



MAGIC 828 FM

ANNUAL

COMPLIANCE REPORT

MARCH 2022

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 ("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 Altius Trading 460 (PTY) Ltd trading as Magic 828's performance for the 2020/21 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 includes 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 first published in April 2020 and the subsequent amendments following the proclamation of the State of National Disaster.

The ICT Covid-19 Regulations as amended have introduced exemptions with specific service licence conditions and/or revised quotas and such will be reflected in the body of the report accordingly.

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

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.

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 broadcast on 828 kHz on AM with Sentech as their signal distributor.

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)".

⁵ Magic 828 Radio Service Licence

The monitoring exercise confirmed that the Licensee's programming is dominated by nostalgic adult contemporary songs such as *Chuck Berry – No particular place to go released in the 60s*, *Paul Simon - Mother and Child Reunion released in the 70s* *Erasure – Sometimes released in the 80s*, *Enrique Iglesias - Bailamos released in 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 the weather, competitions, 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 weekdays during from 06H00 until 18H00 for an average three (3) minutes per bulletin, for an overall daily of thirty-nine (39) minutes of news.

The following news items were monitored:

- *The DA in Gauteng says it will ask President Ramaphosa to force Premier David Makhura to step down claiming that a former provincial health official had implicated him in the tender fraud scandal involving personal protective equipment.*

- *Business and political analysts are doubtful President Ramaphosa's State of the Nation on Thursday will unveil new policy initiatives. However, they do want him to push for the implementation of previously announced plans to rebuild the economy.*
- *Russian foreign Minister Sergey Lavrov says Russia is ready to sever ties with the EU if the block imposes new economically painful sanctions. The EU has raised the prospects of further sanctions amid row over the treatment of the Russian opposition leader Alexei Navalny*

The news bulletin for Magic 828 is exclusively read in English to the exclusion of the other languages which are Afrikaans and isiXhosa.

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, followed by those from Western Cape and international stories. The percentage breakdown for news broadcasts does not comply with the news obligations as per the licence clause, above.

The Licensee failed to 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 their news team personnel to generate in house news bulletins.

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 failed to 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 they have more than a fifty one percent (51%) shareholding by persons from historically disadvantaged groups (HDG's).

The Licensee complies with clause 8 of the service licence.

3.6 Promise of Performance

Regulation 8 (B) of the amended ICT Covid – 19 National Disaster Amendment Regulations published on 05 May 2020 stipulates that:

"Sound broadcasting service Licensees are exempted from compliance with specific programming requirements and promises of performance in terms of licence conditions during the National State of Disaster".

Therefore, clause 9 of the service licence for Magic 828 FM which falls under Promise of Performance won't be accessed for the year under review due to the above-mentioned exemption in the ICT Covid 19 National Disaster Regulations.

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-one (21%) percent of South African music which is less than the quotas for individual licences⁶. Some of the local songs that were played includes *Danny K – Who's that girl*, *Ladysmith Black Mambazo feat PJ Powers – World in Union*, *Johnny Clegg & Juluka – Africa* amongst others.

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

4.2 Standard Terms and Conditions for Individual Broadcasting Licences

During the period under review, Magic 828 appeared before the Complaints and Compliance Committee in relation to its syndication of programming with LM Radio and the ruling has not been published by the time this report was being compiled. The Authority did not identify any non-compliance by Magic 828 with the Standard Terms and Conditions for Individual 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*

⁶ Appendix C

contribution and the USAF contribution against which it is set off are for the same financial year”.

The Licensee had not submitted proof of payment for USAF by the time the report was compiled.

The Licensee 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 had not submitted proof of payment for ALF by the time the report was compiled.

The Licensee failed to comply with the General Licence Fees Regulations.

4.5 Code of Conduct for Broadcasters

The Licensee submits that there were no complaints for the year under review which are to be submitted in terms of Form 12 A of the Compliance Procedure Manual Regulations.

5. CONCLUSION

The Licensee has complied with most its licence conditions except for its language of broadcast for news bulletins, its broadcast of community announcement, its financial payment obligation and the Local Music content quotas for commercial services.

6. TERMS OF REFERENCE

Appendix A: Magic 828 Licence;

Appendix B: Compliance Submission;

Appendix C: Form 9A

END