



MAGIC 828 ANNUAL COMPLIANCE REPORT

MARCH 2023

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2020/21 MAGIC 828 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 Constitution¹, the Independent Communications Authority of South Africa Act (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 Altius Trading 460 (PTY) Ltd trading as Magic 828's performance for the 2021/22 financial year. Aspects of compliance in the service licence that are measured comprise of Coverage Area, Broadcast Language (s), Format, Local Content Obligations, General Programming Obligations and Ownership and Control Obligations.

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, General Licence Fee, Code of Conduct for Broadcasters, and the ICT Covid-19 Regulations.

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 issuance⁵. The Licensee has been licensed to provide broadcasting services to City of Cape Town metropolitan as defined in their radio frequency spectrum licence.

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 Magic 828 Radio Service Licence

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 broadcast 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 *Aretha Franklin – Respect* released in the 60s, *Village People – Y.M.C.A* released in the 70s, *UB40 – Red, Red Wine* from the 80s, *Jennifer Lopez – Waiting for Tonight* from the 90s 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 talk. The talk content is mostly informative content which includes the weather, entertainment, and music quiz with listeners' engagements amongst others.

The Licensee complies 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 on weekdays starting at 06H00 until 18H00 which is throughout the peak times as per the licence for a total of 13 bulletins. The news is only being broadcast in English.

Below are a few of the news items that were monitored.

- *People who test positive for Covid 19 without symptoms will no longer have to isolate. This was announced by the Presidency last night. Minister in the Presidency Mondli Gungubele announced that several new measures have been put in place as part of the adjusted alert level 1 regulations.*
- *With the unemployment rate sitting at 34.4 %, many South African are hoping that the President will deliver a State of the Nation address with a plan to address the high joblessness rate as well as education for the youth.*
- *A school Board in Tennessee has banned Pulitzer Prize-winning novel about the Holocaust from being taught in its classrooms. Board members voted in favour of banning the novel because it contains swear words and negative illustration of mice.*

The Licensee 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 found that news is dominated by national stories due to most of their news being from LM Radio for those programmes that were shared. The percentage breakdown for news broadcasts does not comply with the news obligations as per the licence clause above.

The Licensee did not fully 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 submitted a list of four (4) members of their in-house newsroom 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 did 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 their shareholding is hundred percent (100%) owned by persons from historically disadvantaged groups (HDG's).

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 through their inhouse news team produce local news bulletins for the station.

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 refers that they have employed 50% of HDI's from the licensed coverage area and is committed to achieving the 70% target through natural attrition.

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 submits that they are certain individuals who underwent training, but the figures were not submitted as they did not meet the minimum annual threshold.

The Licensee did 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 they assisted an individual who worked in the community sound broadcasting sector from within the area with training, but that does not address the compliance requirement of a community sound licensee and not an individual.

The Licensee did 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 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 submits that due to financial challenges could not meet the amount threshold as per the licence conditions.

The Licensee did 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 they have spent an amount which is just above half of the threshold that is required as per the licence condition.

The Licensee did to 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 dated, 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-seven (27%) percent of South African music which is less than the quotas for individual licences⁶. Some of the local songs that were played includes *The Parltones – Giant Mistake*, *Pierre de Charmoy – Live On*, *MarcAlex – Ready for the weekend*, *Tamara Dey – What I am to do?* amongst others.

The Licensee did not comply with the South African music content regulations.

4.2 Standard Terms and Conditions for Individual Broadcasting Licences, 2010

During the period under review, the Licensee appeared before the Complaints and Compliance Committee in relation to allegations of not complying with the programming syndication percentage in the standard terms and conditions for individual licences and the revised percentages in the ICT Covid-19 Regulations. The complaint was brought by Primedia and the CCC directed the Licensees, LM Radio, and Magic 828, to desist from any further contravention of the ICT Covid Regulations as read with the Standard Terms Regulations and a suspended fine was imposed.

⁶ 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 made their USAF payment and attached proof of payment thereof.

The Licensee complies with the USAF Regulations.

4.4 General Licence Fees Regulations, 2012

Regulation 3 (1) of the General Licence Fees Regulations published in 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 their payment and attached proof of payment thereof.

The Licensee complies with the General Licence Fees Regulations, 2011.

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 did not comply with some of its licence conditions. The Licensee will be engaged and required to remedy all the areas of non-compliance. Failure to rectify and to comply in full, the Licensee will be referred to the Complaints and Compliance Committee (CCC), for hearing and adjudication.

6. TERMS OF REFERENCE

Appendix A: Magic 828 Licence.

Appendix B: Compliance Submission.

Appendix C: Form 9A

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