



CAPRICORN FM ANNUAL COMPLIANCE REPORT

MARCH 2019

2017/18 ANNUAL COMPLIANCE REPORT: CAPRICORN FM (PTY) LTD

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 2017/2018 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, 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 Funds, General Licence Fees and the Code of Conduct for Broadcasters.

2. BACKGROUND

On 01 October 2007, the Authority issued a commercial individual broadcasting service licence to Capricorn FM (Pty) Ltd valid for ten (10) years from the date of issuance⁵. The Licensee has for the period under review submitted their notice for renewal which was still being reviewed during the compilation of this report. According to the Broadcast Research Council of South Africa (BRC), the listenership figures for period ending March 2018 was 262 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 <https://brcsa.org.za/brc-ram-radio-listening-oct17-mar18-jan18-jun18/>

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 issued with multiple frequencies to enable them 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's primary language of broadcast is English supplemented by three (3) indigenous languages in Limpopo as per the service licence. The presenters are able to converse with listeners using the primary language and other indigenous 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 Licensee's programming is music driven with talk being supplementary for the target audience as per the service licence. The content broadcasts by the radio station includes lifestyle and informal knowledge content with topics related to financial literacy, drug abuse, intellectual property, amongst others. They also have partnerships for music events that are aimed at the target audience.

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

- "Capricorn FM Talk" is a current affairs programme broadcast Mondays to Thursdays from 18h00 until 20H00 with a focus on 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 with a focus on major sporting headlines and previewing upcoming matches with listeners' involvement.

The Licensee complies with its format.

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' music playlist caters for the genre as outlined in their service licence with artists such *Robbie Malinga, Masandi, Heavy K, Mlindo The Vocalist, HHP* 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 music logs which reflects an average of thirty seven percent of local music. They also play live music and interviews for local musicians which adds to their local music content through the format factor in the South African music regulations⁷. The monitoring exercise confirmed that the Licensee exceed their music content obligation with music from such artists as *Da Capo, Sho Madjozi, Thandiswa and King Monada* amongst others having been playlisted by the Licensee.

The Licensee 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 *Yolo, Energy, Yceee* from Nigeria and *Fuse ODG* from Ghana amongst others.

The Licensee complies with its music obligation.

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. The monitoring exercise confirmed that the Licensee conducted interviews with artists such as *Sun-EL Musician and Beast* amongst others. They submit that they interviewed and debuted new music from Limpopo artists such as *Cutjolicious*.

Furthermore, the Licensee submits that they broadcast live music events on their Sunday's programmes called Addictive Sunday and Body and Soul accordingly.

The Licensee complies with clause 5.2 of the service licence.

⁷Form 9A

3.5 General Programming Obligations

Clause 6.1 of the service licence stipulates that:

"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 of three and half minutes, whilst the weekends news broadcast from 07h00 until 13h00 at an average of three (3) minutes per bulletin. The weekly average is forty five (45) minutes and an average total of twenty one (21) minutes per day over the weekend.

The Licensee complies with its news obligation.

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 following are news bulletins monitored and broadcast by Capricorn FM on stories from the Limpopo province, national and international stories.

- *"A meeting of the ANC's top officials with President Jacob Zuma at which he was allegedly asked to step down has ended after ten o'clock last night. There is still no update with regards to the outcome of the meeting. ANC chairperson Gwede Mantashe says the party wants to ensure that there is stability in the country and in the ANC.";*
- *"The Limpopo Provincial government and the Roman Catholic Church in Polokwane will hold a prayer session this morning to raise awareness about the human trafficking of women and children. Provincial spokesperson Phuti Seloba says they are raising awareness on the issue because there are many unaccompanied children and women who are led to various places in and out of the province."; and*

- *"Tanzanian President John Magufuli has announced his country will pull out of the UN's comprehensive refugee response framework, which provides lasting solutions for refugees, including integration into host communities, this according to the Tanzanian government newspaper The Daily News. The report says Tanzania has decided to withdraw for reasons of security and lack of funds".*

The Licensee's news reports on average consists of four stories with most of them from the Limpopo Province and most of those stories are 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 twenty two (22) on air staff compliments and all are black with fifteen (15) off air staff with two (2) employees being white⁸. The Licensee submitted a list of on air talent that they offer broadcasting opportunity on their graveyard slot called The Rise broadcast weekends between midnight and 02H00⁹.

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".

⁸ Staff Compliment

⁹ The Rise List of DJ's

The Licensee submits that there is five percent (5%) of shares allocated to Capricorn FM staff trust¹⁰.

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".

The Licensee submitted that they had one intern for the period under review¹¹.

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

The Licensee submitted that Jazinvest (Pty) Ltd holds 75% and is wholly owned by persons from historically disadvantaged groups. It should however be noted that the radio station did not send a notification for either name change or of the new shareholder.

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 submitted a list of their six (6) board of directors which a gender breakdown, and they have two (2) who are female.

The Licensee complies with clause 8.2 of the service licence.

Clause 8.3 of the service licence stipulates that:

¹⁰ Governance Structure

¹¹ Internship Report

“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.

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

Clause 8.4 of the service licence stipulates that:

“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, thereby have the controlling power¹².

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 nine (09) people in management and five are female, which constitutes a fifty five percent (55%) representation¹³.

The Licensee complies with clause 8.5 of its licence.

¹² Governance Structure

¹³ Management Staff

4. REGULATIONS

4.1 South African Music Content

The Authority has on 23 March 2016 published ICASA South African Music Contents Regulations which repealed ICASA South African Music Content regulations published on 31 January 2006. The regulations were to be effective eighteen (18) months after publication i.e. 23 September 2017 which falls within the period under review. The quotas were revised from 25% to the 35% for commercial sound broadcasting services.

Regulation 3 (2) of the ICASA South African Music Contents Regulations stipulates that:

"A holder of a commercial sound broadcasting licence must ensure that after eighteen (18) months from the date of 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 reasonably evenly throughout the performance period".

The Licensee submits its music logs which reflect an average of thirty seven percent of local music. The monitoring exercise confirmed that the Licensee has also promoted new musicians. Such broadcasts of new musician earn them points that add to their local content as per the format factor in the local music regulation. The Licensee has debuted new artists such as *Lungisa Xhamela, Bob Easy* amongst others.

The Licensee complies with its South African Music Content Regulation.

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 had not paid their USAF contribution by the time of compilation of the report.

The Licensee failed to comply 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:

"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 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".

The Licensee had not paid their general licence fees by the time of compilation of the report.

The Licensee failed to comply 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 except financial obligation pertaining to payment of USAF and licence fees. Furthermore, the Licensee met with the Authority on 27 February 2018 in order to address the allocation of shares for students in the during their renewal submission since for the licensed period they never benefitted any of the students in the province. The clause is dependent on the Licensee declaring dividends so that the allocation can benefit the students in the local university as per the clause in the service licence.

The Licensee also submitted a different shareholder that is not in the service licence without notifying the Authority in accordance with the Processes and Procedures Regulation for Individual licences.

Non-compliance by commercial Licensees shows disregard for the Authority, legislation and regulatory framework. The Licensee will therefore be advised of the Authority's intention to refer the non-compliance findings to the CCC and given an opportunity to make representations.

6. TERMS OF REFERENCE

Appendix A: Capricorn FM Licence;

Appendix B: Form 9A;

Appendix C: Staff Compliment;

Appendix D: Governance Structure

Appendix E: Internship Report

Appendix F: Management Staff

Appendix G: The Rise List of DJ's