



MAGIC 828 ANNUAL COMPLIANCE REPORT

MARCH 2020

2018/19 ANNUAL COMPLIANCE REPORT

ALTIUS TRADING 460 (PTY) LTD BROADCASTING AS MAGIC 828

LICENCE PERIOD : 18 JULY 2014 - 17 JULY 2024

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 Magic 828’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 commercial broadcasting licence to Altius Trading 460 (Pty) Ltd broadcasting as Magic 828 for a ten (10) year period, from the date of issuance⁵. The Licensee has been licensed to provide broadcasting services to the City of Cape Town Metropolitan area as defined in their radio spectrum licence. According to the Broadcast Research Council of South Africa (BRC), the listenership figures for the quarter ending March 2019 is 7 000⁶ albeit with a disclaimer for small base sample.

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 Appendix A

⁶ <https://brcsa.org.za/brc-ram-listenership-report-oct18-mar19/>

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

Clause 3 of the service licence stipulates that the geographic coverage is:

*"City of Cape Town metropolitan area, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence"*⁷.

The Licensee broadcast on 828 kHz with Sentech as their distributor allowing them to cover their licensed area.

The Licensee complies with its geographic coverage obligations.

3.2 Broadcast Language

Clause 4 of the service licence stipulates that:

"Principal Language shall be English"

The monitoring exercise confirmed that Magic 828 broadcasts in English.

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 that is commercially recognisable classic hits music of 85% from the 60's to the present (this is divided into Golden Greats, Gold, and the Future Gold)".

The monitoring exercise confirmed that the Licensee's music content is spread evenly between the Golden Greats, Gold and Future Gold with most of the music hits from the 60's to the present. The Licensee broadcasts pop music such as *The Beatles – I saw her standing there from the 60s, Clout – Save from the 70's, Depeche Mode – Can't get Enough from the 80s, Eternal – Just a Step from Heaven from the 90s, Leona Lewis - Run from the 2000s* amongst others.

⁷ Appendix B

Clause 5.2 of the service licence stipulates that:

"The Licensee's programming format shall be supported by a mix of 15% news. Talk and actuality, comedy, movie reviews, competitions and community programming intended to target or appeal to the broadest range of listeners from ages of sixteen to sixty.

The monitoring exercise found that the Licensee's programming includes entertainment news and music pop quizzes. Most of the content is aimed at young adults as well as the older generation but does not include anything related to the youth.

The Licensee does not fully comply with their format

3.4 General Programming Obligations

Clause 7.1 of the service licence stipulates that:

"The Licensee shall broadcast a headline news bulletins of approximately 1 to 2 minutes per bulletin, 7 times a day during peak hours. The Licensee's peak times shall be 06H00 to 08H30 and 16H00 and 18h30 weekdays. The news bulletin shall alternate equally between English, Afrikaans and isiXhosa.

The Licensee broadcasts news from 06H00 until 18H00 for an average of three (3) minutes.

The items identified during monitoring are the following:

- *"Metrorail has confirmed that the contract with the Cape Town Rail Enforcement Unit has finally been signed. The unit was launched last year and was funded by PRASA, the City of Cape Town and the provincial government."*;
- *"Transport minister Mbalula is saddened by the spat of fatal crashes this long weekend. In Limpopo, six people died after the two vehicles in which they were travelling collided head on and burst to flames.*
- *In the same province, two people were killed and around eighty others were injured in a collision involving a bus, a bakkie and an SUV on the R71."*
- *"Zimbabwe will this week pay ten million US dollars to the South African power utility Eskom as part of a plan to unlock at least 400 megawatts to ease power shortages in the country."*

The Licensee broadcast news throughout the day from 06H00 until 18H00 which is more than the quota in their service licence condition. However, news is broadcast in English only to the exclusion other languages as per the licence condition.

The Licensee does not fully comply with clause 7.1 of its service licence.

Clause 7.2 of the service licence stipulates that:

"The Licensee broadcast 50% news from the Western Cape region, 30% national news and 20% international news".

The Authority's monitoring found that the radio station broadcasts most stories of national interest, followed by the stories from the Western Cape and the remainder being international news.

The Licensee failed to comply with clause 7.2 of its service licence.

Clause 7.3 of the service licence stipulates that:

"The Licensee shall develop an in-house newsroom for internal use or for both internal and external use which will generate daily news content within three (3) years from the effective date of this license".

The Licensee has news headlines branded with "The Cape Times" tagline on some of its programmes. The Licensee has reported that it has, in the year under review, established a fully-fledged in-house news team.

The Licensee complies with clause 7.3 of its service licence.

Clause 7.5 of the service licence stipulates that:

"The Licensee shall broadcast community notices relating to its coverage area in English, Afrikaans and isiXhosa".

The monitoring exercise could not find any community notices in the recordings provided.

The Licensee failed to comply with clause 7.5 of its service licence.

3.5 Ownership and Control structure of the Licensee

Clause 8 of the service licence stipulates that:

Until the publication of ownership and control regulation, the Licensee shall for the duration of this licence maintain at least thirty percent (30%) ownership and control of the station by persons from historically disadvantaged groups.

The Licensee's shareholding of fifty percent (50%) by persons from historically disadvantaged groups has not been changed.

The Licensee complies with its control and ownership obligations.

3.6 Promise of Performance⁸

Clause 9.1 of the service licence stipulates that:

"The Licensee shall employ a local news team specifically for the production of local news within five (5) years from the effective date of this Licence".

The Licensee reports that it commenced with a small team in 2015 and added staff members to the news team for news production. It has since included interns in the training programme who were eventually employed permanently by the Licensee.

The Licensee complies with clause 9.1 of its service licence.

Clause 9.2 of the service licence stipulates that:

"At least 70% of the employees employed by the Licensee shall be historically disadvantaged persons from the licensed coverage area within one (1) year from the effective date".

The Licensee's submission only refers to the news department that is one hundred percent (100%) made up of persons from historically disadvantaged groups and they did not refer to any department or submit proof thereof.

The Licensee failed to comply with clause 9.2 of its service licence.

Clause 9.3 of the service licence stipulates that:

"The Licensee shall establish an employee training programme and shall spend a minimum of R 116 000 (one hundred and sixteen thousand rand) annually.

The Licensee submitted a list of individuals who have undergone training but have not sent a breakdown of the amount.

Therefore, compliance with clause 9.3 above could not be determined.

⁸ Appendix C

Clause 9.4 of the service licence stipulates that:

"The Licensee shall assist in the development of broadcasting knowledge and skills amongst historically disadvantaged groups in the industry by "adopting" at least one (1) community sound broadcaster within the broadcasting coverage areas and provide them with, among other things, managerial and technical training through holding workshops and hand-on experiential training at Magic 828 within one (1) year from the effective date of this Licence".

The Licensee submits that they have assisted Radio Kaapse Punt with training for music scheduling software and Genesys Station Playout System. They have also through this process sourced interns that were trained and eventually hired by the radio station.

The Licensee complies with clause 9.4 of its service licence.

Clause 9.5 of the service licence stipulates that:

"The Licensee shall provide to the value of at least R 500 000.0 (five hundred thousand Rands) annually after the initial three (3) years of broadcasting to be used for annual broadcasting sound engineering, journalism training, programme presenting and production, sale and marketing, and news gathering internship (s) to persons from historically disadvantaged groups from the licensed coverage area".

The Licensee submitted a list of the people that have been employed permanently after being afforded opportunities through their internship programme without providing a breakdown of the amount in value of the programme.

Therefore, compliance with clause 9.5 above could not be determined.

Clause 9.6 of the service licence stipulates that:

"The Licensee must provide at least R 500 000.00(Five Hundred Thousand Rand) 's worth of airtime annually after the initial three (3) years to promote corporate social responsibility initiatives such as awareness of HIV & AIDS, cancer, poverty alleviation, job creating and any other social objective".

The Licensee submits that they support charity organisations such as the Red Cross Children Hospital, Cortlands Baby Sanctuary amongst others with event activations and airtime exposure to the value over a million rands.

The Licensee complies with clause 9.6 of their service 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 submitted their music log report reflecting an average percentage of eleven percent (11%) local music⁹. The monitoring found that the Licensee broadcasts at least 10% South African music content. Additionally, did not detect any interviews with South African musician that could be utilised as format factor incentives to contribute towards the local music content quota. Some of the local songs identified include *Mango Groove – Home Talk*, *Anton Goosen - Danzer*, *The Parlotones – Push Me to the Floor*, *Johnny Clegg & Juluka – Africa* amongst others.

The Licensee failed to comply with the 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 Magic 828 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:

⁹ Appendix D

"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 is communicating with the finance department in relation to the calculation for the USAF payment after submission and payment thereof.

By the time of compilation of the report, payment had not been made yet.

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 is communicating with the Finance Division of ICASA in relation to the calculation of the licence fees payment. At the time of compilation of this report, payment had not been made yet.

The Licensee failed to comply with the General Licence Fees Regulations.

5. CONCLUSION

Magic 828 has complied with most of its service licence condition that included the format, certain clauses of the promise of performance, among others. The challenge has been non-submission of documents as proof of compliance with certain clauses. Further, there is an ongoing engagement with the Authority's finance department in relation to settling

the outstanding amounts for both USAF and general licence fees for all the years that the Licensee has been broadcasting. The settlement of the amounts owed to the Authority will be reflected in the next annual compliance report.

The Licensee furthermore submitted changed to its shareholding, the Authority will be able to process the changes accordingly after ensuring that the correct process as outlined in the Processes and Procedures Regulations for Individual Licences, has been followed. It should be noted that this is the first annual compliance report for the Licensee, since it commenced operations in 2015.

A meeting to address areas of non-compliance will be convened to ensure that the Licensee, fully complies with its service licence and all applicable Regulations. And depending on the attitude, the serious commitment and willingness of Magic 828 to attend to and resolve all the areas of non-compliance, the Licensee could be referred to the Complaints and Compliance Committee (CCC), for a hearing and adjudication.

6. TERMS OF REFERENCE

- 6.1 Appendix A: Magic 828 Licence;
- 6.2 Appendix B: Compliance Submission;
- 6.3 Appendix C: Promise of Performance Submission; and
- 6.4 Appendix D: Music Logs.