



CAPRICORN FM ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/19 ANNUAL COMPLIANCE REPORT

CAPRICORN FM (PTY) LTD BROADCASTING AS CAPRICORN FM

Licence Period : 01 October 2017- 30 September 2027

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 2018/19 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

The Authority issued a renewed commercial broadcasting licence to Capricorn FM (Pty) Ltd, valid for ten (10) years⁵, to provide sound broadcasting services to the province of Limpopo as defined in their radio spectrum licence. According to the Broadcast Research Council of South Africa (BRC), the listenership figures for the last quarter of period under review was 150 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-august-listenership-report-jan19-jun19/>

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

Clause 3 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 4 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 shared amongst the languages)". The Licensee programming is dominated by English, as per the licence conditions, with presenters using the other three (3) indigenous languages, when engaging with listeners' and normal presentation of programmes.

The Licensee complies with its language obligations.

3.3 Format

Clause 5.1 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 dominated by music rather than talk during the performance period.

The Licensee also broadcasts current affairs programme on weekdays from Monday to Thursday between 18H00 and 20H00, called Capricorn FM talk. The programme format focuses on regional, national and occasional international news, reporting on political, business and economic matters. The same slot on Friday albeit for an hour, it is dedicated to sports programming, with a main focus on all types of sports, interviews with players, administrators and listeners.

The topics of discussions on all the shows is aimed at the targeted age group and this is also reflected in the music playlist.

The Licensee complies with its format.

Clause 5.2 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 caters for the different music genres with artists such as *Robbie Malinga, Spikiri, Tellaman, King Monada* amongst others to cater for the wide range of genres as required by the licence.

The Licensee complies with clause 5.2 of its service licence.

3.4 Local Content Obligations

Clause 6.1 of the service licence stipulates that:

"The Licensee shall broadcast 35% South African music and a minimum of 2.5% music from other African countries".

The Licensee submits its Form 9A of the Compliance Procedure Manual Regulations with a breakdown of the split of local and foreign music. Their submission reflects that they broadcast an average of forty percent (40%) of local music.

The Licensee's music obligations include 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 *Ice Prince, Wizkid, Davido, D Banj* amongst others.

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

Clause 6.2 of the service licence stipulates that:

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

The License submit, in their Form 9A submission of the Compliance Procedure Manual Regulation, a list of local artists that they have interviewed on the radio station from the Limpopo province. Some of the artists that were interviewed included DJ Matt, DJ Kennedy amongst others. Furthermore, Capricorn FM has a feature on Saturdays between 19H00

and 19H30 called Limpopo Big 5 countdown with a focus on Limpopo artists. They also invite producers and artists to send their music to the radio station accordingly.

The Licensee complies with clause 6.2 of the service licence.

3.5 General Programming Obligations

Clause 7.1 of the service licence stipulates that:

"The Licensee must broadcast forty five (45) minutes of news on weekdays and fifteen (15) minutes on weekends.

The Licensee broadcasts news from 06h00 until 18h00 which makes it thirteen (13) news bulletins on weekdays. Weekday news bulletins are for an average duration of four (4) minutes and an overall total of fifty-two (52) minutes. In addition, the Licensee broadcast seven (7) news bulletins on weekends from 07H00 until 13H00, for a duration of four (4) minutes and an overall total of twenty eight (28) minutes.

The Licensee complies with clause 7.1 of its service licence.

Clause 7.2 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 Capricorn FM reports on stories from the Limpopo province as well as national and international stories. The following news items were monitored:

- *"The ANC in Limpopo has vowed to clamp down on rogue elements among members of the tripartite alliance who are believed to be behind the assassination of SAMWU leaders in the Vhembe District. The ANC was speaking at during the joint funeral of slain Limpopo SAMWU leaders Ronald Mani and Timson Musetho who were laid to rest in Thulamela on Saturday. ANC Provincial secretary Soviet Lekganyane says he believes there are members of the alliance who have hired hitmen to silence these leaders who have stood against corruption";*
- *"Members of Parliament will continue debating the state of the nation address in Parliament this afternoon where they are expected to continue to debate corruption, the unbundling of Eskom and the size of Cabinet amongst others. On Tuesday, EFF leader Julius Malema used the debate to criticize President Cyril Ramaphosa's administration while outlining the alternatives that EFF can offer"; and*

- *"The independent national electrical commission has postponed today's elections citing logistical issues. The announcement was made just five hours before the country was set to go ahead to the polls in what is expected to be the closely contested elections".*

The Licensee's news bulletins, on average, consists of four (4) items with the majority of the news items covering the Limpopo Province and gathered by its own news team. The Licensee further broadcasts news of national and international interest.

The Licensee complies with its news obligations.

3.6 Training and Skills Development

Clause 8.1 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 an overall staff compliment of fifty (50), of which forty-nine (49) are Black, which is more than the required minimum threshold⁷.

The Licensee has previously submitted that they have an ongoing training programme for presenters in the midnight slots for training and development.

The Licensee complies with clause 8.1 of its service licence.

Clause 8.2 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 it has allocated five percent (5%) of shares to the Capricorn FM Staff Trust, in their shareholding structure⁸.

The Licensee complies with clause 8.2 of its service licence.

Clause 8.3 of the service licence stipulates that:

"The Licensee must provide training to Journalism/Media and/or non media students with work experience opportunities for a period not less than three (3) months".

⁷ Staff Compliment

⁸ Governance Structure

For the period under review, the Licensee employed one (1) intern from December 2018 until February 2019⁹.

The Licensee complies with clause 8.3 of its service licence.

3.7 Ownership and Control Obligations

Clause 9.1 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 Jazinvest (Pty) Ltd holds 75% and is wholly owned by persons from historically disadvantaged groups.

The Licensee complies with clause 8.1 of the service licence.

Clause 9.2 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 (2) are women.

The Licensee complies with clause 8.2 of the service licence.

Clause 9.3 of the service licence stipulates that:

"The Licensee must ensure that a Capricorn FM shareholder funded pay – out in favour of the students of one million (1 000 000) Rands is payable over a maximum period of four (4) years. These funds to be allocated for bursaries at the discretion of the University if Limpopo, subject to 60 % allocated to female students".

The Licensee has not submitted any fund payments thus far, although it should be noted that the period for fund pay-out is a maximum of four (4) years which hasn't lapsed yet. The Authority therefore cannot make any determination in relation to this clause until the maximum period is reached.

Clause 9.4 of the service licence stipulates that:

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

⁹ Internship Report

The Licensee's shareholding structure indicates that the majority shareholders are Janizest with seventy five (75%) percent which gives them the controlling power¹⁰.

The Licensee complies with clause 9.4 of the service licence.

Clause 9.5 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%) average representation¹¹.

The Licensee complies with clause 8.5 of its licence.

4. REGULATIONS

4.1 South African Music Content

Regulation 3.2 of the ICASA Regulations on South African Music as published on 23 March 2016 stipulates that:

"A holder of a commercial sound broadcasting licence must ensure that after eighteen (18) months from the date of gazette 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 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 forty (40%) percent of local music. Some of the artists that were monitored included *Sho Madjozi, Ben Mayengane, Mopedy* amongst others.

The Licensee complies with the ICASA Regulations South African music content Regulations.

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.

¹⁰ Governance Structure

¹¹ Management Staff

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 submitted proof of payment for USAF paid to the Authority, at the time of compilation of this 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 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 did not submit proof of payment for their annual licence fees paid to the Authority, at the time of compilation of this report. Therefore, it is unclear if they have indeed paid their licence fees for 2018/2019.

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 requested an extension to submit their financial statement and payment of their licence fees and USAF contribution by three months. Their financial year end is February and the Licensee is required to make payments, within a six months after their financial year end, in accordance with the General Licence Fees Regulations. The three months extension lapsed at end of November 2019 and the Licensee is yet to send proof of payment and thereby, Capricorn FM did not comply with their financial obligations' in terms of Regulations.

Broadcasting Compliance will take up the failure to pay its licence fee or to submit proof of payment in time, with Capricorn FM. Failing which, the matter may be referred to the Complaints and Compliance Committee (CCC), of the Authority.

The Licensee however, does comply with other licence conditions and other Regulations.

6. TERMS OF REFERENCE

- 6.1** Appendix A: Capricorn FM Licence;
- 6.2** Appendix B: Form 9A;
- 6.3** Appendix C: Staff Compliment;
- 6.4** Appendix D: Governance Structure;
- 6.5** Appendix E: Internship Report; and
- 6.6** Appendix F: Management Staff