



CAPRICORN FM

ANNUAL

COMPLIANCE REPORT

MARCH 2022

2020/21 CAPRICORN FM ANNUAL COMPLIANCE REPORT

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 2020/21 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. They have been licensed to provide sound broadcasting services to the province of Limpopo as defined in their radio spectrum licence.

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage Area

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

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

"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's dominant programming language is English as per the licence condition percentages. The majority of presenters are conversant in one or more of the three (3) indigenous languages, which they use secondary to 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 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 majority of the programming is music driven supplemented by talk content during the performance period. The Licensee dedicates their 18H00 and 20H00 slots from Monday to Thursday to current affairs programming with the 18H00 to 19H00 slots on Friday dedicated to Sports content which are exclusively talk content. The topics of discussions on the programmes broadcast between Monday and Thursday are aimed at the targeted age groups and range from financial, health and any other topical issues.

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 broadcasts different music genres with artists such as *King Monada, Makhendlas, Ntando, DJ Obza, Big Zulu, Sipho Makhabane, Loyiso* amongst others to cater for the different genres as per their service licence condition.

The Licensee complies with its format.

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 number of local and foreign music split. Their submission reflects that they broadcast an average of forty-five (45%) percent of local music⁶.

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 *Nigerian Artists such as Burna Boy and Wizkid and Ghanaian artist Stonebwoy* among others.

The Licensee complies with its Local Content 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 Licensee submit in their Form 9A submission in terms of the Compliance Procedure Manual Regulation show a list of local artists that they have interviewed on the radio station from the Limpopo province with artists such as *Rabs Vhafuwi, Daque, DJ Dimexa* amongst others which includes broadcast of their new music.

⁶ Form 9A

The Licensee submits that they have hosted unplugged session with artists such as Takalani Ndou, Vutivi Baloyi amongst others.

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 thirteen news bulletins between 06h00 and 18h00 during the week. Each news bulletin during weekday and weekend is broadcast for an average duration of four (4) minutes, with an overall total of fifty-two (52) minutes of news per day weekdays, whilst they broadcast seven (7) news bulletins from 07H00 until 13H00 midday for a total of twenty-eight (28) minutes over the weekend.

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

- *"Limpopo Health MEC Dr Phophi Ramathuba has expressed her surprise as to why the Democratic Alliance does not know of the progress of the Covid 19 vaccine roll out plan in the province. This after the DA in the province called on Ramathuba to urgently reveal the plan ahead of the arrival of vaccines on the 1st of February.*
- *The Gauteng Province has identified six hundred sites to do the Covid 19 vaccine roll out throughout the province. This was disclosed at the Gauteng Provincial Command Council on Friday. With the vaccine expected to arrive in the country on Monday, Premier David Makhura Spokesperson Vuyo Mhaga says they will be prioritising front line workers.*

- *"A Ugandan Court has ordered security forces to seize surrounding the home of opposition leader Bobi Wine who has been under house arrest since the January 14th Presidential election. Troops have blocked the 38-year-old pop star-turned-politician from leaving his house since he voted in the January 14 election where he ran against long-serving incumbent President Yoweri Museveni".*

The Licensee's news reports on average consists of an average of four (4) stories with the majority being stories from the coverage area which are self-generated. The rest of the news stories in the bulletin are of national and/or international scope.

The Licensee complies with its news obligations.

3.6 Training and Skill 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 had fifty-eight (58) overall staff compliments, of which fifty-six (56) are black for an average of ninety six percent (96%) which is more than the required minimum threshold⁷.

The Licensee submits that they provided an ongoing training programme for new talent in the 02H00 - 06H00 time slot over the weekend shifts which equates eight hours per week.

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".

⁷ Appendix C

The Licensee submits that there is five percent (5%) of shares allocation to Capricorn FM staff trust on 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".

The Licensee provided training and internship programme for five (5) individuals for a six (6) months period⁹.

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

The Licensee complies with clause 9.1 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 it only has two board members of both genders and are in the process of appointing a second female board member.

The Licensee failed to comply with clause 9.2 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

⁸ Appendix C

⁹ Ibid

maximum period of four (4) years. These funds to be allocated for bursaries at the discretion of the University of 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”.

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 seven (7) people in management and four are female, which constitutes a fifty five percent (57%) average representation¹¹.

The Licensee complies with clause 9.5 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

¹⁰ Appendix C

¹¹ Appendix C

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-five (45%) percent of local music. The Licensee also interviews artist and playlists new music which increases their local music output in accordance with the format factor points allocation. Some of the artists that were monitored included *Spikiri – Money Talks*, *Mlindo The Vocalist feat Sjava – Egoli*, *Makhadzi feat Mamphitsha – Sugar Sugar* among others.

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

4.2 Standard Terms and Conditions for individual broadcasting licences

The Authority didn't find any non-compliance with any provision of the Standard Terms and Conditions for individual broadcasting licences.

4.3 Regulations in respect of the Prescribed Annual Contributions of Licensees to the Universal Service and Access Fund

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 had not submitted any proof of payment for the period under review and by time of compilation of the report. They did submit that the MDDA contribution will be made in the last quarter of the 2020/21 financial year.

The Licensee has failed to comply with the USAF Regulations.

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 made payments for their annual licence fees and submitted proof thereof.

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

The Licensee has complied with much of its service licence and applicable Regulations. The Authority will approach the Licensee on the aspects on non-compliance in the next financial year.

6. TERMS OF REFERENCE

6.1 Appendix A: Capricorn FM Licence;

6.2 Appendix B: Form 9A; and

6.3 Appendix C: Compliance Submission