



POWER FM ANNUAL COMPLIANCE REPORT

MARCH 2024

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2022/2023 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 Independent Communications Authority of South Africa Act (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 purpose of the report is to give an account of Power FM's compliance with the terms and conditions as set out in its licence for the 2022/2023 financial year. Aspects of compliance that are measured comprise 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, 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 FM (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 & 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 has taken steps to address the non-compliance with its entity name and broadcasting name as was revealed in the 2021/22 Annual Compliance Report. The Licensee's company documents state that the name of the entity is Power 987 (Pty) Ltd and the shareholding certificate has *Power FM (Pty) Ltd* as the entity name. The Licensee also broadcasts as Power 98.7 FM, instead of Power FM as per the licence.

The Licensee has submitted a notice of change of information (form O) to the Authority to update its entity name to Power 987 (Pty) Ltd. It has also resolved to update the shareholding certificate to the same name and submit updated documents to the Authority.

It was agreed, in a meeting between the Licensee and the Licensing and Compliance Division, that after the change of information process has been concluded, the Licensee will apply to amend its broadcast name from Power FM to Power 98.7 FM as these are two separate processes.

Updated service and frequency spectrum licenses will be issued to the Licensee as soon as the Licensing and Compliance Division concludes processing the submissions.

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".

The Licensee broadcasts programmes in English as its primary language.

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 broadcasts a full service, which is made up of predominantly adult contemporary talk and at least 30% music, as required by this clause. Weekday broadcasting is predominantly talk with music dominating weekend programming.

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, on average 45% of South African music content.

The monitoring exercise confirmed that the Licensee broadcasts more than 35% of South African music.

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 in the morning, during its midday and afternoon shows. It also submitted that it broadcasts beyond current affairs with programming that includes entrepreneurship, sports, arts, entertainment and lifestyle content as per clause 6.1.

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

Programmes like *Power Talk*, *Power Drive* and *Power Business* also have elements of current affairs but are also broadcast as part of its entrepreneurship, sports, arts, entertainment and lifestyle content. These shows cover a variety of

topics, with inputs from analysts and experts from different fields. The topics covered are of interest and benefit to the listeners and provide platforms for robust discussions between listeners and guests.

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 reports on current affairs in different African countries were identified. These were reports on the refection and reaction from Zimbabweans on AKA's shooting; an analysis of the Nigerian presidential elections and a report on support for cancer patients in Nairobi.

The Licensee complies 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 and the licensee has 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 seventy (70) minutes of news per day. It broadcast news bulletins every hour during the performance period on weekdays, and each bulletin is approximately five minutes. It broadcasts twelve bulletins on weekends, from 06h00 to 18h00.

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

- *"Civil rights organisation, Action Society has poke holes in Premier Panyaza Lesufi's grand plans to fight crime in the province. In his maiden State of the Province Address yesterday, Lesufi announced that they will be deploying helicopters, CCTVs as well as high tech drones in a bid to fight the scourge of crime. Lesufi says they will also be deploying more security officers in the next financial year which begins on the 1st of April. However, Gauteng Communication Coordinate for Action Society, Tshepi Mmekwa says these plans are unlikely to yield any positive results.*
- *Family and close friends have bid their final farewell to rapper, Kiernan 'AKA' Forbes. The late musician was laid to rest in private funeral ceremony held in Johannesburg today. Forbes was shot dead outside a popular Durban restaurant last week, alongside his friend and former manager, Tebello 'Tibz' Motsoane. Yesterday the late rapper was remembered at a memorial service at the Sandton Convention Centre.*
- *Witnesses testifying against self-proclaimed prophet, Shepherd Bushiri, will have to be physically present in court in Malawi for cross-examination. The High Court in the country made a ruling this week, overturning an earlier ruling by the Lilongwe Court that permitted virtual testimony. The leader of the Enlightened Christian Gathering Church and his family fled South Africa in 2020 to Malawi, after his release. At that time he had received R200 000 bail by the Pretoria Magistrate's Court. Bushiri and his wife, Mary are facing money laundering charges and fraud in connection with a multi-million rand investment scheme.*
- *President Cyril Ramaphosa is expected to host his Ugandan counterpart, Yuweri Museveni in Pretoria today. According to the office of the Presidency, Museveni's visit is directed at consolidating bilateral relations between the two countries. They are also both expected to address the second day of the Business Forum at the Gallagher Convention Centre this afternoon. Speaking during a media briefing last week, Minister in the Presidency, Mondli Gungubele expanded on Museveni's state visit stating that the visit was a result of an invitation from President Ramaphosa to the Ugandan President."*

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. However, it was confirmed that the Licensee 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 states that more than fifty-one percent (51%) of its ownership and control is 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 *Ckay* (Nigeria), *Kofi Olomide* (Cameroon), *Mpho Sebina* (Botswana), *Habib Koité* (Mali), and *iYA* (Eswatini).

The Licensee complies with clause 9 of its licence.

4. REGULATIONS

4.1 SA Music Content

Regulation 3.2 of the ICASA Regulations on South African Music Content¹, 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 spread throughout the performance period.

Various genres were identified on the station's music line-up including Afro-Soul, Hip-Hop, Jazz, House, Gospel and Kwaito. Featured South African artists

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

included among others, *Donald, AKA, Mami Mtshali, Thandiswa Mazwai, Brown Dash, Tee Tee, Makhadzi, RJ Benjamin and Zamajobe.*

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:

“(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 did not pay its annual contribution to the Fund for the year under review. This was also confirmed with the MDDA. No proof of payment was received from the Licensee at 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 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 paid the annual fees and submitted proof thereof the Authority.

The Licensee has also entered into a payment arrangement with the Authority to settle outstanding fees from the 2020/2021 and 2021/2022 financial years, as stated in the previous year's compliance report.

The Licensee complies with the above Regulations.

4.5 Complaints

Form 12A²: 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, 2009³.

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 complying with the Authority's Regulations, including the General Licence Fees Regulations.

In a meeting that was held between the Licensee and the Licensing and Compliance Division, it was agreed that the Licensee would also submit an amendment application to change its broadcast name. The Licensee committed to always endeavour to improve any other 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 FM's broadcasting service licence

Appendix B: Power FM's frequency spectrum licence

Appendix C: SA Music Content Regulations

Appendix D: Regulations on Standard Terms and Conditions for Individual
Licences

Appendix F: General Licence Fees Regulations

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

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

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

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

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

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

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