



MAGIC 828

ANNUAL COMPLIANCE

REPORT

MARCH 2025

2023/24 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 (“Authority”) has a statutory mandate in terms of the Constitution, the ICASA Act¹, the Electronic Communications Act² (ECA) 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 Altius Trading 460 (Pty) Ltd trading as Magic 828’s performance for the 2023/24 financial year. Aspects of compliance in the service licence that are measured comprise Coverage Area, Broadcast Language (s), Format, Local Content Obligations, General Programming Obligations, Ownership and Control Obligations and Promise of Performance.

Furthermore, the report will measure compliance with regulations that include South African Music Content, Standard Terms and Conditions for Individual Licensees, Universal Service and Access Fund Regulations, General Licence Fee Regulations and 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 issuance³. The Licensee has been licensed to provide broadcasting services to the City of Cape Town as defined in their radio frequency spectrum licence. The Licensee, for the period under review, submit its renewal notice in accordance with the applicable timelines stipulated in the Act and applicable regulation.

¹ Act No. 13 of 2000, as amended.

² Act No. 36 of 2005

³ Magic 828 Radio Service Licence

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".

The Licensee broadcasts on 828 kHz on AM and the coverage area is as per the coverage map on the frequency spectrum licence.

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 programming is dominated by nostalgic adult contemporary songs such as *Where Did Our Love Go- The Supremes released in the 60s, Carole King's - Will You Love Me Tomorrow released in the 70s, Bananarama - Cruel Summer released in the 80s, Monica, Brandy - The boy is mine released in the 90s, Danny K - Unfrozen released in 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 confirmed that the Licensee's programming is music-driven supplemented by speech. The speech content is mostly informative content which includes updates on local events amongst others.

The Licensee complies with its Licensed format.

3.4 General Programming Obligations

Clause 7.1 of the service licence stipulates that:

"The Licensee shall broadcast 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 on weekdays starting 06H00 which would be headlines only and the full news bulletins start from 07H00 until 18H00 which is throughout the peak times as per the licence for a total of 12 bulletins. All news bulletins are broadcast in English.

The news items that were monitored were the following:

- *"As the country remains gripped by the ongoing energy crisis, energy experts say that South Africa has hit a new low for this month as Eskom's energy availability factor had dropped down to 50.48%. This means that the power utility has less capacity available to serve the country's electricity needs.*
- *According to the IEC statistics, the elderly voters outnumber the teenagers registered to vote. More than 27 700 South African have registered to vote on the 29th of May. Meanwhile, President Cyril Ramaphosa says with the announcement of the election date, the country is now ready to head to the polls.*

- *Opposition leader in Chad Yaya Dillo has been killed during a shootout with the security forces. The incident occurred near his party's headquarters in the capital N'Djamena. The violence flared amid tension ahead of presidential elections set for May and June".*

The Licensee does not broadcast any news in isiXhosa and Afrikaans and therefore partially complies 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 majority of the news stories are restricted to the primary province followed by national news and international stories as per the percentage breakdown.

The Licensee complies 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 submits that due to financial constraints, they were unable to maintain an in-house newsroom.

The Licensee does not comply 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 Licensee only broadcast in English and there were no community notices that were found in the broadcast.

The Licensee does not 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 submits that the ninety percent (90%) shareholding is owned and controlled by persons from historically disadvantaged groups (HDGs). The Licensee however has not submitted the shareholding updates in the format contained in the Licensing Process and Procedure Regulations for Individual Licensees. The information contained in the service licence still has fifty percent (50%) shareholding which is more than the required threshold.

The Licensee complies with clause 8 of the service licence.

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 submits names of presenters that are responsible for news presenting, but not for production. They have in the previous clause submitted that they don't have an in-house team for news production as this is sourced from a third party.

The Licensee does not comply 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 submits that they have employed 60% of HDGs from the licensed coverage area and the Licensee is committed to achieving the 70% target through natural attrition.

The Licensee does not 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 submits that they have spent less than the required amount for the year under review.

The Licensee does not comply with clause 9.3 of its 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 through their internship programming and training for one of their presenters who has been with the station for almost two years, suffices for compliance with the above-mentioned clause. However, that does not address the compliance requirement of "...one (1) community sound broadcaster within the broadcasting coverage areas...".

The Licensee does not comply 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 R500,000.0 (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 submits that due to financial challenges, it could not meet the threshold amount as per the licence conditions.

The Licensee does not comply with clause 9.5 of its 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 due to financial challenges, it could not meet the threshold amount as per the licence conditions.

The Licensee does not comply with clause 9.6 of its 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 submits that they broadcast an average of twenty-eight (28%) percent of South African music which is less than the quotas for individual licences⁴. Some of the local songs that were played include *Johnny Clegg & Juluka, Melanie Lowe – Faster than I'm running, P J Powers – Jabulani, Mango Grove – Hometalk* amongst others.

The Licensee does not comply with the 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 Appendix C

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 did not provide any proof of payment to the Universal Service and Access Fund.

The Licensee does not 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 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 did not communicate any payment of the licence fees and also could not provide proof of payment thereof.

The Licensee does not comply with the General Licence Fees Regulations.

4.5 Code of Conduct for Broadcasters

The Licensee is not a member of any industry body as referred to in Section 54 of the ECA and thus adheres to the Authority's Code of Conduct for Broadcasting service licences.

5. CONCLUSION

The Licensee submits that they were faced with management changes and financial challenges for the period under review which has for the most part affected their compliance with most of its licence conditions. It should be noted however that the Licensee has a recurring non-compliance in relation to some aspects of their programming obligations, aspects of promises of performance and music Regulations. Due to the recurring non-compliance, the matter will be referred to the Complaints and Compliance Committee (CCC) of the Authority, hearing and for adjudication.

6. TERMS OF REFERENCE

Appendix A: Magic 828 licence

Appendix B: Compliance Submission

Appendix C: Form 9A - General log sheet per the ICASA Compliance Procedure Manual Regulations, 2011

Annexure D: Regulations on South African Music Content

Annexure E: Standard Terms and Conditions for Individual Licences

Annexure G: General Licence Fees Regulations

Annexure F: Universal Service and Access Regulations

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