12) bulletins on weekends from 06h00 to 18h00. Each bulletin is approximately five minutes.

Below are some of the news items that were identified during the monitoring exercise:

- *"The City of Cape Town is calling on President Cyril Ramaphosa to give a clear deadline for the transfer of the Passenger Rail of South Africa's services to the metros. The call comes ahead of the President's State of the Nation Address tonight. The City of Cape Town has in the past made several appeals for powers in policing, rail, energy and the ports to be handed over to the capable metros. The City says Ramaphosa must make decisive action regarding the City's devolution process.*
- *A Soweto grieving mother feels let down by the public schooling system after her son was fatally stabbed outside school. Lerato Nchabeleng was killed near Reasoma High School in Protea Glen a week ago. The motive for the stabbing is not yet known but the Grade 11 learner was allegedly killed by pupils suspected to be part of a gang known for causing many problems at the school. Now the Nchabeleng family is calling for justice.*
- *Suspended Western Cape High Court Judge President John Hlophe has become the first Judge in South Africa's democratic history to be impeached. The National Assembly voted overwhelmingly in favour for his removal after the Western Cape High Court struck his urgent application to halt this process off the roll. Hlophe was accused in 2008 of improperly trying to influence a Constitutional Court case involving former President, Jacob Zuma.*
- *Donald Trump has secured a decisive victory over Nikki Haley in the Republican primary in her home state of South Carolina. Trump's victory has dealt a significant blow to Haley's already slim chances of winning the nomination. Trump celebrated the win yesterday, emphasising the unity within the Republican party."*

### **The Licensee complies with clause 7.4 of the schedule to its licence.**

Clause 7.5 of the schedule to Power FM's licence provides that:

*"The Licensee will also broadcast breaking news as they unfold and these are likely to take over a programme being broadcast instead of being contained solely within the news bulletin".*

The monitoring exercise confirmed that Power FM broadcasts breaking news as they unfold; news which at times overlap with regular programming and are not contained solely within the news bulletins.

### **The Licensee complies with clause 7.5 of the schedule to its licence.**

Clause 7.6 of the schedule to Power FM's licence provides that:

*"Should the Licensee source news material from a news agency/source other than itself, the source(s) thereof shall be disclosed to the Authority".*

The monitoring exercise revealed that most of Power FM's news bulletins are self-originated and that it discloses sources of news whenever it reports news obtained from other sources other than itself.

### **The Licensee complies with clause 7.6 of the schedule to its licence.**

#### **3.9 Ownership and Control Structure of the Licensee**

Clause 8 of the schedule to Power FM's licence provides that:

*"The Licensee shall for the duration of this licence maintain at least thirty per cent (30%) ownership and control of the station by persons from historically disadvantaged groups".*

The Licensee submits that 94.9% of its ownership and control is by historically disadvantaged groups. Furthermore, its B-BBEE status verification certificate show that the Licensee has maintained more than fifty-one percent (51%) ownership and control by persons from historically disadvantaged groups.

### **The Licensee complies with clause 8 of the schedule to its licence.**

#### **3.10 Specific Terms and Conditions**

Clause 9 of the schedule to Power FM's licence provides that:

*"The Licensee shall broadcast a minimum of 3% African music (excluding music from South Africa) per month between 05h00 and 23h00".*

The Licensee's submissions indicate that it broadcasts approximately ten percent (10%) African music per month during the performance period.

The monitoring exercise revealed that the Licensee broadcasts a significant amount of African music every month and complies with the minimum of 3% as required. Some of

the artists that were played are *Sona Jorbateh* (Gambia), *Nneka* (Nigeria), *Ben Decca* (Cameroon), *Toure Kunda* (Senegal), *Salif Keita* (Mali), and *Oliver Mtukudzi* (Zimbabwe).

## **4. REGULATIONS**

### **4.1 SA Music Content**

Regulation 3.2 of the ICASA Regulations on South African Music Content<sup>1</sup>, as published on 23 March 2016, stipulates that:

*"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that 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 reasonably evenly throughout the said period".*

The monitoring exercise confirmed that Power FM broadcasts approximately 45% of South African Music content throughout the performance period.

Various genres were identified on the station's music line-up including Afro-Soul, Gospel, Kwaito, House, Amapiano, Hip-Hop and Jazz. Featured South African artists included among others, *Mandisi Dyantyi*, *DJ Stokie*, *Benjamin Dube*, *Ladysmith Black Mambazo*, *DJ Waffles*, *Robbie Malinga*, *Ntsiki Mazwai*, *Tyla*, *Don Laka* and *Stimela*.

In its submissions, the Licensee committed to increase its South African music content.

**The Licensee complies with its South African Music Content obligation.**

### **4.2 Standard Terms and Conditions**

The Licensee has submitted a notification of change of information to update its entity name, contact details, postal address and principal place of business. This is in line with regulation 2 (1) of the Third Amendment to the Standard Terms and Conditions for Individual Broadcasting Services, 2023 published in *Government Gazette* No. 48317, dated 28 March 2023, which provides that:

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<sup>1</sup> Appendix C: ICASA South African Music Content Regulations, 2016 as published in *Government Gazette* No. 39844 dated, 23 March 2016.

*“(1) A Licensee must submit written notice to the Authority within fourteen (14) days of the occurrence of the following changes in its licence: -*

*(a) The name of the Licensee;*

*(b) Contact details including the contact persons (e.g. telephone, cell number and email;*

*(c) Shareholding;*

*(d) Principal place of business, and*

*(e) Postal address.”*

**The Licensee complies with the above Regulations.**

#### **4.3 Regulations in respect of the Prescribed Annual Contributions of Licensees to the 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 (USAF), as published in the Government Gazette, No. 31499 of April 2009, 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)”.*

Further, Regulation 3 (3) stipulates that:

*“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”.*

According to the Authority’s records, the Licensee had not paid its contribution to the Fund by the time this report was completed.

**The Licensee did not comply with the above regulations.**

#### **4.4 General Licence Fees Regulations**

Regulation 3 (1) of the General Licence Fees Regulations provides 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 Licences”.*

Schedule 2 of the Annual Licences Fees regulations provides for Licensees to pay an annual licence fee, in accordance with their licensed revenue and to be calculated using the set formula.

Regulation 7(a), 7(b) and 7(c) of Schedule 3 provides that Annual Licence Fees:

- a) Are due annually based on the licensee financial year;*
- b) 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”.*

Power FM (Pty) Ltd’s financial year end is February; therefore, its annual licence fees should be paid no later than 31 August each year.

The Licensee did not provide proof payment for payment of Annual Licence Fees and according to the Authority’s records, the Licensee had not paid its ALF by the time this report was completed.

**The Licensee did not comply with the above Regulations.**

#### **4.5 Complaints**

Form 12A<sup>2</sup>: Complaints Report of the Compliance Procedure Manual Regulations read with the Code of Conduct for Broadcasters require that broadcasters complete the form bi-annually in accordance with the Licensees’ Financial Year.

Power FM submitted its complaints report in accordance with the Regulations regarding the Code of Conduct for Broadcasting Service Licensees, 2009<sup>3</sup>.

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<sup>2</sup> ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

<sup>3</sup> Code of Conduct for Broadcasting Service Licensees, 2009 as published in *Government Gazette* No. 32381 dated, 06 July 2009.

## **5. CONCLUSION**

The Licensee has taken steps to remedy some of the non-compliance that was identified in the previous reports. These include updating its entity name and the broadcast name. However, it has not been compliant with payment of Annual Licence Fees and USAF contribution.

The Licensee has shown commitment to improve its compliance and has committed to always endeavour to address any areas of non-compliance that are brought to its attention. The Compliance Department will continue to monitor other outstanding compliance matters.

## **6. TERMS OF REFERENCE**

Appendix A: Power 98.7 FM's broadcasting service licence

Appendix B: Power 98.7 FM frequency spectrum licence

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

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

Annexure E: Standard Terms and Conditions for Individual Broadcasting Services, 2010 No. 33294 dated, 14 June 2010 as amended;

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

Annexure G: Code of Conduct for Broadcasting Service Licensees, 2009 as published in *Government Gazette* No. 32381 dated, 06 July 2009;

Annexure H: Third Amendment to the Standard Terms and Conditions for Individual Broadcasting Services, 2023 as published in *Government Gazette* No. 48317 dated, 28 March 2023.

Annexure I: ICASA Compliance Procedure Manual Regulations, 2011 as published in *Government Gazette* No. 34863 dated, 15 December 2011.

**END**