



# **MAGIC 828 ANNUAL COMPLIANCE REPORT**

**MARCH 2021**

## **2019/20 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 Constitution<sup>1</sup>, the ICASA Act<sup>2</sup>, the Electronic Communications Act<sup>3</sup> (ECA) and the Broadcasting Act<sup>4</sup> 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 2019/20 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 ten (10) years from the date of issuance<sup>5</sup>. 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

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<sup>1</sup> The Constitution of the Republic of South Africa, No 108 of 1996

<sup>2</sup> Act No. 13 of 2000, as amended

<sup>3</sup> Act No. 36 of 2005

<sup>4</sup> Act No. 4 of 1999

<sup>5</sup> Appendix A

the quarter ending March 2020 is 16 000<sup>6</sup> albeit with a disclaimer for small base sample.

### **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"*<sup>7</sup>.

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 through as per the licence with music such as *Lost in Music by Sister Sledge* from

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<sup>6</sup> [https://brcsa.org.za/brc-ram\\_listenership-report-apr19-mar20/](https://brcsa.org.za/brc-ram_listenership-report-apr19-mar20/)

<sup>7</sup> Appendix B

*the 70s, Heart – Never from the 80s, Chris Rea – Julia from the 90s, Amy Winehouse – Back to Black from the 2000s amongst others.*

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 quiz through on air and social media platforms with the content aimed at an older audience. The Licensees programming does not target 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 which includes the peak hours. The news bulletins are an average of three (3) minutes. The Licensee only broadcasts their news bulletins in English.

The following news items were monitored:

- *Health Minister Zweli Mkhize says the surge in Covid-19 cases is outpacing the department's ability to secure more beds. The Minister visited various health care facilities in the Western Cape yesterday.*
- *South Africa's Corona virus cases shot past the 50 000 mark as 2594 more cases were recorded taking the total number of infections 50 879. Health Minister Zweli Mkhize announced last night that the country recorded 82 more death taking the total to 1080 fatalities.*

- *The Kenyan Authorities have banned all single use plastics such as water bottles and straws from National Parks, beaches, forest and other protected areas. The UN Environment Programme welcome the ban saying it showed Kenya's commitment to addressing the global scourge of plastic pollution.*

The Licensee broadcasts its news in English only to the exclusion of isiXhosa and Afrikaans.

**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 broadcasts 50% news from the Western Cape region, 30% national news and 20% international news".*

The Authority's monitoring found that most of the Licensees' news they broadcast, are of national interest followed by the stories from the Western Cape, with stories from the continent and the rest of the world in every bulletin. The percentage breakdown for news broadcasts does not comply with the news obligations as per the licence clause, above.

**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 headline branded "The Cape Argus" and "Cape Times" on some of their programmes. The Licensee has however reported that they have since established an internal news team called the "Magic News Teams" to generate in house news bulletins.

**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 sixty five percent (65%) shareholding by persons from historically disadvantaged groups (HDG's) in the Licensee, has not changed.

**The Licensee complies with their control and ownership obligations.**

### **3.6 Promise of Performance**

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 submitted that they have since contracted a few of the interns that were sourced from local community radio stations, to be part of their News Team.

**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 submits that it has only ten (10) permanent employees and they can't include presenters and producers since they are independent contractors.

Of the total permanent employees, seven (7) are historically disadvantaged persons which equates to 70%.

**The Licensee complies 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 people that have undergone training with a figure of one hundred and sixty-two thousand rand (R162 000), for the period under review.

**The Licensee complies with clause 9.3 of their service licence.**

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 Bush, with co-production of hosting and producing the show by the Premier of Western Cape, which was broadcast to other radio stations, with the technical support and training of the Licensee.

**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 that it hosted a webinar attended by fifty (50) young women dealing with the challenges of entering the radio sector. The amount the Licensee says it spent for training, was five hundred and thirty-eight thousand two hundred and fifty rand (R 538 250), during period under review.

**The Licensee complies with clause 9.5 of their service licence.**

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 initiatives such as Tygerberg Hospital Children’s Trust, Mandela Day, Western Province Blood Services amongst others with airtime to the amount of five hundred and seventy-six one hundred and forty rands (R576 140).

**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 for the fourteen percent (14%) of local music<sup>8</sup>.

The monitoring process confirmed that the Licensee broadcast mostly international music. Some of the local songs that were played includes *Harari – Party*, *Pierre De Charmoy – Lived On*, *The Parltones – Push Me To The Floor* amongst others.

**The Licensee failed to comply with the ICASA South African music content regulations.**

#### **4.2 Standard Terms and Conditions for Individual Broadcasting Licences**

During the period under review, the Authority did not find 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 of the Regulations in respect of Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund (USAF), published in Government Gazette, No. 34010 of 10 February 2011, stipulates that:

*(1) "Every holder of a licence granted in terms of Chapters 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of its Annual Turnover to the Fund".*

*(2) "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 that their financials have not been finalised by the time of compilation of this report.

**The Licensee failed to comply with the USAF Regulations.**

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<sup>8</sup> Appendix D

#### **4.4 General Licence Fees Regulations**

Regulation 3 (1) of the General Licence Fees Regulations published on Government Gazette No. 36323 of 28 March of 2013 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 2 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) (b)(c) of Schedule 3 provides that Annual Licence Fees:

- a) "Are due annually based on the licensee's financial year;*
- b) Are due and payable within 6 months from 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".*

The Licensee submitted that their financials have not been finalised by the time of compilation of this report.

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

#### **4.5 Code of Conduct for Broadcasters**

The monitoring process did not find any non-compliance in relation to the Code of Conduct for Broadcasters.

### **5. CONCLUSION**

Magic 828 has not fully complied with its licence terms and conditions. The Authority's Compliance dept will contact the Licensee on the areas on non-compliance in the next financial year. If needs be, Magic 828 FM, may be referred to the Complaints and Compliance Committee (CCC), for a hearing and adjudication on their non-compliance.

## **6. TERMS OF REFERENCE**

Appendix A: Magic 828 Licence;

Appendix B: Compliance Submission;

Appendix C: Promise of Performance Submission

Appendix D: South African Music Content Regulations;

Appendix E: Regulations Regarding Standard Terms and Conditions;

Appendix F: Proof of payment- USAF; and

Appendix G: General Licence Fees Regulations.

**END**

**March 2021**