



CAPRICORN FM ANNUAL COMPLIANCE REPORT

MARCH 2018

2016/17 CAPRICORN FM ANNUAL COMPLIANCE REPORT

Licence Period : 01 October 2007- 30 September 2017

1. PREFACE

The Independent Communications Authority of South Africa ("the Authority") 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 relevant legislation and regulations.

The purpose of the report is to provide an overview of Capricorn FM's performance for the 2016/17 financial year. Aspects of compliance that are measured comprise of the service licence's conditions of Geographic Coverage Area, Broadcast Language, Format, Local content Obligations, General Programming Obligations, Training and Skills developments and Ownership and Control Obligations. Furthermore, the report will measure compliance with regulations that includes South African Music Content, Standard Terms and Conditions for Individual Licensees, Universal Service and Access Fund Regulations, General Licence Fee Regulations and the Code of Conduct for Broadcasters.

2. BACKGROUND

On 01 October 2007, the Authority issued a commercial broadcasting licence to Capricorn FM (Pty) Ltd valid for ten (10) years from the date of issuance⁵. The Licensee is currently the only commercial radio station in Limpopo after being the successful applicant in the licensing of secondary markets of Limpopo, North West and Mpumalanga. According to the Broadcast Research Council of South Africa (BRC), the listenership figures for the last quarter of period under review is 329 000⁶.

¹ The Constitution of the Republic of South Africa, No 108 of 1996

² Act No. 13 of 2000, as amended

³ Act No. 36 of 2005

⁴ Act No. 4 of 1999

⁵ Capricorn FM Service Licence

⁶ <http://www.brcsa.org.za/brc-ram-radio-listening-jul-16-dec-16-oct-16-mar-17/>

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

Clause 2 of the service licence stipulates that the geographic coverage is:

"Limpopo Province as defined in the coverage map attached to the Licensee's radio frequency spectrum licence".

The Licensee has been granted multiple frequencies to enable it to cover the licensed areas within the Limpopo Province. The Licensee's signal distributor is Sentech.

The Licensee complies with its geographic coverage obligations.

3.2 Broadcast Language

Clause 3 of the service licence stipulates that:

"Principal Language: English (minimum of 70% and a maximum of 90% English); Sepedi, Tshivenda and Xitsonga (minimum of 10% and maximum 30% to be equally amongst the languages)".

The monitoring exercise confirmed that Capricorn FM predominantly broadcasts in English supplemented by the other three (3) indigenous languages in Limpopo. The presenters' predominantly use English when interacting with guests and/or listeners in normal programming whilst mixing with the other three (3) main languages of broadcast. The language of broadcast is English at an average of seventy five percent (75%) and the remaining percent split between the other three languages.

The Licensee complies with its language obligations.

3.3 Format

Clause 4.1 of the service licence stipulates that:

"The Licensee shall have a programming format of talk (30%) and music (70%) in young adult contemporary music format, targeting youth adults in 18 to 34 age categories within the LSM 4-7 segments".

The monitoring exercise confirmed that the Licensee's programming is dominated by music supplemented by talk with a target audience being young adults. This emanates from the type of music play listed, the kind of lifestyle and event partnership the radio station enters in and the topics of discussion on different programmes.

The following are examples of talk shows broadcast by the Licensee:

- *"Capricorn FM Talk"* is a current affairs programme broadcast weekdays from Monday to Thursday from 18h00 until 20H00. The current affairs topics include political matters, business and economic matters amongst others of local, national and international interest.
- *"Sports Precinct"* is a sports show broadcast on Fridays from 18h00 - 19H00. The format of the show focuses on major sporting headlines, interviews with sporting administrators and personalities as well as previewing upcoming matches with listeners' involvement.

There are lifestyle segments weekdays on the mid-morning show from 09h00 and 12h00 dealing with topical informal knowledge building topics.

The Licensee complies with clause 4.1 of its service licence.

Clause 4.2 of the service licence stipulates that:

"The Licensee shall broadcast Soul, R&B, Afro Jazz, Afro-Pop, and dance music such as Kwaito and Hip-Hop".

The monitoring exercise confirmed that the Licensee broadcast caters for the different music genres. Some of the artists from different genres broadcast includes Afro Pop artist such as Nathi and Ringo, Afro Jazz musician such as Judith Sephuma, Kwaito artists such as Professor, Abashante amongst others.

The Licensee complies with clause 4.2 of its service licence.

3.4 Local Content Obligations

Clause 5.1 of the service licence stipulates that:

"The Licensee shall broadcast 30% South African music and a minimum 2.5% from other African countries".

The Licensee submits its Form 9A of the Compliance Procedure Manual Regulations with a breakdown of the number of local and foreign music split. Their submission reflects that they broadcast an average of thirty- three (33%) percent of local music⁷.

The Licensee's music obligations includes a 2.5 % minimum percent dedicated to African music in their playlist. The monitoring exercise confirmed that Capricorn FM broadcast music from African artists such as 2Face, Seyi Shay, Davido, Tekno amongst others.

The Licensee complies with its South African and African music obligations.

Clause 5.2 of the service licence stipulates that:

"The Licensee must promote and develop South African music talent by airing music events, regular interviews with musicians and promoting new musicians from the Limpopo Province".

The Licensee in their Form 9A submission reflects that they conduct interviews with South African artists and promote music from the Limpopo province. They have interviewed artists such as King Monada, DJ Malwela and Mmatema from the province of Limpopo and promoted their new music. The Licensee also interviews and broadcast new music from musicians outside of the Limpopo Province such as Thebe and Kid X amongst others. The Licensee submitted events that have media partnership with the organisers for the period under review, but the events were not broadcast live on the air.

The Licensee does not fully comply with clause 5.2 of the service licence.

3.5 General Programming Obligations

Clause 6.1 of the service licence stipulates that:

"The Licensee must broadcast forty (40) minutes of news on weekdays and twelve (12) minutes on weekends. The Licensee must broadcast forty-five (45) minutes of news on weekdays and fifteen (15) minutes on weekends in year three (3) of its operation".

The Licensee broadcasts news 06h00 until 18h00 with an average duration four (4) minutes, whilst the weekends news broadcast from 07h00 until 13h00 at an average

⁷Form 9A

of three (3) minutes per bulletin. This brings the weekly average total to fifty-two (52) minutes and an average total of twenty one (21) minutes over the weekend. The Licensee has been on air for more than three (3) years, thus the above is in line with their requirement after the third year of operation.

The Licensee complies with clause 6.1 of its service licence.

Clause 6.2 of the service licence stipulates that:

"The Licensee must broadcast 60% local, 15-20% national news and 10% - 20% international news".

The Authority's monitoring confirmed that the news bulletins broadcast by Capricorn FM reports on stories from the Limpopo province, national and international stories. The following news items were monitored:

- *"The department of social development in Limpopo has donated food parcels, clothes and blankets to a family in Kuruleni village near Vuwani whose house and belongings were destroyed in a fire over the weekend. Spokesperson Adele van der Linde says the Khange family is currently being temporarily accommodated at the local headman's house. Police are investigating a case of suspected arson after the incident. Acting Vhembe district Mayor Rudzani Ludere has also visited the family";*
- *"The Progressive Professionals Forum (PPF) in the North West has welcomed the appointment of former Eskom CEO Brian Molefe as a Member of Parliament. North West PPF acting provincial secretary Thapelo Rapoo said Molefe is an epitome of black professionalism and excellence and has performed very well in his previous positions. On Friday, Parliament confirmed that Molefe would soon be sworn in as a Member of Parliament"; and*
- *"Six journalists including three media owners have been arrested in the Ivory Coast for spreading false information about a mutiny by security forces. The move came after elite forces became the latest troops to protest over pay in recent weeks in the West African nation firing into the air in the army barracks town of Adiaké".*

The Licensee's news reports on average consists of four stories with most of them from the Limpopo Province and most of those stories gathered and reported by their own

reporters. The Licensee further reports on news stories of national and international interest.

The Licensee complies with its news obligations.

3.6 Training and Skill Development

Clause 7.1 of the service licence stipulates that:

"The Licensee must maintain 70% black on air and off-air staff compliment and provide six (6) hours of airtime for the development of talent in the province"

The Licensee submits that it has fifty three (53) overall staff compliments, of which fifty (50) is black which equates to ninety four percent (94%) of the overall staff compliment⁸.

The Licensee currently conducts interviews with artist from Limpopo province and allocate slots for local disc jockeys music mix on specialist programmes on Fridays and Saturdays. The radio station submits that they have introduced slots for presenters in the midnight slots for training in April 2017 which fall out of the period under review.

The Licensee complies with clause 7.1 of its service licence.

Clause 7.2 of the service licence stipulates that:

"The Licensee must establish a staff incentive scheme. 5 % of the shares in Capricorn FM will be allocated to this scheme of which 2.5% to 3% will be allocated to key management officials".

The Licensee submits that there is five percent (5%) of shares allocated to Capricorn FM staff trust⁹.

The Licensee complies with clause 7.2 of its service licence.

Clause 7.3 of the service licence stipulates that:

"The Licensee must provide student journalists with work experience opportunities".

⁸ Staff Compliment

⁹ Governance Structure

The Licensee submitted a list of three (3) interns that they employed in the months of December 2016 until January 2017¹⁰.

The Licensee complies with clause 7.3 of its service licence.

3.7 Ownership and Control Obligations

Clause 8.1 of the service licence stipulates that:

"The Licensee must maintain equity ownership and control of the station by the historically disadvantaged at a minimum of 30%".

The Licensee submitted that MSG Africa Holding (Pty) Ltd holds 42% and is wholly owned by persons from historically disadvantaged groups.

The Licensee complies with clause 8.1 of the service licence.

Clause 8.2 of the service licence stipulates that:

"The Licensee must ensure that at least two women are on its board of directors".

The Licensee submits that that it has six board members of which two are female.

The Licensee complies with clause 8.2 of the service licence.

Clause 8.3 of the service licence stipulates that:

"The Licensee must allocate 5% of its shareholding (currently held by MSG) to media students of the University of Limpopo. 60 % of the value accruing from the shareholding must benefit female students of the University of Limpopo in the form of bursaries and scholarships after three years of its operations".

The Licensee submitted that there is a five percent allocation to media students from the University of Limpopo, however the Licensee reports that they have not declared any dividends, hence there would not be any funds to benefit the students.

The Licensee does not fully comply with clause 8.3 of the service licence.

Clause 8.4 of the service licence stipulates that:

¹⁰ Internship Report

"The licensee must ensure that it has majority black shareholding and remains black controlled".

The Licensee's shareholding structure indicates that the majority shareholders are black owned companies, with MSG Afrika with forty two percent (42%) and Limpopo Women Investors with fifteen percent (15%) for a total of fifty seven percent (57%) which gives them the controlling power¹¹.

The Licensee complies with clause 8.4 of the service licence.

Clause 8.5 of the service licence stipulates that:

"The Licensee must ensure equitable representation of women on its management structure".

The Licensee submits that it has eight (08) people in management and five are female, which constitutes a sixty three percent (63%) average representation¹².

The Licensee complies with clause 8.5 of its licence.

4. REGULATIONS

4.1 South African Music Content

Regulation 3.2 of the Regulations on South African Music Content as published on 31 January 2006 stipulates 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 Licensee broadcasts an average of thirty three percent (33%) of South African music. Some of the local artists that are regularly play listed include Berita, Lulu Dikana, and DJ Maphorisa amongst others.

The Licensee complies with the South African music content Regulations.

¹¹ Governance Structure

¹² Management Staff

4.2 Standard Terms and Conditions for Individual Broadcasting Licences

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

4.3 Universal Service and Access Fund (USAF) Regulations

Regulation 3 (1) of the prescribed annual contribution of licences to USAF regulations published on 10 February 2011 stipulates that:

"Every holder of the 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 the annual turnover, to the Fund".

Regulation 3 (2) stipulates that:

"A BS Licensee who has paid an annual contribution to the MDDA must set off that contribution against its USAF contribution, provided that the MDDA contribution and the USAF contribution against which it is set off are for the same financial year".

The Licensee submitted proof of payment for USAF paid to the Authority on 20 September 2017¹³. The Licensee's financial year end is February and their contribution was supposed to be made no later than August 2017 in accordance with Regulation 4 (2) (b) of the prescribed annual contribution of licences to USAF. The Licensee was sent a late payment penalty interest invoice which they duly settled.

The Licensee complies with the USAF Regulations.

4.4 General Licence Fees Regulations

The General Licence Fees Regulations came into effect on the date of publication in the *Government Gazette no. 36323*, on 28 March 2013.

Regulation 3 (1) (a) stipulates that:

¹³ USAF payment

"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 7 (a) (b) (c) stipulates that:

Annual Payments (a) are due based on the Licensee's financial year (b) are due and payable within six (6) months of the Licensee's financial end (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, Capricorn FM made a payment which is equivalent to 1.5% of the Licensee's gross profit. The licence fees payment was on 19 September 2017, which more than six (6) months after Licensee financial year end of February¹⁴. They have paid late payment interest.

The Licensee complies with the General Licence Fees Regulations

4.5 Code of Conduct for Broadcasters

The Licensee is a member of the National Association of Broadcasters ("NAB") and complaints in relation to the Code of Conduct by Broadcasters are administered by the Broadcasting Complaints Commission of South Africa ("BCCSA").

5. CONCLUSION

Capricorn FM complies with most its licence conditions. The Broadcasting Compliance Unit met with the new management team of the radio station on 21 April 2017 for amongst others to conduct a regulatory induction and address the areas of concerns from the previous annual compliance reports so as to ensure that the radio station fully comply in the 2017/18 financial year end.

6. TERMS OF REFERENCE

Appendix A: Capricorn FM Licence;

Appendix B: Form 9A;

¹⁴ Licence Fees payment

Appendix C: Staff Compliment;
Appendix D: Governance Structure;
Appendix E: Internship Report;
Appendix F: Management Staff;
Appendix G: USAF payment; and
Appendix F: Licence Fees payment.