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COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 51 2017

NOTICE IN TERMS OF SECTION 53 (7) OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) READ WITH THE REGULATIONS REGARDING THE SUBMISSIONS OF INTERCONNECTION AGREEMENTS AND TARIFFS

The Communications Regulatory Authority of Namibia, in terms section 53(1) and (7) of the Communications Act read with regulation 8 of the “Regulations Regarding the Submission of Interconnection Agreements and Tariffs”, in Government Gazette No. 4714, General Notice No. 126, dated 18 May 2011, herewith gives notice that it has approved tariffs as submitted by Salt Essential (Pty) Ltd, which came into force and effect on 20 December 2016, notwithstanding date of publication of the notice in the Gazette.

THE FOLLOWING ARE THE REASONS FOR THE DECISION:

1. INTRODUCTION

In terms of section 53 (1) and (7) of the Communications Act No. 8 of 2009 (hereinafter referred to as “the Act”), Salt Essential Information Technology (Pty) Ltd (hereafter referred to as “Salt Essential”) filed for the amendment of tariffs and addition of new tariffs for approval on 29 June 2016.

2. BACKGROUND

Salt Essential filed for the amendment of tariffs and addition of new tariffs on 29 June 2016. The tariffs were published as General Notice No. 319 in the Government Gazette No. 6092 dated 10 August 2016 in terms of Regulation 8 of the “Regulations Regarding the Submission of Interconnection Agreements and Tariffs” published in Government Gazette No. 4714 of 18 May 2011.

On evaluation of the tariffs it became apparent that most of the tariffs were already approved in 2015 and published as General Notice No. 11 published in Government Gazette No. 5947 dated 15 February 2016.

Salt Essential was informed of previous tariff approval and subsequently a new tariff submission was filed on 13 October 2016. The previous tariff submission, submitted on 29 June 2016, was withdrawn as General Notice No. 419 published in Government Gazette No. 6155 dated 25 October 2016.

On 18 October 2016 Slat Essential filed a new submission of tariffs which was followed by a yet another submission on 20 October 2016.

3. PROCEDURAL COMPLIANCE

The proposed tariffs were published as General Notice No. 472 in the Government Gazette No. 6175 dated 18 November 2016 in terms of Regulation 8 of the “Regulations Regarding the Submission of Interconnection Agreements and Tariffs” published in Government Gazette No. 4714 of 18 May 2011.

Comments were invited from the public, in terms of the Notice published in the Gazette, within a period of fourteen (14) days from the date of publication of the Notice in the Gazette, which period lapsed on 2 December 2016.
No public comments were received during the commenting period in respect of the tariffs published and as such no reply comments were required from Salt Essential.

The date of commencement of the tariff is 20 December 2016.

4. **FINANCIAL AND ECONOMIC ANALYSIS OF THE NEW TARIFFS SUBMITTED BY SALT ESSENTIAL**

The tariffs submitted by Salt Essential are an amendment of previously approved tariffs and addition of new tariffs that were necessitated by a number of factors including among others;

- Salt Essential sets aside 5% for salary increases.
- Rentals have increased with almost 8% since 2015
- Salt has doubled its IT platform in 2015, as well as upgrading and extending their disaster recovery site with improved redundant links to support failover for various customer services which includes significant hardware acquisitions to stabilize the platform.
- Due to these changes and electricity increases, Salts Essential’s electricity bill increased by 37%.
- The US$ exchange rate was 12.15% in 2015, fluctuating to 15.23% in 2016. This has a huge impact on Salt Essential license fees for products, platform software and annual maintenance fees.

The tariff information is as follows:

**Table 1:**

<table>
<thead>
<tr>
<th>LICENSEE: Salt Essential Information Technology (PTY) Ltd.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Product</strong></td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>Messaging &amp; Collaboration Services</td>
</tr>
<tr>
<td>MS Exchange Messaging (1 GByte, Anti-Spam, ActiveSync, Backup, CAL, Outlook License and Software)</td>
</tr>
<tr>
<td>MS Exchange Messaging (1 GByte, Anti-Spam, ActiveSync, Backup, CAL, Outlook License and Software) for customers with more than 200 mailboxes</td>
</tr>
<tr>
<td>MS Exchange Messaging (1 GByte, Anti-Spam, ActiveSync, Backup, CAL, Outlook License but no software)</td>
</tr>
<tr>
<td>Mail Archiving (Backup, License, Web Access)</td>
</tr>
<tr>
<td>Fax Integration (for current customers only)</td>
</tr>
<tr>
<td>WAN Services</td>
</tr>
<tr>
<td>WAN - Link between Customer and SALT Co-Location (Metro Ethernet - MPLS link Kbps as per last mile link, for pro rata usage on Metro E link to MPLS cloud)</td>
</tr>
</tbody>
</table>
### DNS & Web Services - NEW PRODUCTS

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Website Hosting &amp; Domain Name (1 GB Website Space, 1 second level domain .na)</td>
<td>per website</td>
<td>N/A</td>
</tr>
<tr>
<td>Website Hosting (no Web design or content) must include min 32 kbps Ent Int + 1 Public IP</td>
<td>per website</td>
<td>N/A</td>
</tr>
<tr>
<td>Domain Name &amp; Website Hosting (1 second level .na domain, 1 GB Website space) must include min 32 kbps Ent Int + 1 Public IP</td>
<td>per website</td>
<td>N/A</td>
</tr>
<tr>
<td>Domain Name &amp; Website Hosting (1 second level com./org./alt./edu./co.na and .com, 1 GB Website space) must include min 32 kbps Ent Int + 1 Public IP</td>
<td>per website</td>
<td>N/A</td>
</tr>
<tr>
<td>Dedicated Website Hosting (no Web design or content) shared IP, must include min 32 kbps Ent Internet</td>
<td>per website</td>
<td>N/A</td>
</tr>
<tr>
<td>Domain Name &amp; Website Hosting (1 second level .na domain, 1 GB Website space) shared IP, must include min 32 kbps Ent Internet</td>
<td>per website</td>
<td>N/A</td>
</tr>
<tr>
<td>Domain Name &amp; Website Hosting (1 second level com./org./alt./edu./co.na and .com, 1 GB Website space) shared IP, must include min 32 kbps Ent Internet</td>
<td>per website</td>
<td>N/A</td>
</tr>
</tbody>
</table>

As per the reasons provided above, the proposed prices have been fluctuating yearly, and it is a common trend among all Salt Essential competitors. It was not possible to find competitors providing exactly the same services as Salt Essential to do a comparative analysis. However, there are a number of other licensees in the market that provide the same services such as Paratus Telecommunications (Pty) Ltd, MWireless (Pty) Ltd t/a AfricaOnline and Telecom Namibia Limited.

The tariffs are not deemed anti-competitive and are not unreasonably discriminatory in that:

1. They do not prevent, restrict or distort competition in the market for the supply of telecommunications;
2. There is no abuse of individual or collective dominant position by Salt Essential for the supply of telecommunications in respect hereof;
3. There is no restrictive practice or activity whose anti-competitive effects outweigh its pro-competitive effective.

All requirements in terms of section 53 of the Act that deals with the approval of tariffs have been adhered to in that:

1. All pertinent information as required by section 53(7) was submitted to the Authority in that Salt Essential filed the tariff in the prescribed manner with the Authority for approval.
2. All pertinent information as required by section 53(9) was submitted to the Authority such as:
   1. The rates and charges for services, including all deposits, non-recurring charges and monthly charges;
   2. The terms and conditions applicable to the provision of services by Salt essential, including rights and remedies available to customers in the event of unauthorized charges or other disputes or claims over billing or the provision of services, and any other information requested by the Authority pursuant to this section.
3. The date of implementation was indicated as 1 November 2016 (which date is not less than 60 days from the date of the filling of the tariff) as required by section 53(8) of the Act.
5. DECISION

The Authority herewith approves the proposed tariffs as submitted by Salt Essential (Pty) Ltd for implementation effective from 20 December 2016.

F. KISHI
CHAIRPERSON OF THE BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 52 2017

NOTICE IN TERMS OF THE REGULATIONS REGARDING THE SUBMISSIONS OF INTERCONNECTION AGREEMENTS AND TARIFFS

The Communications Regulatory Authority of Namibia, in terms of Section 53(10) of the Communications Act, 2009 (Act No. 8 of 2009) read with regulation 8(1) of the “Regulations Regarding the Submission of Interconnection Agreements and Tariffs”, in Government Gazette No. 4714, General Notice No. 126, dated 18 May 2011, herewith gives notice that Paratus Telecommunications Limited has filed tariffs with the Authority as set out in Schedule 1.

Any person may examine copies of the tariffs submitted at the head offices of the Authority during normal business hours and copies may be made on payment of a fee determined by the Authority. Copies are also available at www.cran.na where copies may be downloaded free of charge.

The public may submit in writing to the Authority written comments within fourteen (14) days from the date of publication of this notice in the Gazette.

Paratus Telecommunications Limited may submit, in writing to the Authority, a response to any written comments within fourteen (14) days from the lapsing of the time to submit written submissions.

All written submissions must contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submissions is made, if different and be clear and concise.

All written submissions and reply comments must be made either physically or electronically –

(1) by hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;

(2) by post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;

(3) by electronic mail to the following address: legal@cran.na; and

(4) by facsimile to the following facsimile number: +264 61 222790.

(5) by fax to e-mail to: 0886550852

F. KISHI
CHAIRPERSON OF THE BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA
SCHEDULE 1

SUBMISSION OF PROPOSED TARIFFS 
BY PARATUS TELECOMMUNICATIONS LIMITED
COMMUNICATIONS ACT, 2009

The following are the proposed tariffs as submitted by Paratus Telecommunications Limited:

**FIXED LTE POSTPAID PACKAGES**

<table>
<thead>
<tr>
<th></th>
<th>Fixed Deluxe</th>
<th>Fixed Premier</th>
<th>Fixed Ultimate</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Connection Fee - N$</strong></td>
<td>285.00</td>
<td>285.00</td>
<td>285.00</td>
</tr>
<tr>
<td><strong>Monthly Fee - N$</strong></td>
<td>695.00</td>
<td>925.00</td>
<td>1,145.00</td>
</tr>
<tr>
<td><strong>Installation Fees</strong></td>
<td>1,250.00</td>
<td>1,250.00</td>
<td>1,250.00</td>
</tr>
<tr>
<td><strong>Data Included Per Month</strong></td>
<td>30GB</td>
<td>60GB</td>
<td>125GB</td>
</tr>
<tr>
<td><strong>Contract period</strong></td>
<td>24 months</td>
<td>24 months</td>
<td>24 months</td>
</tr>
</tbody>
</table>

*ALL PRICES EXCLUDE VAT*

Please note that the full tariff submission including the terms and conditions and the remedies available to the consumers can be obtained from the Authority

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COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 53 2017

NOTICE IN TERMS OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of regulation 9 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, in Government Gazette No. 4785, General Notice No. 272, dated 29 August 2011, herewith gives notice that the persons referred to in the table below, submitted applications for renewal of the Broadcasting Service Licences to the Authority:

(a)

<table>
<thead>
<tr>
<th>Applicants Name;</th>
<th>Applicant’s citizenship or place of incorporation;</th>
<th>Percentage of Stock owned by Namibian Citizens or Namibian Companies Controlled by Namibian Citizens;</th>
<th>Category of Broadcasting service licence as contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence categories;</th>
<th>Provision of signal distribution;</th>
<th>Breach of License;</th>
<th>Proof of Application fees paid up to date submitted?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carol-Ann Van Der Walt t/a Efm Sound Broadcasting</td>
<td>Namibian</td>
<td>100%</td>
<td>Commercial Broadcasting Service</td>
<td>Own</td>
<td>No breach or alleged breach recorded</td>
<td>Yes</td>
</tr>
</tbody>
</table>
The public may submit comments in writing to the Authority within a period of fourteen (14) days from the date of publication of this notice in the Gazette.

The applicant may submit written reply comments within fourteen (14) days from the due date of the written public comments.

All written submissions must contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submission is made, if different and be clear and concise.

All written submissions and reply comments must be made either physically or electronically –

1. By hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;
2. By post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;
3. By electronic mail to the following address: legal@cran.na;
4. By facsimile to the following facsimile number: +264 61 222790; or
5. By fax to e-mail to: 088642748.

F. KISHI
CHAIRPERSON OF THE BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 54 2017

NOTICE IN TERMS OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of regulations 11 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, as published in Government Gazette No. 4785, General Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that the Applicant referred to in the table below has submitted the following application to the Authority:
<table>
<thead>
<tr>
<th>Description of geographic coverage area(s);</th>
<th>Namibia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage of Stock owned by Namibian Citizens or Namibian companies controlled by Namibian Citizens;</td>
<td>100 %</td>
</tr>
<tr>
<td>Category of Class Telecommunications service intended to be provided;</td>
<td>Class Comprehensive Telecommunications Service Licence (ECNS and ECS).</td>
</tr>
<tr>
<td>Does applicant intend to use spectrum in the provision of the telecommunications service?</td>
<td>Although applicant intends to use spectrum in the provision of the telecommunications services, it is in the spectrum exempt band as contained in the Regulations Regarding Licence Exempt Spectrum¹.</td>
</tr>
<tr>
<td>Concise statement on Services intended to be provided;</td>
<td>Electronic Communications Namibia</td>
</tr>
<tr>
<td>Proof of Licence Application Fees Paid Up to Date Submitted?</td>
<td>Yes</td>
</tr>
<tr>
<td>Applicant;</td>
<td>Loc8 Mobile CC</td>
</tr>
<tr>
<td>Applicant's Citizenship or place of incorporation;</td>
<td>Namibia</td>
</tr>
<tr>
<td>(a) Application for Class Comprehensive Telecommunications Service Licence (ECNS and ECS)</td>
<td></td>
</tr>
</tbody>
</table>
The public may submit comments in writing to the Authority within a period of fourteen (14) days from the date of publication of this notice in the Government Gazette.

The applicant may submit written reply comments within fourteen (14) days from date of notification of the written public comments.

All written submissions must contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submission is made, if different, and be clear and concise.

All written submissions must be made either physically or electronically -

1. By hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;
2. By post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;
3. By electronic mail to the following address: legal@cran.na
4. By facsimile to the following facsimile number: +264 61 222790; or
5. By fax to e-mail to: 088642748.

F. KISHI
CHAIRPERSON OF THE BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 55 2017

NOTICE IN TERMS OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of regulation 5A & 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, published in Government Gazette No. 4785, General Notice No. 272, dated 29 August 2011 (as amended from time to time), herewith gives notice that the applicants referred to in the table below, submitted the following applications to the Authority:

Application for Class Network Facilities Service Licence

<table>
<thead>
<tr>
<th>Applicant;</th>
<th>Applicant's Citizenship or place of incorporation;</th>
<th>Percentage of Stock owned by Namibian Citizens or Namibian citizens or Namibian Companies controlled by Namibian Citizens;</th>
<th>Category of Licence Applied for;</th>
<th>Description of geographic coverage area(s);</th>
<th>Proof of Licence Application Fees Paid Up to Date Submitted?</th>
</tr>
</thead>
<tbody>
<tr>
<td>PowerCom (Pty) Ltd</td>
<td>Namibia</td>
<td>100%</td>
<td>Network Facilities Service Licence</td>
<td>Republic of Namibia</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The public may submit comments in writing to the Authority within a period of fourteen (14) days from the date of publication of this notice in the Gazette.
The applicant may submit written reply comments within fourteen (14) days from date of notification of the written public comments.

All written submissions must contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submission is made, if different, and be clear and concise.

All written submissions must be made either physically or electronically -

(1) By hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;

(2) By post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;

(3) By electronic mail to the following address: legal@cran.na

(4) By facsimile to the following facsimile number: +264 61 222790; or

(5) By fax to e-mail to: 088642748.

F. KISHI
CHAIRPERSON OF THE BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 56 2017

NOTICE IN TERMS OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of regulations 11 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, as published in Government Gazette No. 4785, General Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that the Applicant referred to in the table below has submitted the following application to the Authority:
<table>
<thead>
<tr>
<th>Application for Class Comprehensive Telecommunications Service Licence (ECNS and ECS)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant:</strong> Schoemans Technologies (Pty) Ltd</td>
</tr>
<tr>
<td><strong>Citizenship or place of incorporation:</strong> Namibia</td>
</tr>
<tr>
<td><strong>Percentage of Stock owned by Namibian Citizens or Namibian Companies controlled by Namibian Citizens:</strong> 100 %</td>
</tr>
<tr>
<td><strong>Category of Class Telecommunications service intended to be provided:</strong> Class Comprehensive Telecommunications Service Licence (ECNS and ECS)</td>
</tr>
<tr>
<td><strong>Concise statement on Services intended to be provided:</strong> Yes</td>
</tr>
<tr>
<td><strong>Description of geographic coverage area(s):</strong> Namibia</td>
</tr>
<tr>
<td><strong>Does applicant intend to use spectrum in the provision of the telecommunication service?</strong> No</td>
</tr>
<tr>
<td><strong>Proof of Licence Application Fees Paid Up To Date Submitted?</strong> Yes</td>
</tr>
</tbody>
</table>
The public may submit comments in writing to the Authority within a period of fourteen (14) days from the date of publication of this notice in the *Gazette*.

The applicant may submit written reply comments within fourteen (14) days from date of notification of the written public comments.

All written submissions must contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submission is made, if different, and be clear and concise.

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(1) By hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;
(2) By post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;
(3) By electronic mail to the following address: legal@cran.na
(4) By facsimile to the following facsimile number: +264 61 222790; or
(5) By fax to e-mail to: 088642748.

F. KISHI  
CHAIRPERSON OF THE BOARD OF DIRECTORS  
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

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**NOTICE IN TERMS OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES**

The Communications Regulatory Authority of Namibia, in terms of regulation 5A & 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, published in Government Gazette No. 4785, General Notice No. 272, dated 29 August 2011 (as amended from time to time), herewith gives notice that the applicants referred to in the table below, submitted the following applications to the Authority:

**Application for Class Network Facilities Service Licence**

<table>
<thead>
<tr>
<th>Applicant;</th>
<th>Applicant’s Citizenship or place of incorporation;</th>
<th>Percentage of Stock owned by Namibian Citizens or Namibian citizens or Namibian Companies controlled by Namibian Citizens;</th>
<th>Category of Licence Applied for;</th>
<th>Description of geographic coverage area(s);</th>
<th>Proof of Licence Fees Paid Up to Date Submitted?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Virtua Porting XS (Pty) Ltd</td>
<td>Namibia</td>
<td>51%</td>
<td>Network Facilities Service Licence</td>
<td>Republic of Namibia</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The public may submit comments in writing to the Authority within a period of fourteen (14) days from the date of publication of this notice in the *Gazette*. 
The applicant may submit written reply comments within fourteen (14) days from date of notification of the written public comments.

All written submissions must contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submission is made, if different, and be clear and concise.

All written submissions must be made either physically or electronically -

(1) By hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;

(2) By post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;

(3) By electronic mail to the following address: legal@cran.na

(4) By facsimile to the following facsimile number: +264 61 222790; or

(5) By fax to e-mail to: 088642748.

F. KISHI
CHAIRPERSON OF THE BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

________________________________________
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 58 2017

NOTICE OF AMENDMENT IN TERMS OF REGULATION 8(2) OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of regulation 8 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licence, in Government Gazette No. 4785, General Notice No. 272 dated 29 August 2011, 5442 Government Gazette 7 April 2014 5 herewith gives notice that The Namibian Broadcasting Corporation has applied for Amendment to its Spectrum Use Licence with the Authority as set out below:
<table>
<thead>
<tr>
<th>Licensee</th>
<th>Percentage of Stock owned by Namibian Citizens or Namibian citizens or Namibian Companies controlled by Namibian Citizens;</th>
<th>Licence to be Amended</th>
<th>Proposed Amendment</th>
<th>Grounds for Amendment</th>
<th>Geographic Coverage Area</th>
<th>Party providing Signal Distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Namibian Broadcasting Corporation (NBC)</td>
<td>Established in terms of section 2 of the Namibian Broadcasting Act (Act No. 9 of 1991)</td>
<td>Spectrum Use Licence as issued on 13 September 2012, published in Government Gazette 5037, Notice 306.</td>
<td>Location of the DTT transmission from Khorixas town 20°22'19.43&quot;S 14°57'33.58&quot;E to Remoerkop 20°31'24.9&quot;S 15°13'38.4&quot;E</td>
<td>According to the DTT band plan as per Government Gazette 5201 Notice no. 166 (29 May 2013) NBC TV is planned to broadcast from Khorixas town. Initially NBC planned to construct a new site at Khorixas with a 150m mast but analysis conducted of the population distribution demonstrates that the benefits of constructing a new site at Khorixas does not justify the cost.</td>
<td>Khorixas 20°31'24.9&quot;S 15°13'38.4&quot;E</td>
<td>Own</td>
</tr>
</tbody>
</table>
The public may submit comments in writing to the Authority within a period of thirty (30) days from the date of publication of this notice in the Gazette.

If the Authority considers it necessary, it will provide the opportunity to the licensee to respond to the public comments. If the opportunity to respond is granted, it may not be less than fourteen (14) days from the submission of public comments.

All written submissions and reply comments must be made either physically or electronically –

(1) by hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;

(2) by post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;

(3) by electronic mail to the following address: legal@cran.na; and

(4) by facsimile to the following facsimile number: +264 61 222790.

(5) by fax to e-mail to: 0886550852

F. KISHI
CHAIRPERSON OF THE BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 59 2017

NOTICE IN TERMS OF THE REGULATIONS PRESCRIBING THE NATIONAL NUMBERING PLAN FOR USE IN THE PROVISION OF TELECOMMUNICATIONS SERVICES IN THE REPUBLIC OF NAMIBIA, NUMBERING LICENCE FEES AND PROCEDURES FOR NUMBER LICENCES: COMMUNICATIONS ACT, 2009

The Communications Regulatory Authority of Namibia in terms of Regulation 22(1) of the Regulations regarding the National Numbering Plan for Namibia for use in the provision of Telecommunications Services in the Republic of Namibia, Numbering Licence Fees and Procedures for Number Licences as published in Government Gazette No. 5983, General Notice No. 97 dated 1 April 2016, herewith gives notice that the persons referred to in the table below, submitted an application for Number Licence to the Authority:
<table>
<thead>
<tr>
<th>Description of geographic area(s)</th>
<th>Number Category</th>
<th>Number of Blocks considered to be awarded by the Authority</th>
<th>Numbers to be considered for assignment (Start - End)</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Telecommunications Services</td>
<td>Electronic Communications (84)</td>
<td>1 block (100,000 numbers)</td>
<td>0840000000 – 0849999999</td>
</tr>
<tr>
<td>National Telecommunications Services</td>
<td>Machine-to-Machine (89)</td>
<td>1 block (100,000 numbers)</td>
<td>089000000000 – 089999999999</td>
</tr>
</tbody>
</table>

Applicant’s Name

Mobile Telephone Networks Business Solutions (Namibia) Pty Ltd t/a MTN Business

Applicants’ Citizenship or place of incorporation

South African

Percentage of Stock owned by Namibian Citizens or Namibian Companies controlled by Namibian Citizens

0%
The public may submit comments in writing to the Authority within a period of fourteen (14) days from the date of publication of this notice in the Government Gazette.

The applicant may submit written reply comments within fourteen (14) days from the due date of the written public comments.

All written submissions must contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submission is made, if different and be clear and concise.

All written submissions and reply comments must be made either physically or electronically –

(1) By hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;

(2) By post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;

(3) By electronic mail to the following address: legal@cran.na;

(4) By facsimile to the following facsimile number: +264 61 222790; or

(5) By fax to e-mail to: 088642748.

F. KISHI  
CHAIRPERSON OF THE BOARD OF DIRECTORS  
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 60 2017

NOTICE IN TERMS OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of Regulation 11 (19) of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, in Government Gazette No. 4785, General Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that, pursuant to the provisions of section 35 of the Communications Act (No 8 of 2009) it has approved the transfer of control of the Telecommunications Service Licence and all Spectrum Use Licences of Mobile Telecommunications Limited as follows:
<table>
<thead>
<tr>
<th>Licensee;</th>
<th>Type of license;</th>
<th>Transferor;</th>
<th>Transferee;</th>
<th>Compliance with section 46</th>
<th>Percentage of Stock being transferred;</th>
<th>Reasons for the proposed transfer;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobile Telecommunications Limited (MTC)</td>
<td>1. Class Comprehensive Telecommunications Services License (ECS and ECNS)</td>
<td>Africatel Holdings B.V</td>
<td>Samba Luxco S.A.R.L or its wholly owned subsidiary, Samba DutchCo B.V</td>
<td>Authorisation granted by the Minister of Information and Communication Technology as per the provisions of section 46(2) of the Act, dated 27 January 2017.</td>
<td>34%</td>
<td>The proposed transaction is part of a negotiated settlement between Samba, Africatel KG and Africatel.</td>
</tr>
<tr>
<td></td>
<td>2. All Spectrum use licenses issued to MTC in terms of section 101 of the Communications Act</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


PROCEDURAL COMPLIANCE

In terms of section 35(2) of the Communications Act No. 8 of 2009 (hereinafter referred to as “the Act”), Mobile Telecommunications Limited (hereinafter referred to as “MTC”), filed a notification of transfer of shares from Africatel Holdings B.V. to Samba Luxco S.A.R.L or its wholly owned subsidiary, Samba DutchCo B.V on 27 June 2016.

The notice of transfer was published as General Notice No. 21 in the Government Gazette No. 6220 dated 23 January 2017 in terms of Regulation 7 and 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Licenses” published in Government Gazette No. 4785 of 29 August 2011.

Comments were invited from the public, in terms of the Notice published in the Gazette, within a period of five (5) days from the date of publication of the Notice in the Gazette, which period lapsed on 27 January 2017.

No public comments were received in respect of the transfer as published during the commenting period, and as such no reply comments were required from MTC.

EVALUATION OF THE OBJECTS OF THE ACT

In evaluating the objectives of the Act, special consideration should be given to Section 2(a), (e), (i) and (k) although the other sections would also be dealt with.

Section 2(a) states that the object of the Act is to establish the general framework governing the opening of the telecommunications sector in Namibia to competition. The Authority has issued since its establishment in 2011 a total number of 21 telecommunications service licenses that are either operational or are just being established. The two largest companies are Telecom Namibia Limited and MTC. NPTH is the 100% shareholder in Telecom Namibia and holds 66% of the shares in MTC. Although Africatel BV holds only 34% of the shares in MTC, the management and operational control is vested in Africatel BV according to the shareholders agreement. This, therefore, created competition within the telecommunications market and specifically the mobile telecommunications market.

The Amended and Restated Shareholders Agreement states that the operational and management control would be vested in Samba since they will be appointing the Managing Director (who would also be an executive board member) and one general manager in a key position. By transferring this control to Samba the object of the Act in terms of section 2(a) would be met.

Section 2(e) states that the object of the Act is to encourage local participation in the telecommunications sector in Namibia.

Of the 21 licenses that are currently awarded 13 are 100% Namibian owned, 5 are owned by majority shareholding of Namibians and 3 have majority foreign shareholding. The telecommunications sector has thus a majority of local participation.

MTC is already 66% Namibian owned and 34% foreign owned. By transferring the 34% foreign owned shares from Africatel to Samba would keep the status quo and would not reduce Namibian ownership or participation in the market. The object of Section 2(e) would thus be met.

Section 2(i) of the Act states that the object of the Act is to encourage private investment in the telecommunications sector.

By transferring the control from Africatel to Samba this objective of the Act would be met since Samba is a private investor.
Section 2(k) of the Act states the object of the Act is to ensure fair competition and consumer protection in the telecommunication sector.

Although there are a number of telecommunications licensees in the market as mentioned earlier only two of these licensees provide mobile telecommunications services, namely Telecom Namibia through TN Mobile and MTC. NPTH has 100% shareholding in Telecom Namibia and 66% shareholding in MTC. Both these companies effectively belong to NPTH, which in turn belongs to the State.

![Figure 3: NPTH shareholding](Image)

However, the management control currently is vested within Africatel (and will subsequently move to Samba) and this creates the necessary competition between the two mobile telecommunications operators. This control would be transferred to Samba. One would assume that more competition would also lead to improved customer service.

**AUTHORIZATION BY MINISTER IN TERMS OF SECTION 46(2)**

The Authority perused the Shareholders Agreement, which grants Africatel control in MTC, albeit the fact that it holds minority shares. The Authority thus considered the proposed transaction as a change in the control of MTC and advised MTC to complete the transfer of control of license application once the substantive transferee has been set.

Section 46(1) of the Communications Act states as follows

1. Subject to subsection (2) and (4), no licensee may be controlled by any person that is not a Namibian citizen or a Namibian company and no more than 49% of the stock in any licensee may be owned by persons that are not Namibian citizens or Namibian companies that are controlled by Namibian citizens.

2. The Minister may beforehand authorise the acquisition of control or ownership of stock that is prohibited by subsection (1).

On 27 January 2017 the letter from the Minister of Information Communication and Technology granting permission for the transfer of the control as contemplated above was submitted to the Authority.

**COMPETITION CONSIDERATIONS**

Section 34 deals with the jurisdiction of the Authority. It states that the Authority must in its functions under the Act, promote, develop and enforce fair competition and equality of treatment among all providers of telecommunications and broadcasting services and users of such services.
Section 33(1) and (2) of the Act deals with the economic considerations that need to be taken into account and specifically the issues of competition and the abuse of dominance. The Authority is of the view that the transaction at hand will not restrict or distort competition in the market.

Section 33(3) states that the Authority may review any proposed acquisition of an interest conferring control in competing providers of telecommunications or broadcasting services, and any proposed major transaction between such providers and their affiliates for conformance with this Act and to ensure that the transaction will result in no reduction in competitive markets not offset by sufficient benefits to the public (as measured by the objects of this Act).

From the analysis done there will be no reduction in competitive markets since there would still be two mobile telecommunications providers competing. For both the majority shareholding would be with the State but the control for management and operations would be vested in Samba. The status quo thus remains. The Authority thus consents to the transaction and finds that the transfer would not be prejudicial to the objects of the Communications Act.

**DECISION**

Pursuant to the provision of section 35(1) of the Communications Act No 8 of 2009, the Authority approves:

1. The transfer of control of Telecommunications Service License and all spectrum use licenses issued to Mobile Telecommunications Limited from Africatel Holdings B.V to Samba Luxco S.A.R.L or its wholly owned subsidiary, Samba DutchCo B.V2.

2. Pursuant to Regulation 11(5) of Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Licenses, the commenting period for this application to be reduced from fourteen (14) to five (5) given the nature and urgency of the application.

Any party aggrieved by this decision may file an application for reconsideration in terms of section 31 of the Communications Act. Some of the information in this decision has been excluded from this notice due to the fact that it was submitted as confidential pursuant to the provisions of section 28 of the Communications.

**M.MOSES**  
VICE CHAIRPERSON OF THE BOARD OF DIRECTORS  
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA