



# **CAPRICORN FM ANNUAL COMPLIANCE REPORT**

**MARCH 2017**

# **2015/16 CAPRICORN FM ANNUAL COMPLIANCE REPORT**

**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 Constitution<sup>1</sup>, the ICASA Act<sup>2</sup>, the Electronic Communications Act<sup>3</sup> (ECA) and the Broadcasting Act<sup>4</sup> 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 Capricorn FM's performance for the 2015/16 financial year. Aspects of compliance that are measured comprise of the service licence's conditions of Geographic Coverage Area, Broadcast Language, Format, Local Content Obligations, General Programming Obligations, Training and Skills developments 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 Regulations, General Licence Fees and the Code of Conduct for Broadcasters.

## **2. BACKGROUND**

On 01 October 2007, the Authority issued a commercial broadcasting licence to Capricorn FM (Pty) Ltd<sup>5</sup>. The Licensee is currently the only commercial radio station in Limpopo after being the successful applicant in the licensing of secondary markets of Limpopo, North West and Mpumalanga. According to the South African Advertising Research Foundation (SAARF), the listenership figures for the last quarter of the period under review is 788 000<sup>6</sup>.

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<sup>1</sup> The Constitution of the Republic of South Africa, No 108 of 1996

<sup>2</sup> Act No. 13 of 2000, as amended

<sup>3</sup> Act No. 36 of 2005

<sup>4</sup> Act No. 4 of 1999

<sup>5</sup> See Appendix A

<sup>6</sup> <http://www.saarf.co.za/rams-commercial/2016/RAMS%20MAR%202016-Audience%20National.pdf>

### **3. COMPLIANCE ASSESSMENT**

#### **3.1 Geographic Coverage Area**

Clause 2 of the service licence stipulates that the geographic coverage is:

*"Limpopo Province as defined in the coverage map attached to the Licensee's radio frequency spectrum licence".*

The Licensee has 6 frequencies covering the licensed areas within the Limpopo Province. The Licensee's signal distributor is Sentech and have transmission sites in the following areas, namely Hoedspruit, Pankop, Louis Trichardt, Potgietersrus, Sibasa and Tzaneen.

**The Licensee complies with its geographic coverage in line with clause 2 above.**

#### **3.2 Broadcast Language**

Clause 3 of the service licence stipulates that:

*"Principal Language: English (minimum of 70% and a maximum of 90% English); Sepedi, Tshivenda and Xitsonga (minimum of 10% and maximum 30% to be equally amongst the languages)".*

The Licensee broadcast predominantly in English to an average of eighty percent with the remaining percentage shared amongst the other languages. The Licensee's presenters are proficient in one or more of the languages of broadcast, and thus are able to interact with the listeners in the languages of broadcast.

**The Licensee complies with clause 3 of the licence.**

#### **3.3 Format**

Clause 4.1 of the service licence stipulates that:

*"The Licensee shall have a programming format of talk (30%) and music (70%) in young adult contemporary music format, targeting youth adults in 18 to 34 age categories within the LSM 4-7 segments".*

The monitoring exercise confirmed that the Licensee's programming is dominated by music supplemented by talk. The following are examples of talk shows broadcast by the Licensee:

- *"Capricorn FM Talk"* is a current affairs programme broadcast weekdays from Monday to Thursday from 18h00 for an hour. The presenter discusses topical news stories from the province, nationally and internationally with engagements from listeners, political analysts, and political/union representatives and government officials.
- *"Sports Precinct"* is a sports show broadcast for an hour on Fridays from 18h00 dealing with sports related issues from different sporting codes. The presenter engages with representatives from different sporting codes, coaches, sport administrators and commentators with listeners' involvement.

Capricorn FM's target audience is the young adults of the age group outlined in the licence and is reflected in the music and lifestyle programme that they broadcast. There are lifestyle segments weekdays between 19h00 and 20h00 from Mondays and Thursdays on the programme called *"The Recline"* which includes motivational talks, focus on business mentoring including how to grow your business and health talks with different health professionals.

**The Licensee complies with clause 4.1 of its service licence.**

Clause 4.2 of the service licence stipulates that:

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

The monitoring exercise confirmed that the Licensee's broadcast playlist caters for the different music genres which was confirmed by their programme log sheets submission. Some of the artists from different genres broadcast includes Afro Pop artist such as Zahara, Afro Jazz musician Rami Chuene, Kwaito artists such as Mdu, Chiskop and Big Nuz amongst others. Furthermore, they also cater for Hip Hop with music from artists such as Okmalumkoolkat, Emtee, Casper Nyovest and R&B TK and Lira, dance artists such as Black Coffee, DJ Shimza and soul music with artist such as The Soil.

**The Licensee complies with clause 4.2 of the service licence.**

### **3.4 Local Content Obligations**

Clause 5.1 of the service licence stipulates that:

*"The Licensee shall broadcast 30% South African music and a minimum 2.5% from other African countries".*

The Licensee submits its programme log sheets in accordance with the format in the Compliance Procedure Manual Regulations with a breakdown of the number of local and foreign tracks and percentage split thereof. The Licensee submitted that they broadcast an average of thirty-five percent (35%) of local music<sup>7</sup>.

Throughout the period under review, the Licensee strived to include African music in the playlist in order to meet the 2.5 % minimum threshold. Some of the artists from the African continent play listed and as identified during the Authority's monitoring exercise included Nigerian artists Paul Play Dairo and Mya K, Yuri Da Cunha from Angola amongst others.

**The Licensee complies with clause 5.1 of its licence.**

Clause 5.2 of the service 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".*

According to the licensee and submission in terms of Form 9A, artists interviewed included Mandla Spikiri, Gigi Lamayne, DJ Maphorisa and Limpopo artists such Mizo Phyll and Mchangani amongst others. Most of the interviews included new music from the artists, upcoming performances and their future plans. However, the Licensee has, during the period under review, not submitted proof demonstrating that it aired music events as contemplated in clause 5.2 above. These were also not identified from the recordings monitored. Against this

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<sup>7</sup>Appendix B

backdrop, **the Licensee did not fully comply with clause 5.2 of the service licence.**

### **3.5 General Programming Obligations**

Clause 6.1 of the service licence stipulates that:

*"The Licensee must broadcast forty (40) minutes of news on weekdays and twelve (12) minutes on weekends. The Licensee must broadcast forty five (45) minutes of news on weekdays and fifteen (15) minutes on weekends from year three (3) of its operation".*

The Licensee broadcasts news every hour from 06h00 until 18h00 the duration of which is 4 minutes. At least 52 minutes of news is broadcast on weekdays. On weekends, news is broadcast from 07h00 until 13h00. The bulletins are 3 minutes in length totalling 21 minutes. The Licensee has been on air for more than three (3) years, thus the above is in line with their requirement after third year of operation.

**The Licensee complies with clause 6.1 of the service licence.**

Clause 6.2 of the service licence stipulates that:

*"The Licensee must broadcast 60% local, 15-20% national and 10% - 20% international news".*

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

- *"It's World Aids Day and a health focused non-governmental organisation in Tzaneen Choice trust says the number of children orphaned by HIV and Aids is still a challenge. Working together with schools and community leaders, the NGO says it is able to identify vulnerable orphans including child headed families";*
- *"Legal Aid South African has reminded the public of its commitment to protect and defend the rights of vulnerable groups. This as the country*

*commemorates 16 days of activism for no violence against women and children”; and*

- *"The United Nations food agency says drought and floods are becoming much more frequent and severe in developing countries and pose a rising threat to food security in these countries. The food and agriculture organisation says the natural disasters are hampering efforts to eradicate hunger".*

The Licensee reports predominantly on news stories from Limpopo Province with the majority of those stories gathered and reported by their own reporters. The Licensee reports on news stories of national and international interest as well.

**The Licensee complies with clause 6.2 its service licence.**

### **3.6 Training and Skill Development**

Clause 7.1 of the service licence stipulates that:

*"The Licensee must maintain 70% black on air and off air staff compliment and provide six (6) hours of airtime for the development of talent in the province".*

The Licensee submits that its staff compliment is 55 people, of which 52 are black which equates to 95% of the overall staff compliment<sup>8</sup>.

The Licensee currently conducts interviews and allocates slots for local disc jockeys such as DJ Nipro for a music mix on specialist programmes over weekends. There needs to be further clarification in terms of the type of talent to be developed and the period within which the 6 hours is to be measured.

**The Licensee complies with clause 7.1 of its service licence.**

Clause 7.2 of the service 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".*

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<sup>8</sup> Appendix C

The Licensee maintains that there is five percent (5%) of shares allocated to Capricorn FM staff trust<sup>9</sup>.

**The Licensee complies with clause 7.2 of the service licence.**

Clause 7.3 of the service licence stipulates that:

*"The Licensee must provide student journalists with work experience opportunities".*

According to the Licensee, it had employed 2 interns from December 2015 until January 2016<sup>10</sup>. The licence condition does not expressly indicate the number of students for whom work experience opportunities must be provided per financial year.

**The Licensee complies with clause 7.3 of its service licence.**

### **3.7 Ownership and Control Obligations**

Clause 8.1 of the service licence stipulates that:

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

The Licensee submitted that MSG Africa Holding (Pty) Ltd holds 42% of its equity and is owned by persons from historically disadvantaged groups.

**The Licensee complies with clause 8.1 of the service licence.**

Clause 8.2 of the service licence stipulates that:

*"The Licensee must ensure that at least two women are on its board of directors".*

The Licensee has 6 board members of which two are females.

**The Licensee complies with clause 8.2 of the service licence.**

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<sup>9</sup> Appendix D

<sup>10</sup> Appendix E



Clause 8.3 of the service licence stipulates that:

*"The Licensee must allocate 5% of its shareholding (currently held by MSG) 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".*

The 5% allocation to media students from the University of Limpopo is reflected in the shareholding structure, however the Licensee reports that they have not declared any dividends, hence there would not be any funds for female students or dividends to the beneficiary in relations to bursaries or scholarships.

**The Licensee complies with clause 8.3 of the service licence.**

Clause 8.4 of the service 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 shareholders are black owned companies, thereby having the controlling power<sup>11</sup>.

**The Licensee complies with clause 8.4 of the service licence.**

Clause 8.5 of the service licence stipulates that:

*"The Licensee must ensure equitable representation of women on its management structure".*

According to the Licensee, its management structure comprises 10 people 6 are female, which constitutes 60% female representation<sup>12</sup>.

**The Licensee was found to be in compliance with clause 8.5 of its licence.**

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<sup>11</sup> See Appendix D

<sup>12</sup> Appendix F

## **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 stipulates 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 Licensee broadcasts an average of thirty four percent (34%) of South African music. Some of the local artists that are regularly play listed include Kabelo, Mi Casa, Khuli Chana, Bongo Maffin and Lira amongst others.

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

### **4.2 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 Licences.

### **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”.*

At the time of writing this report, the Licensee had still not submitted proof of its USAF contribution to the MDDA.

**The Licensee has, during the period under review, failed to comply with USAF Regulations.**

#### **4.4 General Licence Fees Regulations**

The General Licence Fees Regulations came into effect on the date of publication in the government Gazette no. 36323, on 28 March 2013.

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 and Class ECNS licences and Individual Commercial BS licences”.*

Schedule 7 (a) (b) (c) stipulates that:

*Annual Payments (a) are due based on the Licensee’s financial year (b) are due and payable within six (6) months of the Licensee’s financial end (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 which is equivalent to 1.5% of the Licensee’s gross profit namely R 43 329. 32. The payment was made on 22 September 2016, which was more than six (6) months after the Licensee’s financial year end of February<sup>13</sup>. As a consequence the Licensee was charged interest accordingly.

**The Licensee did fully comply with the General Licence Fees Regulations.**

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<sup>13</sup> See Appendix G

#### **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 complies with most its licence conditions. However, certain clauses of the licence have not been fully complied with.

The Licensee has a new management team and will be engaged accordingly regarding the areas of non-compliance to ensure that the radio station complies fully in the 2017/18 financial year end.

#### **6. TERMS OF REFERENCE**

- 6.1 Appendix A: Capricorn FM Licence;
- 6.2 Appendix B: Form 9A;
- 6.3 Appendix C: Staff Compliment;
- 6.4 Appendix D: Governance Structure
- 6.5 Appendix E: Internship Report
- 6.6 Appendix F: Management Staff
- 6.7 Appendix G: Licence Fees payment