

2011/12 ANNUAL COMPLIANCE REPORT

CAPRICORN FM

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 and the Electronic Communications Act ("EC Act")³ to regulate broadcasting activities in South Africa in the public interest. The Authority is tasked with ensuring compliance by broadcasters with the ICASA Act, the EC Act, the terms and conditions of their licence, any relevant legislation and regulation.

The following report provides an overview of Capricorn FM's performance for the 2011/12 financial year. Aspects of compliance that are measured comprise of Geographic Coverage Area, Language, Format, Programming, Ownership by Individuals from Historically Disadvantaged Groups, Human Resource Development, Regulations on South African Music Content, Regulations Regarding Standard Terms and Conditions, Universal Service and Access Fund Regulations, General Licence Fees Regulations and the Code of Conduct for Broadcasters.

2. BACKGROUND

On 01 October 2007, the Authority granted and issued a Commercial Broadcasting Licence to Capricorn FM (Pty) Ltd (*See Licence attached as Appendix A*). The radio station was licensed during the licensing of secondary markets in Limpopo, North West and Mpumalanga. The radio station is mandated to provide a commercial sound broadcasting service to Hoedspruit,

¹ The Constitution of the Republic No 108, 1996

² ICASA Act No 13 , 2000 as amended

³ Electronic Communications Act No 36, 2005

Louis Trichardt, Nelspruit, Sibasa and Tzaneen as per the frequency spectrum license.

According to the South African Advertising Research Foundation (SAARF), the listenership figures for the period under review is 1 506 000⁴.

3. COMPLIANCE ASSESSMENT

3.1 Geographic Coverage

According to Schedule B2 of the technical specifications, the Licensee covers the following areas:

"Hoesdpruit, Louis Trichardt, Nelspruit, Sibasa and Tzaneen. All of these towns form part of the Limpopo Province" (See Appendix A).

The Licensee confirms that its coverage areas have not changed.

The Licensee complies with Schedule B2 of its licence.

3.2 Control Structure

Clause 1 of Schedule C of the licence stipulates that:

"The control structure of the licensee is and remains as follows:

MSG Africa Holdings (Pty) Ltd = 37.5%

Safika Holdings (Pty) Ltd ("Safika") = 27.5%

Limpopo Women Investors (Pty) Ltd (LWI") = 15%

Ashifa Nkuna Investments ("ANI") = 5%

Parrywood Investments (Pty) Ltd ("PI") = 5%

⁴ <http://www.saarf.co.za/>

Capricorn FM Staff = 5%”

The shareholding structure for Capricorn FM’s has not changed for the period under review.

The Licensee complies with Clause 1 of Schedule C of its licence.

3.3 Format

Clause 2 of Schedule C of the licence stipulates that:

“The Licensee shall broadcast 70% music and 30% talk”.

The findings from the monitoring of Capricorn FM’s recordings confirmed that the Licensee dedicates a significant amount of its airtime to music and 30% to talk. The following are examples of talk shows broadcast by the Licensee:

- *“Capricorn FM Talk”* is a current affairs type programme broadcast every week from Monday to Thursday between 18h00 and 20h00. The programme is constituted of news reports and current affairs discussions. Studio guests and experts are invited to address listeners on different topical issues.
- *“Sports Precinct”* is broadcast on Fridays. The programme deals with the current sporting events and upcoming games. The show has weekly guests that include sports administrators, journalists and commentators to discuss on either the state of affairs of different sporting codes as well as upcoming games. Furthermore, there are interviews with different coaches and players.

The Licensee complies with Clause 2 of its licence.

Clause 3 of Schedule C of the licence stipulates that:

"The Licensee shall be a young adult contemporary music station targeting young adults in the 18- 34 age categories within the LSM 4-7 segments".

The Licensee maintains that it is a young adult contemporary music radio station catering for the 18 to 34 age group, in the LSM 4-7 groupings. Monitoring confirmed that the target audience remains young adults as per the licence.

The Licensee complies with Clause 3 of Schedule C of its licence.

Clause 4 of Schedule C of the licence stipulates that:

"The Licensee shall broadcast Soul, R&B, Afro Jazz, Afro-Pop, and dance music such as Kwaito and Hip-Hop".

Monitoring of the radio station's programming schedule confirmed that Capricorn FM broadcasts music genres as defined in its licence. Artists that are from different genres include Judith Sephuma who is an Afro Jazz musician, Kabelo Mabalane and Thebe who are a Kwaito artists, Hip hop artist like Mizo Phyll and Mchangane, Dance music artists like Revolution and Mi Casa, R&B artist like Lira and Anthony Hamilton for Soul music.

The Licensee complies with Clause 4 of schedule C of its licence.

3.4 Language (s)

Clause 5 of Schedule C of the licence stipulates that:

"The Licensee shall broadcast a minimum of 70% and a maximum of 90% English talk programming; and a minimum of 10% and 30 % maximum talk programming to be equally shared between Sepedi, Tshivenda and Xitsonga Languages".

The Authority's monitoring exercise confirmed that Capricorn FM's primary language of broadcast is English at an average of eighty percent (80%), with the remainder dedicated to Tshivenda, Sepedi and Xitsonga.

The Licensee complies with Clause 5 of Schedule C of its licence.

3.5 Programming

3.5.1 News

Clause 3.1.1 of Schedule D of the licence stipulates that:

"The Licensee must broadcast 40 minutes of news on weekdays and 12 minutes on weekends. The Licensee must broadcast 45 minutes of news on weekdays and 15 minutes on weekends in year three of its operation".

Capricorn FM broadcasts news every hour on the hour from 06h00 until 18h00.

The news bulletins last for three (3) minutes and news headlines every half hour from 06h30 until 17h30. On average the radio station broadcasts forty nine (49) minutes of news on weekdays.

During weekends, the radio station broadcasts its news bulletins on the hour from 07h00 until 09h00, and then from 11h00 until 13h00. Each news bulletin lasts for an average of three (3) minutes, totalling eighteen (18) minutes.

The radio station has been on air for three (3) years now, thus the above is in line with the requirement that in its third year of operation, the radio station must broadcast forty five (45) minutes of news during weekdays and fifteen (15) minutes on weekends.

The Licensee complies with clause 3.1.1 of Schedule D of its licence

Clause 3.1.2 of Schedule D of the licence stipulates that:

"The applicant will broadcast 60-70% local and provincial news, 15-20% national news and 10% international news". Further that "the licensee must broadcast 35% of locally-generated news".

During the period under review, the Authority's monitoring confirmed that the news bulletins broadcast by Capricorn FM covers stories from the Limpopo province. The following news items were monitored:

- *"Cope youth movement in the province of Limpopo is calling for an increased budget for the underfunded Office of the Public Protector Thuli Madonsela. The Public Protector's office is reportedly still waiting for a response from the National Treasury about their request for an increased budget. Madonsela's spokesperson Oupa Segale says the limited budget means they are unable to reach remote areas because they have limited resources".*
- *"The Nkwane royal house is today celebrating the success of the battle of leadership at the tribal house of Ha Nkwane village near Polokwane. Spokesperson for the Nkwane royal House. Steven Phasha says this is an annual event but mostly they will be celebrating the end of the battle over the throne between two sons who are claiming to be the rightful sons of the late Chief Phasha. Earlier this year, the body of the late Chief Phasha was exhumed after the Pretoria High Court ordered the body to be exhumed to determine the rightful son of the chief".*
- *"The department of Agriculture in Limpopo has breathed a sigh of relief and welcomed the rain that fell last night. The spokesperson for the department, Kenny Mathivha said due to the heat wave that had affected the northern part of the province, more rain is needed to still hydrate the soil and allow the farmers to plough. Mathivha says if the rain can continue to fall in the coming weeks that would be good news for farmers. Chief Director in the department of Water Affairs in*

Limpopo Alison Matukane says the rain would have not much impact on dam levels unless it continues to rain throughout the week”.

- *“President Jacob Zuma from January 2010 to September 2011, the number of public health facilities initiating patients on anti-retroviral treatment has increased from four hundred and ninety five to two thousand, nine hundred and forty eight. In addition, Zuma says the number of two hundred and ninety nurses who were accredited to initiate and provide HIV treatment few years ago has now increased to ten thousand, five hundred and forty two. Zuma is currently addressing masses attending the unveiling of the National Strategic Plan for HIV/Aids and TB at Kwazakhele in Port Elizabeth”.*
- *The International Criminal Court says former Ivory Coast president Laurent Gbagbo is facing four charges of crimes against humanity. He is accused of being an indirect co-perpetrator of murder, rape, persecution and other inhuman acts. Sixty six years old Gbagbo was placed in detention in The Hague earlier today after being flown from Ivory Coast. He is the first former head of state to be detained to face trial at The Hague by the ICC since its founding in 2002. Human Rights groups have welcomed his arrest but also cautioned against defectors justice. The ICC has been investigating four months of conflict in Ivory Coast which began when Gbagbo refused to give up power to Alassane Ouattara in a presidential election in December 2010”.*

Whilst a significant amount of the Licensee’s news is provincial and local news, an average of sixty percent (60%) of the news stories is locally-generated news and the rest split between national and international news.

The Licensee complies with clause 3.1.2 of Schedule D of its licence.

3.5.2 Local Content

Clause 3.2.1 of Schedule D of the licence stipulates that:

"The applicant must broadcast 30% South African music and a minimum 2.5% from other African countries".

During the period under review, Capricorn FM submitted its music playlist to the Authority on a monthly basis. The playlist indicated that the Licensee plays way above thirty percent (30%) of South African music. This was confirmed by the Authority during its monitoring exercise. The findings revealed that Capricorn FM plays an average of thirty five percent (35%) South African music. Further, it was established that the Licensee conducts interviews with local artists to promote their new songs and albums.

Throughout the period under review, the Authority observed that the Licensee has been playing a minimum of 2.5 % music from other African countries. Artists such as Asa and Flavour from Nigeria, Zeus from Botswana, Cabo Snoop from Angola, Ismaël Lô from Senegal, Salif Keita from Mali and Angelique Kidjo from Benin were identified.

The Licensee has during the period under review complied with clause 3.2.1 of Schedule D of its licence.

Clause 3.2.2 of Schedule D of the 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".

During the period under review, the radio station conducted interviews with artists such as Percy Mukwevho, Mizo Phyll, Revolution and many more who also performed during the Limpopo Music Festival. They also debut songs from artists like T-Man Gavin, Mizo Phyll, the Muso Brothers and Da Vinci and gave regular

broadcast and promotion on the radio station's playlist. The foregoing new artists are based in the Limpopo Province.

In addition, on Saturdays between 09h00 and 12h00, the radio station plays most of its songs from new artists during its *"Top 40 chart show"*.

The Licensee complies with Clause 3.2.2 of Schedule D of its licence.

3.6 Ownership by Individuals from Historically Disadvantaged Groups

Clause 1.1 of Schedule D stipulates that:

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

As indicated under the control structure of this report above, MSG Afrika Holding (Pty) Ltd which owns 37.5%, SAFIKA Holdings (Pty) Ltd which own 27.5% and Ashifa Nkuna Investments which owns 5%, are owned by persons from historically disadvantaged groups.

The Licensee complies with Clause 1.1 of Schedule D of its licence.

Clause 1.2 of Schedule D of the licence stipulates that:

"The licensee shall ensure that at least two women are on its board of directors".

The Licensee has reported that it has the following women on its Board of directors:

- Mantombi Gloria Mapanzela
- Zola Vuyiswa Ngendane

The Licensee complies with clause 1.2 of Schedule D of its licence (*See Appendix B*).

Clause 1.3 of Schedule D of the licence stipulates that:

"The Licensee shall allocate 5% of its shareholding 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".

Five percent (5%) of the shareholding has been allocated to the University of Limpopo media students; nevertheless, there were no dividends payable for the period under review.

The Licensee complies with Clause 1.3 of Schedule D of its licence.

Clause 1.4 of Schedule D of the 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 of the Licensee's shareholders are black.

The Licensee complies with Clause 1.4 of Schedule D of its licence.

Clause 1.5 of Schedule D of the licence stipulates that:

"The licensee shall ensure equitable representation of women on its management structure".

According to the submission by Capricorn FM, their management team is comprised of eleven (11) people and of this number three (3) are women. There has not been a change in the management structure for the past two (2) financial years, therefore the Licensee has not been able to increase the number of women which is an indication of stability in the management of the station.

Although there is no standard to measure equity in terms of gender representation, it would appear from the above that there is a reasonable representation of females at management level, although there is still room for improvement (*See Appendix C*).

The Licensee complies with Clause 1.5 of Schedule D of its licence.

3.7 Human Resource Development

Clause 2.1 of Schedule D of the licence stipulates that:

"The licensee must maintain 70% black on air and off air staff compliment and provide six hours of airtime for the development of talent in the province".

According to the documentation submitted by Capricorn FM to the Authority, the radio station has thirty four (34) off air staff, of which thirty (30) of them are black and equating to around eighty eight percent (88%) off air staff compliment. Furthermore, the Licensee has twenty eight (28) on air staff compliment and all of them are black, which equates to a hundred percent black on air staff compliment. However, it should be noted that some staff members have double roles as they on air and off air roles (*See Appendix D for further details*).

In terms of developing talent in the province, the radio station currently conducts interviews with local musicians, as well as promotes their music by play-listing them on the chart shows.

The Licensee complies with Clause 2.1 of Schedule D of its licence.

Clause 2.2 of Schedule D of the 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 analysis of the information submitted by the Licensee to the Authority reveals that five (5%) of the shares have been allocated to Capricorn staff of which about 2.5% has been allocated to management officials.

The Licensee complies with Clause 2.2 of Schedule D of its licence.

4. REGULATIONS

4.1 South African Music Content

Regulation 3.2 of the Regulations on South African Music Content as published on 31 January 2006 stipulate that:

"Every holder of a commercial sound broadcasting licence to which these regulations apply must ensure that a minimum of 25% 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 said period".

The radio station plays an average of thirty five percent (35%) of South African music. Some of the local artists that are regularly playlisted include amongst others Black Coffee, Big Nuz, Slikour and Kandi,.

The Licensee complies with the minimum requirement of 25% South African music as stipulated above.

4.2 Regulations regarding 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 Licensees.

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".

For the period under review, Capricorn FM made the requisite payment of forty four thousand, one hundred and twenty nine rand (R44, 129, 00) to the Media Development and Diversity Agency (MDDA) on 31 May 2012, which is in line with Regulation 3 (1) of the USAF Regulations. The amount was calculated at 0.2% of Capricorn FM's annual turnover. Proof of payment was duly submitted to the Authority on 15 October 2012 (See Appendix E).

The Licensee has during the period under review, complied with the USAF Regulations.

4.4 General Licence Fees Regulations

The General License Fees Regulations came into effect on the date of publication in the government Gazette no. 32084, on 01 April 2009.

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 2 under Annual Licences Fees stipulates that:

Individual Commercial Broadcasting Service Licensees must pay an annual licence fee of 1.5% of gross profit to the Authority.

Schedule 3 (4) (b) (c) stipulates that:

“(b) in respect of payment, such 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”.

During the period under review, Capricorn FM made a payment of two hundred and eighty nine thousand, one hundred and sixty seven rands and nine cents (R 289, 167.09), which is equivalent to 1.5% of the Licensee’s gross profit. Proof of payment of its licence fees was duly submitted on 29 August 2012, which is within the six (6) months of the Licensee’s financial year end. (See Appendix F).

The Licensee has complied 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”).

There were no complaints lodged with the BCCSA against Capricorn FM, during the period under review.

5. CONCLUSION

Capricorn FM has complied with its licence terms and conditions and relevant regulations for the period under review.

6. APPENDICES:

Appendix A: Licence Conditions;
Appendix B: Board of Directors;
Appendix C: Management Structure;
Appendix D: Staff Compliment;
Appendix E: Proof of MDDA Invoice;
Appendix F: Licence Fees payment.