



ALTIUS TRADING 460 (PTY) LTD ANNUAL COMPLIANCE REPORT

MARCH 2024

2022/23 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 Constitution, the ICASA Act¹, the Electronic Communications Act² (ECA) and the Broadcasting Act³ 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 2022/23 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 issuance⁴. The Licensee has been licensed to provide broadcasting services to City of Cape Town metropolitan as defined in their radio frequency spectrum licence.

¹ Act No. 13 of 2000, as amended.

² Act No. 36 of 2005

³ Act No. 4 of 1999

⁴ 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 *Aretha Franklin – My Guy* released in the 60s, *Bee Gees – Too Much Heaven* released in the 70s, *Bryan Adams – Heaven from the 80s*, *LeAnn Rimes – Can't Fight the Moonlight 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 speech. The speech content is mostly informative content which includes competitions, and a feature to updates on local events such as music festivals, theatre plays and history facts 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 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. All news bulletins are broadcast in English.

The following news items were monitored:

- *The City of Cape Town is days away from hosting this years' ICC T20 Women's World Cup which gets underway this Friday. The City's JP Smith says officials hosted an event at Maiden's Cove to welcome teams to Cape Town recently.*
- *Parliament has set aside 8 million for the State of the Nation address set to take place on Thursday, however, it may cost 5 million rand. The major cost is for hosting the event outside the Parliamentary precinct which requires additional resources.*

- *Authorities in the US state of Texas have advised American citizens not to travel to Mexico during the spring break holidays for security reasons. The Texas Department of Public Safety says drug cartel violence represents a significant threat for anyone crossing into Mexico.*

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 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 submitted a list of three (3) 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 Licensee through their events updates constitute community notices within its coverage area yet those are broadcast in English only.

The Licensee partially complies 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-five percent (95%) shareholding is owned and controlled 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 in-house news team produces 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 submits that they have employed 60% of HDIs 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 some employees underwent training but could not submit figures in relation to the amount attached to the training and thus do not meet the minimum annual threshold.

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 they assisted an individual who worked in the community sound broadcasting sector from within the area with training. 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 they have spent an amount of two hundred and fifty-four thousand and four hundred and sixty rands which falls below the annual threshold as per the licence condition.

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 licences⁵. Some of the local songs that were played include *Beatenberg – Rafael*, *Mango Groove – Hometalk*, *Dr Victor and the Rasta Rebels – Cheek to Cheek*, *Watershed – Don't Give Up* amongst others.

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

⁵ Appendix C

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 made their payment and attached proof of payment thereof.

The Licensee complies 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 their payment and attached proof of payment thereof.

The Licensee complies 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 has complied with most of its licence conditions, with some of the conditions having been partially complied with in relation to the programming obligations. There are non-compliance issues with promises of performance which the Licensee has attributed to the financial challenges that they have been faced with, coming from the pandemic and the listenership figures on the medium wave platform. The Licensee also did not comply with the local music Regulations. The Licensee will be approached with a view to ensure full compliance with its regulatory obligations in terms of the licence and the Regulations.

6. TERMS OF REFERENCE

Appendix A: Magic 828 MW licence

Appendix B: Compliance Submission

Appendix C: Form 9A - 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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