



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notices

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 317

2016

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 application for renewal of the Broadcasting Service Licences to the Authority:

(a)

Applicants Name;	Applicant's citizenship or place of incorporation;	Percentage of Stock owned by Namibian Citizens or Namibian Companies Controlled by Namibian Citizens;	Category of Broadcasting service licence as contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence categories;	Provision of signal distribution;	Breach of License;	Proof of Application fees paid up to date submitted?
99 FM (Pty) Ltd – FM Sound Broadcasting	Namibian	100%	Commercial Broadcasting Service	Own	Contravention of section 35(2) of the Communications Act. Matter Finalised	Yes

(b)

Applicants Name;	Applicant's citizenship or place of incorporation;	Percentage of Stock owned by Namibian Citizens or Namibian Companies Controlled by Namibian Citizens;	Category of Broadcasting service licence as contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence categories;	Provision of signal distribution;	Breach of License;	Proof of Application fees paid up to date submitted?
Radiowave CC– FM Sound Broadcasting	Namibian	51%	Commercial Broadcasting Service	Own	No breach or alleged breach recorded.	Yes

(c)

Applicants Name;	Applicant's citizenship or place of incorporation;	Percentage of Stock owned by Namibian Citizens or Namibian Companies Controlled by Namibian Citizens;	Category of Broadcasting service licence as contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence categories;	Provision of signal distribution;	Breach of License;	Proof of Application fees paid up to date submitted?
Cosmos Digital Namibia (Pty) Ltd t/a Kosmos Radio – FM Sound Broadcasting	Namibian	55%	Commercial Broadcasting Service	Own	No breach or alleged breach recorded	Yes

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. 318

2016

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 for the new Business products - MOBIZ as submitted by **Mobile Telecommunications Limited**, which came into force and effect on **8 July 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, 2009 (Act No. 8 of 2009) (hereinafter referred to as “the Act”), Mobile Telecommunications Limited (hereinafter referred to as “MTC”) filed for the approval of the tariffs New Business Products - MOBIZ on 18 March 2016.

2. PROCEDURAL COMPLIANCE

The proposed tariffs were published as General Notice No. 118 in the Government Gazette No. 5998 dated 29 April 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 17 May 2016.

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

3. FINANCIAL AND ECONOMIC ANALYSES OF THE MOBIZ TARIFFS SUBMITTED BY MOBILE TELECOMMUNICATIONS LIMITED

The tariffs were approved by the Authority and published in Government Gazette No. 5231, General Notice No. 233 dated 24 June 2013.

The tariff information is as follows:

Table 1: Proposed Tariffs**(a) Voice Package Detail**

Service Plan	MOBIZ 100	MOBIZ 200	MOBIZ 300	MOBIZ 600	MOBIZ 900	MOBIZ 1500	MOBIZ DUET 600	MOBIZ DUET 900
Connection Fee	N\$ 218	N\$ 218	N\$ 218	N\$ 218	N\$ 218	N\$ 218	N\$ 218	N\$ 218
Subscription Fee	N\$ 79	N\$ 159	N\$ 249	N\$ 399	N\$ 749	N\$ 1,299	N\$ 799	N\$ 999
Contract Period	24	24	24	24	24	24	24	24
Technology	4G	4G	4G	4G	4G	4G	4G	4G
Free Device	1	1	1	1	1	1	2	2
Free Minutes	100	200	300	600	900	1500	600	900
Free SMS	100	200	300	600	900	1500	600	900
Free Data	100MB	200MB	300MB	600MB	2400MB	3500MB	1200MB	2400MB

(b) Data Package Detail

Package Detail	MOBIZ 2GB	MOBIZ 6GB	MOBIZ 20 GB	MOBIZ Unlimited
Connection Fee	N\$ 218	N\$ 218	N\$ 218	N\$ 218
Subscription fee	N\$ 179	N\$ 349	N\$ 549	N\$ 999
TurboBoost Fee (TB)	N\$ 59	N\$ 115	N\$ 179	N\$ 329
Contract Period	24 months	24 months	24 months	24 months
Technology	4G	4G	4G	4G
Free Device	3G USB	4G USB	4G Router	4G Router

Free Data	2GB	6GB	20GB	90GB
TurboBoost Data	2GB	6GB	20GB	90GB

Table 2: Current SmartShare Packages

Service Plan	SMARTSHARE 20	SMARTSHARE 100	SMARTSHARE 200	SMARTSHARE 300	SMARTSHARE Unlimited
Connection Fee	N\$ 218	N\$ 218	N\$ 218	N\$ 218	N\$ 218
Subscription Fee	N\$ 799	N\$ 100	N\$ 200	N\$ 300	N\$ 600
Contract Period	24	24	24	24	24
Free Device	1	1	1	1	1
Free Minutes	n/a	200	400	600	Unlimited
Free SMS	n/a	200	400	600	Unlimited
Free Data	50GB	200MB	400MB	600MB	Unlimited

Table 3: Current Office Box Packages

Service Plan	Prepaid	Voice	Voice & email	Smart-phone Lite	Smart-phone	Smart-phone Plus	Office Box Lite	Duet Lite	Duet
Connection Fee	N\$ 218	N\$ 218	N\$ 218	N\$ 218	N\$ 218	N\$ 218	N\$ 218	N\$ 218	N\$ 218
Subscription Fee	N\$ 100	N\$ 150	N\$ 239	N\$ 249	N\$ 399	N\$ 749	N\$ 150	N\$ 599	N\$ 869
Contract Period	24	24	24	24	24	24	24	24	24
Free Device	1	1	1	1	1	1	0	2	2
Free Minutes	100	300	300	200	600	1000	300	600	1000
Free SMS	0	150	150	200	600	900	150	600	900
Free Data	0	0	200 MB	400 MB	1000 MB	2400 MB	150 MB	1000 MB	2400 MB

Terms:

MTC revised and reduced its SmartShare offers to only two (2) offers. The rest of the offers are now combined with the Office Box package to create packages for businesses. MTC also added a new functionality called TurboBoost. The TurboBoost functionalities are as follows:

- a) A basic monthly subscription including free data (Fair Use Policy), which will have first priority with every bill cycle, and unused free units do not carry over to the next bill cycle.
- b) Once the included free data is utilised before the bill cycle period, the speed will be reduced to a maximum of 512Kbps on 4G or 384Kbps on 3G depending on the network.
- c) The data used during reduced speed sessions will still be free and unlimited (for the remainder of the bill cycle) and the free data will re-establish automatically at the beginning of the new bill cycle.
- d) Should the customer wish to boost the speed back to the original speed before the new bill cycle begins, then the customer can buy an add-on TurboBoost data bundle equal to the original free data at a reduced price (the customer can buy as many TurboBoost add-on bundles as they wish).
- e) The TurboBoost will have a validity of sixty (60) days therefore, if the customer does not deplete the bundles during the current bill cycle period, it could be used in the next bill cycle period if the included free data bundle is reached again.

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 since the tariff is not deemed below cost;

2. There is no abuse of individual or collective dominant position by MTC for the supply of telecommunications in respect hereof, since MTC is not engaged in conduct that is intended to eliminate or discipline a competitor or to deter future entry by new competitors, with the result that competition is prevented or lessened substantially since this product is aimed at customers.
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(9) was submitted to the Authority in that MTC 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:
 - 2.1 The rates and charges for services, including all deposits, non-recurring charges and monthly charges;
 - 2.2 The terms and conditions applicable to the provision of services by MTC, including rights and remedies available to customers in the event of unauthorised 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. All pertinent information as required by section 53(18) was submitted to the Authority such as:
 - 3.1 The tariff was accompanied by all relevant documents such as accounting and cost information as required by section 53(18) of the Act.

The date of implementation was indicated as 26 May 2016 (which date is not less than 60 days from the date of the filing of the tariff) as required by section 53(8) of the Act. On 4 April 2016 the Authority send a letter to MTC requesting additional information to which MTC responded on 27 April 2016.

The Authority postponed the date of commencement of the tariff with thirty (30) days in terms of section 53(13) of the Act to examine the reasonableness of the tariff to 25 June 2016. On 15 June 2016 the Authority postponed the implementation of the tariffs with an additional fourteen (14) days to 8 July 2016 to examine the reasonableness of the tariff.

4. DECISION

The Authority herewith approves the proposed tariff for Mobile Telecommunications Limited as submitted for implementation effective from 8 July 2016.

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 319

2016

**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 **Salt Essential Information Technology (Pty) Ltd** 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*.

Salt Essential Information Technology (PTY) Ltd 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 SALT ESSENTIAL INFORMATION TECHNOLOGY (PTY) LTD
COMMUNICATIONS ACT, 2009**

The following are the proposed tariffs as submitted by Salt Essential Information Technology (PTY) Ltd:

LICENSEE: Salt Essential Information Technology (PTY) Ltd.			
Product	Qty. Unit	Old Tariff per Unit N\$	New Tariff per Unit N\$
<i>Messaging & Collaboration Services</i>			
MS Exchange Messaging (1 GByte, Anti-Spam, ActiveSync, Backup, CAL, Outlook License and Software)	per mailbox	84.00	129.99
MS Exchange Messaging (1 GByte, Anti-Spam, ActiveSync, Backup, CAL, Outlook License and Software) for customers with more than 200 mailboxes	per mailbox	73.50	99.99
MS Exchange Messaging (1 GByte, Anti-Spam, ActiveSync, Backup, CAL, Outlook License but no software)	per mailbox	63.00	69.30
Mail Archiving (Backup, License, Web Access)	per user (optional)	12.80	18.99
Fax Integration (for current customers only)	per user (optional)	71.67	159.59
<i>WAN Services</i>			
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)	per kbps	0.58	0.64
<i>DNS & Web Services - NEW PRODUCTS</i>			
Website Hosting (no Web design or content) must include min 32 kbps Ent Int + 1 Public IP	per website	N/A	608.33
Domain Name & Website Hosting (1 second level .na domain, 1 Gbyte Website space) must include min 32 kbps Ent Int + 1 Public IP	per website	N/A	938.43
Domain Name & Website Hosting (1 second level com./org./alt./edu./co.na and .com, 1 Gbyte Website space) must include min 32 kbps Ent Int + 1 Public IP	per website	N/A	648.85
Dedicated Website Hosting (no Web design or content) shared IP, must include min 32 kbps Ent Internet	per website	N/A	556.00
Domain Name & Website Hosting (1 second level .na domain, 1 Gbyte Website space) shared IP, must include min 32 kbps Ent Internet	per website	N/A	886.09
Domain Name & Website Hosting (1 second level com./org./alt./edu./co.na and .com, 1 Gbyte Website space) shared IP, must include min 32 kbps Ent Internet	per website	N/A	596.52

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 320

2016

NOTICE IN TERMS OF THE REGULATIONS SETTING OUT LICENCE CONDITIONS FOR SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of regulation 6(4) and (5) of the Regulations setting out Licence Conditions for Spectrum Use Licences, in Government Gazette No. 5354, General Notice No. 469 dated 2 December 2016, herewith gives notice that it has granted an extension period for the commencement of broadcasting services and utilisation of the assigned spectrum to the **NAMIBIAN BROADCASTING CORPORATION**.

THE FOLLOWING ARE THE REASONS FOR THE DECISION:**INTRODUCTION**

The Namibian Broadcasting Corporation (hereinafter referred to as “the Applicant”) was awarded spectrum use licences to provide digital terrestrial television broadcasting services within geographical areas of-

- i) Buitepos;
- ii) Corridor-13;
- iii) Kalkrand;
- iv) Kongola;
- v) Nkurenkuru;
- vi) Noordoewer;
- vii) Onesi;
- viii) Oranjemund;
- ix) Otjinene;
- x) Ovitoto;
- xi) Rietfontein;
- xii) Rosh Pinah;
- xiii) Sesfontein;
- xiv) Shamvura;
- xv) Terrace Bay; and
- xvi) Tsumkwe.

The licences were awarded in terms of section 101 of the Communications Act read with 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 2015.

The decision to award the above stated licences was conveyed to the Applicant in a letter dated 11 March 2015. Subsequent to notifying the Applicant, the Authority proceeded to publish its decision herein in Government Gazette No. 5725, Notice 166 dated 5 May 2015.

Please note that the last day for the Applicant to commence with broadcasting services in the aforementioned geographical areas was 8 November 2015 being six (6) months from date of publication in the *Gazette*.

The Authority received a letter from the Applicant on 9 December 2015 wherein it requested an extension from the Authority to commence with utilisation of spectrum to provide broadcasting services, due to a delay in the manufacturing and delivery of equipment.

The Authority noted that the implementation dates stated for ten(10) of the sixteen(16) geographical locations were historic in nature whilst switchover dates for migration from analogue to digital terrestrial television services were omitted on other geographical location. The Authority requested clarification in a letter to the Applicant dated 10 March 2016 and further indicated that it would proceed with consideration of the request once clarification has been provided. The Applicant responded on 17 March 2016 requesting condonation in respect of the following geographical locations-

- i) Nkurenkuru;
- ii) Onesi;
- iii) Otjinene;
- iv) Ovitoto;
- v) Shamvura;
- vi) Corridor-13; and
- vii) Kalkrand

The Applicant indicated that it has successfully implemented Buitepos, Tsumkwe and Rietfontein and is providing television broadcasting services from these locations. The Authority noted that the Applicant has implemented Rietfontein on a different frequency than what was assigned by the Authority on 5 May 2015 in breach of the spectrum use licence awarded. The Authority will pursue the regulatory offense committed as a separate matter.

However, the Applicant cites a lack of financial resources to implement the remaining six (6) geographical locations as stated hereunder and requests a temporary withdrawal of the associated spectrum use licences awarded-

- i) Oranjemund;
- ii) Rosh Pinah;
- iii) Kongola;
- iv) Noordoewer;
- v) Sesfontein; and
- vi) Terrace Bay

LEGAL REQUIREMENTS FOR COMMENCEMENT WITH SERVICES

Regulation 6(4) and (5) of the Regulations Setting Out Licence Conditions for Spectrum Licences provides as follows –

“(4) A spectrum use licence issued in respect of telecommunications and broadcasting service licences shall lapse six months after the date of issue thereof.

(5) If the Authority-

(a) is satisfied that a licensee has-

- (i) within six months after issue of licence, failed to commence to carry on services in respect of which it is licenced;*
- (ii) failed to pay licence fees payable; or*
- (iii) ceased to carry on services in respect of which it is licenced.”*

The power to grant an extension to the Applicant is a discretionary power given to the Authority by virtue of the Communications Act. This therefore, means that any licensee that is unable to comply with regulation 6(4) must submit in writing a request for extension to the Authority.

The Communications Act does not expressly prescribe when an extension may or may not be granted to a licensee or Applicant. The Regulations as listed above are similarly silent on the subject matter. The Authority is however, guided by the rules of natural justice which require that a party be heard (*audi alteram partem* rule) before a decision is made that affects its interest.

CONSIDERATION OF THE REQUEST FOR EXTENSION

As indicated above, the Applicant requested the Authority to grant condonation for seven (7) sites due to the late delivery of equipment and further requested the temporary withdrawal of spectrum use licences in six (6) geographical locations due to lack of financial resources to implement the envisaged television broadcasting services.

Request for condonation

It is noted that the Applicant submitted a request for condonation on 9 December 2015, after the lapsing of the six (6) month period within which to utilise the frequencies assigned under the spectrum use licences as required by the aforementioned regulations. The six (6) month period lapsed on 8 November 2015.

Taking into account that the international ITU deadline for migration from analogue television services to digital terrestrial television services lapsed on 17 June 2015 and that the Applicant was designated by the Ministry of Information and Communication Technology to implement the aforementioned network to carry its own broadcasting services as well as provide signal distribution to other broadcasting service licensees, the The Authority resolved at its meeting held on 26 May 2016 to consider the late request for condonation submitted by the Applicant in lieu of declaring forthright that the spectrum use licences have lapsed.

The Authority noted that transmitters and antennas are critical equipment required in the provision of broadcasting services. Any delay in the availability and installation of the aforementioned equipment will render the Applicant unable to provide the envisaged services. It was also noted that the implementation dates provided by the Applicant changed in its submission made on 17 March 2016 from the initial dates cited in the request for condonation dated 9 December 2015.

The Authority therefore deemed it prudent to recommend that the Board of Directors grant condonation for the utilisation of the spectrum use licences awarded to the Applicant until 31 January 2017 taking into account that the last implementation date cited by the Applicant is 28 November 2016. By affording the Applicant an additional two (2) months for implementation the Authority provides for any eventualities that the Applicant may encounter during the implementation process. The Authority therefore recommends that the Applicant be granted condonation until 31 January 2017 to implement and utilise the spectrum use licences as awarded on 5 May 2015 in respect of the following geographical locations-

- i) Nkurenkuru;
- ii) Onesi;
- iii) Otjinene;
- iv) Ovitoto;
- v) Shamvura;
- vi) Corridor-13; and
- vii) Kalkrand

Request for temporary withdrawal of spectrum use licences

It should be noted that neither the Act nor Regulations make provision for the temporary withdrawal of spectrum use licences. The Authority is left with no other option than to consider the lapsing the spectrum use licenses listed hereunder in terms of Regulation 6(5) of the Regulations Setting out Spectrum Use Licence Conditions of the following sites, due to the fact that they will not be in a position to commence with the provision of broadcasting services within the six (6) months contained in the licence conditions –

- i) Oranjemund;
- ii) Rosh Pinah;
- iii) Kongola;
- iv) Noordoewer;
- v) Sesfontein; and
- vi) Terrace Bay

The Authority notes with grave concern the statements made by the Applicant that it has insufficient funds available to implement the aforementioned transmitters, especially the border sites of Oranjemund and Noordoewer, constituting a breach of the GE06 agreement signed by Namibia as a member state of ITU, although the Applicant has submitted further applications for spectrum use licences and intends to build temporary sites in Northern Namibia.

In terms of the GE06 agreement Namibia was required to complete migration from analogue to digital terrestrial television service on or before 17 June 2015. As from 17 June 2015 there is no

longer protection from interference in respect of any analogue transmitters. The two transmitters located at Noordoewer and Oranjemund are close to the South African border. Should any cross border interference occur, the Applicant will be required to switch off its transmitters resulting in a disruption of television services from the Applicant, One Africa and TBN to the public in the geographical areas of Oranjemund and Noordoewer.

Taking into account that the Applicant has not commenced with utilisation of the spectrum use licences awarded on 5 May 2015 nor requested condonation to extend the implementation, the Authority resolved at its meeting held 30 March 2016 to recommend that the Board of Directors approve the lapsing of the spectrum use licences listed below-

- ii) Oranjemund;
- iii) Rosh Pinah;
- iv) Kongola;
- v) Noordoewer;
- vi) Sesfontein; and
- vii) Terrace Bay.

The Applicant may re-apply for the aforementioned spectrum use licences when funds become available to ensure Namibia's compliance to the GE06 agreement and ITU regulations.

DECISION

The Authority herewith approved that –

1. The Namibian Broadcasting Corporation is granted an extension to commence with utilisation of the spectrum use licences listed hereunder to provide digital terrestrial television services until 31 January 2017 for the following sites-
 - a. Nkurenkuru;
 - b. Onesi;
 - c. Otjinene;
 - d. Ovitoto;
 - e. Shamvura;
 - f. Corridor-13; and
 - g. Kalkrand;
2. The spectrum use licences awarded to the Namibian Broadcasting Corporation on 5 May 2015 to provide digital terrestrial television have lapsed in respect of the following geographical areas-
 - a. Oranjemund;
 - b. Rosh Pinah;
 - c. Kongola;
 - d. Noordoewer;
 - e. Sesfontein; and
 - f. Terrace Bay

due to failure to commence with utilisation of the assigned spectrum; and

3. The Applicant may be advised to re-apply for the aforementioned spectrum use licences when funds become available to ensure Namibia's compliance to the GE06 agreement and ITU regulations.

Kindly take note that section 31 of the Communications Act provides that the Authority may, on its own motion or on a petition filed by an aggrieved party to any proceedings, reconsider any order or decision that it has made, within 90 days from the date of making that decision or issuing that order.

F. KISHI

CHAIRPERSON OF THE BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 321

2016

NOTICE IN TERMS OF SECTIONS 101 OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) AND THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of Section 85 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) read with Regulations 11(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 (as amended), herewith gives notice that the applications for a Community Broadcasting Service Licence and Spectrum Use Licences for **Shalo’m Messenger Ministries** has been approved.

THE FOLLOWING ARE THE REASONS FOR THE DECISION:

Shalo’m Messenger Ministries (hereinafter referred to as “the Licensee”) was awarded a Community Broadcasting Service Licence and a Spectrum Use Licence to provide broadcasting services within the border of the Republic of Namibia on 11 February 2016 subject to conditions as set forth in the Board resolution. The licences were awarded in terms of section 85 and 101 of the Communications Act read with 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 2015.

The decision to award the above stated licences was conveyed to the Licensee in a letter dated 17 February 2016. Subsequent to notifying the Licensee, the Authority proceeded to publish its decision herein in the *Gazette* in terms of regulation 19(1) of the Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences. The said decision was published under Government Gazette No. 5980, General Notice No. 84 dated 31 March 2016.

Please note that the last day for the Licensee to commence with broadcasting services herein is 22 August 2016. The Licensee was awarded on condition that the licensee submits an infrastructure sharing agreement with an infrastructure owner to install its broadcasting equipment within three (3) months from date of award of the licenses, which three (3) months lapsed on 24 May 2016.

The Authority received a letter from the Licensee on 28 April 2016 wherein it requested an extension from the Authority to commence with broadcasting services, due to the fact that-

- (i) They submitted an application for an infrastructure site sharing at Oshakati Town Council on 8 April 2016. They advised that the Town Council provided an acknowledgement of their application for infrastructure sharing on 12 April 2016 in response to their application stating that the matter has been referred to the councillor for consideration.

LEGAL REQUIREMENTS FOR COMMENCEMENT WITH SERVICES

Regulation 12(4) of the Regulations regarding Licence Conditions for Broadcasting Service Licences provides as follows –

“(4) In terms of section 87(7) of the Act, in the event licensees fail to commence broadcasting services within a period of six (6) months from the date of issue of the licence, such licence shall automatically expire at the end of the six (6) month period, without the Authority having to give notice to the licensee, unless as otherwise approved by the Authority in advance.”

The power to grant an extension to the Licensee is a discretionary power given to the Authority by virtue of the Communications Act. This is dictated by the provisions of the licence condition which attaches an automatic lapsing clause to the agreement, with the exception of those circumstances when the Authority has approved for an extension in advance. This therefore, means that any Licensee that is unable to comply with regulation 12(4) must submit in writing a request for extension to the Authority before the six (6) months lapse.

The Communications Act does not expressly prescribe when an extension may or may not be granted to a licensee. The Regulations as listed above are similarly silent on the subject matter. The Authority is however, guided by the rules of natural justice which require that a party be heard (*audi alteram partem* rule) before a decision is made and that the Authority must provide reasons for any decision that it makes.

CONSIDERATION OF THE REQUEST FOR EXTENSION

As indicated above, the Licensee requested the Authority to grant condonation based on the fact that to date the Licensee has not received a formal reply from the Oshakati Town Council in respect of its application for infrastructure sharing.

The Licensee was awarded a spectrum use licence for coverage in the geographical area of Oshakati in conjunction with its Community Broadcasting Service Licence. The Authority therefore needs to consider the request for condonation to commence with the provision of broadcasting services in respect of the service licence awarded as well as the spectrum use licence awarded on even date in terms of regulation 6(4) and (5)(a)(i) of the spectrum use licence conditions attached to the spectrum use licence awarded to the Licensee in the geographical area of Oshakati stating as follows-

“(4) A spectrum use licence issued in respect of telecommunications and broadcasting licences shall lapse six months after the date of issuance thereof.

(5) If the Authority-

(a) is satisfied that a licensee has-

(i) within six months after issuance of licence, failed to commence to carry on services in respect of which it is licenced;”

The failure by the Licensee to secure an infrastructure sharing agreement with the Oshakati Town Council to date is a prohibitive factor to-

- (i) the submission of the said agreement to the Authority as set forth in the conditions attached to the service licence; and
- (ii) the launch of broadcasting services by the Applicant

in that the Licensee is unable to provide broadcasting services without the successful implementation of its transmitter on infrastructure to be provided by the Oshakati Town Council and the implementation of a link between the studio and the transmitter tower.

The Management Licensing Committee further noted that the Licensee submitted an application for infrastructure sharing to the Oshakati Town Council two (2) months after the award of the service licence and spectrum use licence by the Authority.

It should be noted that the Licensee herein failed to state the prejudice it stands to suffer should the extension not be granted. The Management Licensing Committee is however of the view that the prejudice or harm that can be suffered by the Licensee is obvious, should the Authority not grant the extension sought resulting in the lapsing of Community Broadcasting service licence and spectrum use licence for the geographical area of Oshakati awarded to the Licensee.

Therefore, after having considered the facts presented to it by the Licensee and the various legal instruments, the Management Licensing Committee is satisfied with the reasons advanced as to why the Licensee will not be able to submit an infrastructure sharing agreement three (3) months after the date of award of the community broadcasting service licence and commence with the provision of broadcasting services and utilisation of assigned spectrum as required in the licence conditions. It is therefore recommended that the CRAN Board of Directors approves the extension as requested by the Licensee to-

- (i) Submit the infrastructure sharing agreement by 25 July 2016, being two(2) months after the period as stated in the licence conditions specific to the award the service licence; and
- (ii) To commence with broadcasting services and the utilisation of its assigned spectrum by 23 October 2016, being two (2) months after the initial six (6) month period granted for commencement of services and spectrum utilisation.

DECISION

In terms of section regulation 12(4) of the 5(a)(i) and 6(4) of the Regulations regarding Licence Conditions for Spectrum Use Licences and regulation 12(4) of the Regulations regarding Licence Conditions for Broadcasting Service Licences, the Authority herewith approves –

1. that Shalo'm Messenger Ministries be granted an extension of four (4) months to submit its infrastructure sharing agreement by 25 October 2016;
2. that Shalo'm Messenger Ministries be granted an extension of three (3) months to commence broadcasting services on 25 January 2017;
3. that Shalo'm Messenger Ministries be granted an extension to commence utilisation of the spectrum assigned in the geographical area of Oshakati on 25 January 2017; and
4. that Shalo'm Messenger Ministries be advised to consider approaching an alternative operator/licensee for the sharing of tower space pending the outcome of its application for a possible infrastructure sharing agreement besides the request to Oshakati Town Council.

Kindly take note that section 31 of the Communications Act provides that the Authority may, on its own motion or on a petition filed by an aggrieved party to any proceedings, reconsider any order or decision that it has made, within 90 days from the date of making that decision or issuing that order.

F. KISHI

CHAIRPERSON OF THE BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 322

2016

**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 Regulations 11(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 (as amended), herewith gives notice that the applications for a Community Broadcasting Service Licence and Spectrum Use Licences for **Southern Sun Media Trust** has been approved.

THE FOLLOWING ARE THE REASONS FOR THE DECISION:

Southern Sun Media Trust (hereinafter referred to as “the Applicant”) submitted applications for a community broadcasting service licence and a spectrum use licence on 26 September 2014 for consideration by the Authority, in accordance with sections 85 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as the “Act”) and regulations 5 and 6 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 of 29 August 2011. All licence application fees in respect of the application were paid.

BACKGROUND TO APPLICATION

The Applicant operating as Southern Sun Media Trust was initially awarded a broadcasting licence by the Namibian Communications Commission (NCC) on 11 February 2009. However, the Applicant failed to comply with section 135 of the Act and did not submit information forms to the Authority for consideration during the transition period. Subsequently, the Authority did not award a broadcasting licence to Southern Sun Media Trust as published in Government Gazette No. 4839. Notice No. 393 dated 25 November 2011.

As per documentation submitted with the application for a community broadcasting service licence, the Applicant is a 100% Namibian owned Trust. There are no foreign ownership interests in the Application. The trustees are listed as follows:

Name of Member	Nationality of Owner
Salmaan Dhameer Jacobs	Namibian
Dawood Ishaq Thomas	Namibian
Susanna Mary Jacobs	Namibian
Herald McDonald Isaak	Namibian
Anwar Abdullah Thomas	Namibian
Engela Sophia Links	Namibian
Hedrik Ismael Ludwicht	Namibian

In terms of Section 101 (7) of the Communications Act, 2009 (Act No. 8 of 2009), “*where a person applies for a licence to operate a network or provide...broadcasting services, that person must also apply for such spectrum use licences as are necessary to render the service concerned.*”

Consequently, the Applicant submitted an application for spectrum use for FM broadcasting frequency between 87 MHz and 108 MHz and a studio link between 400 MHz and 470 MHz, also dated 26 September 2014, to provide broadcasting services in the geographical area of Keetmanshoop with a transmitter output power of 500 Watt.

The Applicant intends to provide their own signal distribution service as required by Regulation 5(2)(g) of the Regulations Regarding Licensing Procedure for Telecommunications and Broadcasting Service Licences and Spectrum Use License. It is noted, that the Applicant intends to use the same tower infrastructure that was in use under the licence issued by the Namibian Communications Commission and that the transmitter equipment is already installed.

As required by regulation 5(2)(j) of the Regulations Regarding Licensing Procedure for Telecommunications and Broadcasting Service Licences and Spectrum Use Licence, the Applicant submitted a proposed program schedule indicating its intention to provide broadcasting services on a 24-hour basis from Monday to Sunday.

ORAL SUBMISSION

The Authority requested the Applicant to make an oral submission in respect of its application on 15 January 2015.

At the oral hearing, the Applicant gave a brief overview of the expertise of the management team that will ensure the operation of the radio station in Keetmanshoop, financial resources, studio layout and intended program schedule. The Authority posed various questions to the Applicant on the forecasted market growth, the community it will serve, programme content, financial resources and technical expertise. It was noted that the applicant was already providing broadcasting services without a licence which actions constitute a regulatory offence.

The application was however put on hold to allow the Legal Advice department time to address the regulatory offence committed by the Applicant.

REGULATORY SUMMONS

On 26 September 2014, the Applicant submitted application forms to the Authority to be granted a Community Broadcasting Service Licence and spectrum use licences in terms of section 85 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as “the Act”).

On 14 January 2015 and as part of the license consideration process, the Applicant appeared before the Authority’s management for oral submissions in respect of the above stated application. It was represented by Mr. Marius Bloodstaan. During the proceedings, Mr. Bloodstaan informed management that the Applicant had indeed commenced broadcasting without a license. Mr. Bloodstaan however, attempted to justify the comment by stating that they were only on air for a minimal time and that it was strictly for purposes of training. He was however notified that their conduct was all the same unlawful and that they are to refrain doing so.

Section 83(1) of the Act provides as follows:

“(1) No person may broadcast or otherwise operate a broadcasting service or do or permit anything to be done for which a broadcasting licence is required in terms of this Act, unless he or she is in possession of the appropriate licence so required, in addition to any other license or certificate which may be required by this Act for the transmission or operation of a broadcasting service undertaken by him or her or for the doing of that thing.

This provision of the Act prohibits any person from broadcasting without being in possession of an appropriate license to do so.

As such, the Applicant was providing a broadcasting service without being in possession of the appropriate or valid licence, which conduct is expressly prohibited in the stated provision.

After receipt of Board approval, the Authority issued a regulatory summons on 5 May 2015 against the Applicant in terms of section 115(1) of the Communications Act for providing broadcasting services without a licence. The Applicant admitted guilt and a penalty of ten thousand Namibian Dollars (N\$10,000.00) was imposed. The Applicant paid the fine on 09 December 2015.

REQUEST FOR OUTSTANDING INFORMATION

The Authority resumed its consideration of the application on payment of the fine imposed on the Applicant and requested the following outstanding information on 10 September 2015 and 1 March 2016 respectively-

- i) Trust deed of Southern Sun Media Trust;
- ii) A five (5) year financial forecast;
- iii) Site sharing agreement; and
- iv) Proof of funding.

The Applicant submitted all outstanding information on 18 October 2015 and 4 March 2016, respectively.

PROCEDURAL COMPLIANCE

Following due process in terms of Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Government Gazette No. 5595, General Notice No. 388 dated 20 October 2014, allowing fourteen (14) days for public comments from the date of publication of the Notice in the *Gazette*. The commenting period lapsed on 3 November 2014, and no comments were received.

The last day for the decision is 17 May 2016, following the last correspondence and documentation submitted by the Applicant, on 4 March 2016. On 16 May 2016, the Authority postponed the decision date to 30 June 2016 to allow for the submission of the recommendation to the Board for approval.

ANALYSIS BY THE AUTHORITY

Application for community broadcasting service licence

The Keetmanshoop area is serviced by four (4) commercial broadcasters (Omulungu Radio, Radio Kudu, Radio 100 (Pty) Ltd, Radiowave,), one (1) community broadcaster (Media for Christ,) and the Namibia Broadcasting Corporation (NBC). It should be noted that NBC is broadcasting services in nine (9) languages and a national radio channel (English).

When considering the award of a broadcasting service licence, the Authority is obliged to consider the following provisions of section 85(8) of the Communications Act:

- (a) *the character of the applicant or, if the applicant is a body corporate, the character of its directors*;

The Authority has no reservations regarding the character of the Applicant because it has not received any information that suggests that Applicant is of a bad character or that they would not be fit to run a radio station.

- “(b) the adequacy of the expertise, experience and financial resources available to the applicant”;*

Based on the fact that the Applicant has successfully provided broadcasting services under the service licence previously issued by the Namibian Communications Commission, that the forecasted

operational expenditure includes all expenses associated with a broadcaster and that proof was submitted that local business and the municipality provides support via advertising, the Authority is of the opinion that the Applicant will be able to support its operations financially. It is further noted that the Applicant provides a small community centre with copy facilities to supplement its income.

The Applicant has extensive experience in broadcasting as it has also received training from Deutsche Welle enabling their staff to manage the station and provide broadcasting services successfully.

“(c) the desirability or otherwise allowing any person or association of persons, to have control or a substantial interest in-

(i) more than one broadcasting service;

(ii) more than one radio station and one television station and one registered newspaper with a common coverage and distribution area or significantly overlapping coverage and distribution areas”;

There is no evidence presented before the Authority that Applicant has a controlling or substantial interest in any broadcasting service licensee or a registered newspaper with a common coverage and distribution area.

“(d) whether the applicant is likely to comply with such technical broadcasting standards as the Authority may prescribe”;

The Applicant has provided proof of a site sharing agreement and that the broadcasting studio has already been implemented in preparation for providing broadcasting services. The Applicant has also applied for a link between the transmitter and the studio. The Authority is of the opinion that the Applicant has the necessary technical knowledge to fulfil all technical conditions attached to the licence applied for, also taken into account that broadcasting services were previously provided for a period of five (5) years under the NCC licence.

“(e) whether the conditions of a broadcasting licence will unjustly benefit one licensee above another”;

There is no indication that if awarded a licence, the conditions imposed would unjustly benefit the Applicant above another licensee, especially in light of the fact that the broadcasting service and spectrum use licence conditions are generic to all licensees.

“(f) the allocation of spectrum in such a manner as to ensure the widest possible diversity of programming and the optimal utilization of such resources. Provided that priority may be given to broadcasters transmitting the maximum number of hours per day”;

The Applicant has applied for a community broadcasting service licence with the intention to provide broadcasting services in a geographical area with limited established broadcasters. The programme schedule provides for educational, health and religious content, news and music aimed at servicing an audience of all ages which will allow for the optimal use of spectrum given that broadcasting services will be provided seven (7) days a week. The Applicant will operate under the marketing name of Karas FM.

“(g) the reservation of radio wave spectrum resources for future use; and”

As indicated above, the number of broadcasters within the geographical area of Keetmanshoop is limited and this area has sufficient frequencies available for new entrants in the broadcasting market. The Authority is of the opinion that the addition of another broadcaster will be beneficial to all Namibians living and travelling through these areas and thus does not see the need to reserve the spectrum for future use.

“(h) the desirability of giving priority to community based broadcasts.”

The Applicant has applied for a community broadcasting service licence. Taking into account that the Authority has noted limited interest from commercial broadcasters to service the geographical area of Keetmanshoop, the Authority is of the opinion that it is in the best interest of the inhabitants of the area to consider the application favourably.

In light of the above analysis, the Authority is of the opinion that the Applicant complies with all provisions as set out in section 85(8) of the Communications Act to be considered during the evaluation process to award a broadcasting service licence and accompanying spectrum use licences to provide the envisaged services.

After consideration of the information submitted with the application and evaluation thereof in terms of the criteria as set out in Section 85(8) of the Communications Act, the Licensing Committee at its meeting held 30 March 2016 resolved to recommend to the CRAN Board of Directors to approve the service licence application for a community broadcasting service licence submitted by the Applicant.

Application for spectrum use licence

Pursuant to the provisions of section 101(6) of the Act, an Applicant may only be issued with a spectrum use licence, where the operation of a network or the provision of broadcasting service or the use thereof entails the use of radio waves.

As indicated above, section 101(7) of the Communications Act stipulates as follows:

“When a person applies for a licence to operate a network or provide telecommunications services or broadcasting services, that person must also apply for such spectrum licences as are necessary to render the service concerned.”

Section 101(8) places a duty on the Authority to consider the application for spectrum in conjunction with the application for a service licence and to ensure that such spectrum use licence as may be required is issued to enable the Applicant to render the services for which the service licence is issued.

Read jointly, these sections suggest that if an Applicant has applied for a broadcasting service licence, it must also have such spectrum use licence as is necessary to render the service concerned and further that a spectrum use licence is required in addition to a broadcasting service licence. It also indicates that a spectrum use licence cannot be issued for the provision of broadcasting services in the absence of a broadcasting service licence.

Subsequently a recommendation to approve the award of a broadcasting service licence, would naturally be accompanied by an approval of spectrum use licences as applied for, because frequencies for FM broadcasting may only be utilised with a broadcasting service licence. As indicated above, the Authority is also satisfied with the technical information submitted with the spectrum use licence.

The Authority therefore recommends that the CRAN Board of Directors approves the applications for a spectrum use licences in the geographical areas of Keetmanshoop submitted by the Applicant as indicated below-

- (i) Keetmanshoop 102.3 MHz 500 W
- (ii) Keetmanshoop 453.035 MHz Fixed services (studio link)

DECISION

In terms of section 85 and 101 of the Communications Act, the Authority herewith approves –

1. The award of a community broadcasting service licence to Southern Sun Media Trust based on the criteria as set out in Section 85(8) of the Communications Act which service licence is awarded subject to the relevant provisions of the Communications Act, 2009 (Act No.8 of 2009) and the Regulations regarding Licence Conditions for Broadcasting Service Licences as published in Government Gazette No. 5037, General Notice No. 309 dated 13 September 2012;
2. The award of spectrum use licences to Southern Sun Media Trust for-
 - (i) Keetmanshoop 102.3 MHz 500 W; and
 - (ii) Keetmanshoop 453.035 MHz Fixed services (studio link)

which licences are awarded subject to the relevant provisions of the Communications Act, 2009 (Act No. 8 of 2009) and the Regulations Regarding License Conditions for Spectrum Use Licensee as published in Government Gazette No. 5354, General Notice No. 469 dated 2 December 2013;.

Kindly take note that section 31 of the Communications Act provides that the Authority may, on its own motion or on a petition filed by an aggrieved party to any proceedings, reconsider any order or decision that it has made, within 90 days from the date of making that decision or issuing that order.

F. KISHI

CHAIRPERSON OF THE BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 323

2016

NOTICE IN TERMS OF SECTIONS 101 OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) AND THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of Section 38 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) read with Regulations 11(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 (as amended), herewith gives notice that the application for Spectrum Use Licences for **Mobile Telecommunications Limited** has been approved.

THE FOLLOWING ARE THE REASONS FOR THE DECISION:

Mobile Telecommunications Limited (herein after referred to as “the Applicant”) submitted spectrum use licence applications to the Authority on 29 April 2015 for consideration in terms of section 101 of the Communications Act, 2009 (hereinafter referred to as “the Act”) and in accordance with 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).

BACKGROUND TO APPLICATION

The Applicant was awarded a Class Comprehensive telecommunications service licence (ECS and ECNS) in terms of section 135 of the Communications Act, 2009. The company is 66% owned by the Namibia Posts and Telecommunications Holding Company which is in turn owned by the Namibian Government.

The Applicant submitted an application for additional spectrum use licences as indicated below-

- (i) 925-930 MHz paired with 880-885 MHz (2 x 5 MHz);
- (ii) 1882-1892 MHz paired with 1787-1797 MHz (2 x 10 MHz); and
- (iii) 2125-2130 MHz paired with 1935-1940 MHz (2 x 5 MHz).

The Applicant stated in its application that the additional spectrum is required to expand its 3G and 4G network.

The Applicant currently holds spectrum use licences for 2 x 63 MHz in the International Mobile Telecommunications (IMT)) spectrum bands as shown in the table below:

Licensee Name	Spectrum Use Licences	IMT Services Offered
Mobile Telecommunications Limited	2 x 13 MHz 900 MHz band	GSM (2G)
	2 x 15 MHz 1800 MHz band	GSM (2G)
	2 x 20 MHz 1800 MHz band	LTE (4G)
	2 x 15 MHz 2100 MHz band	UMTS (3G)
Total	2 x 63 MHz	

The application as submitted is supported by equipment specifications, network layout and network rollout plans as required by section G of the spectrum use application form. All outstanding information was submitted on 28 May 2015.

Taking into account that the Applicant already holds spectrum use licences in the IMT spectrum bands, in fact 36% more spectrum, than any other licensee, the Authority requested the Applicant on 24 June 2015 to prove the efficient use of the spectrum use licences awarded to date. On even date the Applicant was informed that the 1800 MHz spectrum band is fully assigned and that the Authority could therefore, not consider its application for 2 x 10 MHz in the 1800 MHz spectrum band.

The Applicant requested on 17 July 2015 to make an oral submission to the Authority in respect of the utilisation of its current spectrum use licences, which request was granted and the Applicant made the said oral presentation on 14 August 2015.

PROCEDURAL COMPLIANCE

Following due process in terms of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Government Gazette No. 5836, General Notice No. 439 dated 24 September 2015 allowing fourteen (14) days for public comments. No comments were received in the time period allowed.

ANALYSIS BY THE AUTHORITY

The Applicant is a well-established telecommunications service licensee providing telecommunications services in Namibia since 1995 and has expanded its service offering from 2G mobile telecommunications services to 4G mobile telecommunications services. The Applicant is ranked first in Namibia based on the Authority's market information on telecommunications service licensees providing mobile voice and data services. It should be noted that network coverage for mobile services is reaching approximately 95% of the Namibian population as per the 2G network coverage area.

The issuance of spectrum use licences by the Authority is guided by-

- (i) Sections 2 and 101 of the Communications Act, 2009;

- (ii) International Telecommunications Union Regulations and subsequent international agreements signed by Namibia as a member state of the International Telecommunications Union; and
- (iii) Regulations Setting Out the Frequency Band Plan for Namibia as published in Government Gazette No. 5214, General Notice No. 191 dated 31 May 2013.

The spectrum as applied for in the 900 MHz and 2100 MHz spectrum band by the Applicant is allocated for provisioning of IMT services in terms of the Regulations Setting Out the Frequency Band Plan for Namibia as published in Government Gazette No. 5214, General Notice No. 191 dated 31 May 2013. The applications for spectrum use licences to provide 3G mobile telecommunications services as submitted thus complies with the spectrum requirements as set forth in the aforementioned Regulations. The Applicant has paid all spectrum fees for the spectrum year 2016 for existing spectrum use licences and there exists no prohibition for the Authority to consider this application.

All prescribed documentation as required on the spectrum use licence application form has been submitted to the Authority on 28 May 2015 and 14 August 2015, respectively. The Applicant further submitted a detailed network rollout plan indicating-

- (i) 3G network rollout in new coverage areas utilising the 900 MHz (E-GSM) band; and
- (ii) 3G network rollout for additional capacity in the 2100 MHz spectrum band.

In its analysis, the Authority took into consideration the factors as listed hereunder:

- (i) The 900 MHz (E-GSM) and 2100 MHz spectrum bands are licensed on a national basis to allow licensees to provide services throughout Namibia;
- (ii) The current spectrum use licences awarded to the Applicant also allow for the provisioning of 3G services on a national basis;
- (iii) Several geographical areas are still not served by any telecommunications service licensee, irrespective of the fact that schools, clinics, police stations and border posts are located in these areas;
- (iv) To promote competition in accordance with the objectives of the Act;
- (v) The fact that the Applicant has been declared dominant in terms of section 78 of the Act;
- (vi) The fact that the Applicant already holds spectrum use licences amounting to 35% more spectrum to provide mobile services than any other telecommunications service licensee; and
- (vii) The limited amount of spectrum available in the 2100 MHz spectrum band.

Analysis of the application for spectrum in the 900 MHz (E-GSM) spectrum band

The Applicant intends to co-locate the envisaged 3G sites utilising the aforementioned spectrum through implementation of 3G equipment, at existing 2G sites, in order to provide 3G services in geographical areas current only provided with 2G services. This will constitute an expansion of its existing 3G network. It is noted that the deployment of 3G technologies will provide Namibians with access to broadband services and is therefore, aligned with the objectives of NDP4, the draft broadband policy and the Harambee Prosperity Plan as envisioned by the Namibian Government.

It should be noted that the deployment of 3G in lower spectrum bands such as the 900 MHz (E-GSM) band is suitable for deployment of services in rural and semi-urban areas due to the fact that the implementation of a 3G base station utilising 900 MHz will have a wider coverage area than would have been the case utilising 2100 MHz.

However, the Authority deems it necessary to consider the imposition of coverage rollout obligations to ensure that the envisaged network is implemented and the broadband services are extended to geographical areas currently only served with 2G services aiding Namibia in its aim to reach the four broadband targets as set out in the Harambee Prosperity Plan and the targets set out in the draft broadband policy as proposed by the Ministry of Information and Communication Technology.

The Authority is further of the view that these obligations will also be in line with the objectives of the Act to ensure that all Namibian's, in currently unserved areas have access to telecommunications services and products.

Analysis of the application for spectrum in the 2100 MHz spectrum band

The Applicant already holds spectrum use licences for 2 x 15 MHz in the 2100 MHz spectrum band for providing 3G services on a national basis. The Applicant's 3G network is deployed in major urban areas with lesser coverage provided in selected locations such as lodges and mines and smaller towns in rural areas.

The Applicant submitted a rollout plan for the addition of a fourth layer to its existing network at existing sites to increase capacity. Upon analysis of the information presented, the Authority is of the opinion that the Applicant can make more efficient use of the 15 MHz spectrum already assigned to the Applicant. Based on the Applicant's presentation dated 14 August 2016 –

- i) Stating that the Applicant plans to deploy 3G in the E-GSM band should the spectrum application be approved; and
- ii) The network statistics presented.

It should be noted that the Applicant made no effort to prove efficient use in terms of ITU Recommendation: ITU-R SM.1046-2 as required by the spectrum use licence conditions applicable to this licence. The Authority therefore had to proceed with its analysis based on the aforementioned information submitted by the Applicant.

The Authority is of the opinion that the Applicant can make more efficient use of the current spectrum assigned in 2100 MHz through optimisation and re-planning of its network. This can be achieved by implementing smaller cells through construction of additional base stations serving less customers per base station to improve quality of service in its 3G network whilst phasing out high site locations.

Further thereto it should be noted that the existing spectrum use licence for 2100 MHz was awarded on a national basis. To date the assigned spectrum remains unutilised in areas where no 3G services have been provided. Based on the factors considered above, the Authority is of the opinion that the Applicant has failed to prove efficient use of its existing spectrum use licence of 2 x 15 MHz in the 2100 MHz spectrum band.

Other factors considered

The 2100 MHz spectrum band has very limited vacant spectrum available consisting of 4 x 5 MHz only. The current spectrum use licences awarded in this band is fairly distributed between Telecom Namibia Limited, Paratus Telecommunications (Pty) Ltd and the Applicant to provide mobile telecommunications services taking into account the cumulative amount of spectrum assigned to each licensee in the 900 MHz, 1800 MHz and 2100 MHz spectrum band.

There would be no limitation on the Applicant to use the spectrum applied for in the E-GSM band for 3G services in and around urban areas such as Windhoek, Oshakati, Walvis Bay and Swakopmund should the Authority approve the said licence application for 2 x 10 MHz in the E-GSM spectrum band to improve service quality.

Any further assignment of spectrum in this band to an existing telecommunications service licensee will act as a barrier to any new player entering the market in that the Authority will not have sufficient spectrum available for the implementation of 3G mobile services in urban areas to allow a new entrant to provide the same data speed and quality of service than current licensees.

The Authority also undertook a benchmarking exercise in respect of neighbouring countries taking into account the amount of spectrum assigned to each operator versus the population size served. The findings is shown in the Table 1 below-

South Africa		Kenya		Nigeria	
Vodacom ± 34 million customers	2 x 11 MHz 900 MHz 2 x 12 MHz 1800 MHz 1 x 5 & 2 x 15 MHz 2100 MHz	TK/Orange ± 4.5 million customers	2 x 7.5 MHz 900 MHz 2 x 10 MHz 1800 MHz 2 x 10 MHz 2100 MHz	MTN Nigeria ± 63 million customers	2 x 5 MHz 900 MHz 2 x 15 MHz 1800 MHz 2 x 10 MHz 2100 MHz
Total	2x 38 MHz & 1x 5MHz	Total	2x 27.5 MHz	Total	2x 30 MHz
MTN SA ± 30 million customers	2 x 11 MHz 900 MHz 2 x 12 MHz 1800 MHz 1 x 10 & 2 x 15 MHz 2100 MHz	Safaricom ± 25.1 million customers	2 x 10 MHz 900 MHz 2 x 10 MHz 1800 MHz 2 x 10 MHz 2100 MHz	Airtel 31 million customers	2 x 5 MHz 900 MHz 2 x 15 MHz 1800 MHz 2 x 10 MHz 2100 MHz
Total	2x 38 MHz & 1x 10MHz	Total	2x 30 MHz	Total	2x 30 MHz
Cell C ± 22 million customers	2 x 11 MHz 900 MHz 2 x 12 MHz 1800 MHz 1 x 5 & 2 x 15 MHz 2100 MHz	Airtel Kenya ± 7.2 million customers	2 x 10 MHz 900 MHz 2 x 10 MHz 1800 MHz 2 x 10 MHz 2100 MHz	Glo 31 million customers	2 x 5 MHz 900 MHz 2 x 15 MHz 1800 MHz 2 x 10 MHz 2100 MHz
Total	2x 38 MHz & 1x 5 MHz	Total	2x 30 MHz	Total	2x 30 MHz
Telkom SA ± 2 million customers	2x 12 MHz 1800 MHz 2x 10 MHz 2100 MHz	Essar ± 1 million customers	2x 7.5 MHz 900 MHz 2x 10 MHz 1800 MHz	Etisalat ± 24 million customers	2x 5 MHz 900 MHz 2x 15 MHz 1800 MHz 2x 10 MHz 2100 MHz
Total	2x 22 MHz	Total	2x 17.5 MHz	Total	2x 30 MHz
Largest town	Soweto 2.3 million		Nairobi 3.4 million		Lagos 9 million

It should be noted that the population of South Africa, Kenya and Nigeria exceeds the population of Namibia by far and that each operator is assigned less than 40 MHz across the 900 MHz, 1800 MHz and 2100 MHz spectrum band to provide mobile service insuring the efficient use of spectrum. In contrast the Applicant is already assigned 2 x 63 MHz to provide mobile services to Namibia's population of 2.4 million and still the Applicant has applied for more spectrum. The Applicant also already holds spectrum use licences for an equivalent amount of spectrum (2 x 15 MHz) in the 2100 MHz compared to operators in other countries as shown in Table 1. Further thereto, Windhoek, being the largest urban area served by the Applicant has ±400,000 inhabitants compared to the millions of inhabitants in a single urban area served by the operators shown in Table 1.

IMPOSITION OF ROLLOUT OBLIGATIONS

The Applicant currently provides service coverage for mobile services to 95% of the population by its own predictions. The Applicant submitted a network rollout plan comprising of one hundred and thirteen (113) 3G sites to be implemented utilising the spectrum as applied for in the 900 MHz (E-GSM) spectrum band.

The Authority further identified twenty three (23) geographical areas where the Applicant is yet to provide services utilising its existing spectrum use licences. It should be noted the schools, clinics, police stations and border posts are located within these areas with the aim to serve the local communities that currently have no access to telecommunications services.

On 8 February 2016, the Authority communicated its intention to impose rollout obligations in respect of the spectrum use licence applications under consideration as provided for in section 101(2) of the Act and Regulation 8 (1) (a) of the Regulations Setting Out Licence Conditions for Spectrum Use Licences to ensure expansion of 3G services in areas outside of Windhoek and providing mobile services to Namibians in unserved and underserved areas.

The Authority selected these geographical areas based on the locations of schools, clinic, police stations and border posts as well as lack of road coverage contributing to the ability of travellers to remain in contact.

The Applicant responded to the Authority on 24 March 2016 stating that the Applicant indicated that it will not dispute the option lawfully exercised by the Authority to impose conditions on it in exchange for the issuance of the spectrum use licence.

However a claim was made by the Applicant indicated that the intended rollout obligations were not aligned with the vision of the Minister of ICT. The Applicant submitted a further letter on 20 April 2016 that the Applicant believes it is critical to implement 3G services in rural areas as highlighted in the Harambee Plan's goal to attain broadband coverage for 80% of the Namibian Population and requested a further meeting with the Authority.

The Authority responded to the Applicant's letter of 24 March 2016 and 20 April 2016 respectively, emphasizing the fact that the intended rollout obligations have taken note of all four (4) goals of the Harambee Prosperity Plan for telecommunications services to ensure not only broadband population coverage but also to ensure that the goals as listed hereunder are achieved-

- (i) 80% broadband coverage of all primary and secondary schools
- (ii) 70% broadband coverage of health facilities
- (iii) 100% broadband coverage of public sector agencies

The Authority also granted the Applicant an audience on 17 May 2016 at the request of the Applicant. It was agreed that the Applicant understands the intention of the Authority and that the Applicant is not prohibited in any way to expand its services over and above the rollout obligations as stated by the Authority.

DECISION

In terms of section 101 of the Communications Act, the Authority herewith approves –

1. That the award of spectrum use licences to Mobile Telecommunications Limited on a national basis for-
 - a. 925-930 MHz paired with 880-885 MHz;

The licence is awarded subject to the Communications Act, 2009 (Act No. 8 of 2009) and the Regulations Regarding Licence Conditions for Spectrum Use Licensee as published in Government Gazette No. 5354, General Notice No. 469 dated 2 December 2013;

- 1.1 that the licence is awarded on condition that Mobile Telecommunications Limited rolls out the provision of 3G telecommunications services in the eighty nine (89) geographical locations as communicated to it by the Authority over a period of three (3) years from the date of the award of this spectrum use licence;
 - 1.2 the licence is awarded on condition that Mobile Telecommunications Limited provide mobile services in the twenty three (23) geographical areas as communicated to it by the Authority;
 - 1.3 Mobile Telecommunications Limited may extend services to other areas over and above the areas communicated to it by the Authority;
 - 1.4 the Licence shall not lapse within six (6) months from date of issuance, and Regulation 6(4) & (5) of the spectrum use licence conditions are amended in as far as it is applicable to Mobile Telecommunications Limited in respect of this licence to read as follows:
 - a. The spectrum use licence issued to Mobile Telecommunications Limited in respect of telecommunications services shall lapse twelve (12) months after date of issuance, if the Authority is satisfied that Applicant has failed to commence to carry on services in respect of which it is licenced within in the geographical locations communicated to it by the Authority;
 - 1.5 in the event that Mobile Telecommunications Limited fails to roll out the provision of telecommunications services as per the geographical locations communicated to it by the Authority over a period of three (3) years, the Authority will follow the process as contained in regulations 6(5) (6) and (7) of the Spectrum Use Licence Conditions. The Authority will enforce the licence conditions in terms of Sections 114 – 116 of the Act;
2. that the application for 1882-1892 MHz paired with 1787-1797 MHz is declined due to lack of spectrum; and
 3. that the application for 2125-2130 MHz paired with 1935-1940 MHz is declined due to the fact that the existing spectrum use licence in the same spectrum band is not efficiently utilised and the Applicant is urged to re-plan its network to use already assigned spectrum efficiently in accordance with its spectrum use licence conditions.

Kindly take note that section 31 of the Communications Act provides that the Authority may, on its own motion or on a petition filed by an aggrieved party to any proceedings, reconsider any order or decision that it has made, within 90 days from the date of making that decision or issuing that order.

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 324

2016

NOTICE IN TERMS OF SECTIONS 101 OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) AND THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of Section 38 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) read with Regulations 11(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 (as amended), herewith gives notice that the application for a Class Comprehensive Telecommunications Service Licence for **Omnitel (Pty) Ltd** has been approved.

THE FOLLOWING ARE THE REASONS FOR THE DECISION:

Omnitel (Pty) Ltd (hereinafter referred to as “the Applicant”) submitted an application for a Class Comprehensive Telecommunications Service Licence (ECS & ECNS) on 15 July 2015 in accordance with sections 38 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as the “Act”) and 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 of 29 August 2011, for consideration by the Authority. All licence application fees in respect of the application were paid.

BACKGROUND TO APPLICATION

As per documentation submitted with the application for a Class Comprehensive Telecommunications Service Licence (ECS & ECNS), the Applicant is a 100% Namibian company with registration number 2007/0452. There are no foreign ownership interests in the Applicant’s board or ownership level as indicated below in Table 1 and 2 respectively-

Table 1: Ownership structure

Name of Owner	Percentage of Ownership	Nationality of Owner
Harald Siegfried Grünewald	17%	Namibian
Gunter Langmaak	51%	Namibian
BZ and TM Investments (Pty) Ltd	32%	Namibian

Table 2: Board of Directors

Name of Director	Nationality of Owner
Harald Siegfried Grünewald	Namibian
Gunter Langmaak	Namibian
Theofelus Mberirua	Namibian

Section 101 (7) of the Communications Act, 2009 (Act No. 8 of 2009), provides that “*where a person applies for a licence to operate a network or provide telecommunications services or broadcasting services, that a person must also apply for such spectrum use licences as are necessary to render the service concerned.*”

The Applicant submitted an application for spectrum use licences on 15 July 2015 indicating that no spectrum will be utilised in providing the envisaged telecommunications services.

As required by regulation 4(2)(f) of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Applicant submitted a five (5) year business plan, financial statements, a technical description of the telecommunication services to be provided, billing system information and company registration documents to support the Applicant in its future business rollout.

REQUEST FOR INFORMATION

Oral Submissions

The Authority requested the Applicant to make oral submissions in respect of its application on 2 February 2016.

At the oral hearing, the Applicant gave a brief overview of expertise and experience within the ICT industry, spectrum to be utilised, envisaged product and service portfolio, distribution model, core network layout and diagrams and financial projections for a period of five (5) years. It was noted by the Authority's management team present at the oral submission that the Applicant has indicated in its application forms that it will not require spectrum for the roll out of the services

After the oral submissions made by the Applicant, the Authority requested the Applicant on 10 February 2016 to provide-

- i) A revised business plan that takes into account the network rollout fees; and
- ii) To provide clarity to the Authority whether or not the Applicant wants the Authority to award a spectrum use licence in light of the proposed business case. If so, the Applicant was requested to submit an application for a Spectrum Use Licence in terms of Regulation 6 of the Licensing Procedure Regulations.

The Applicant submitted all requested information on 15 February 2016, and 9 March 2016 respectively, inclusive of a spectrum use application form with equipment specifications to utilise spectrum in the licence exempt spectrum bands for wireless links.

PROCEDURAL COMPLIANCE

Following due process in terms of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Government Gazette 5867, General Notice No. 525 dated 2 November 2015, allowing fourteen (14) days for public comments from the date of publication of the Notice in the *Gazette*. The commenting period lapsed on 16 November 2016, and no comments were received.

The last day for the decision was 17 May 2016 following the last correspondence and documentation submitted by the Applicant on 9 March 2016. On 23 May 2016, the Authority postponed the decision date to 30 June 2016 to allow for the submission of the recommendation to the Board for approval.

ANALYSIS BY AUTHORITY

Application for Class Comprehensive Telecommunications Service Licence (ECS & ECNS)

The Namibian market is currently served by thirteen (13) telecommunications service licensees.

When considering the award of a telecommunications service licence, the Authority is obliged to consider the provisions of section 39(3) of the Communications Act, which provides as follows:

“Without limiting the power to refuse a licence when the granting of a licence is not in the public interest, the Authority may refuse the licence on one or more of the following grounds-

(a) *national defence or public security*”;

The Authority has not received any information, nor noted any issues in the application submitted by the Applicant that suggests that the Applicant will pose a threat to national defence or public security.

(b) *technical constraints due to limited availability of frequencies*”;

Based on the facts presented, the Applicant intends to implement its own billing system but will not utilise the mobile telecommunications networks provided by Mobile Telecommunications Limited and Telecom Namibia Limited to provide voice services. The Applicant intends to implement wireless links utilising licence exempt spectrum to facilitate connectivity at customer premises based on customer requirements.

Based on the utilisation of licence exempt spectrum there exists no technical constraints due to limited availability of frequencies as referred to above.

(c) *the lack of technical or financial capability to substantially meet the obligations arising out of the applicant’s operating conditions or the fact that it does not meet prior specified selection criteria; or*”

The Applicant is currently providing Private Automated Branch Exchange (PABX) equipment, support and maintenance and wishes to extend its business product portfolio by offering Least Cost Routing for voice services and Structured Cabling as well as wireless links based on customer requirements. The business is already established with a solid customer base and technical expertise for the new business venture has been required and has the ability of approaching new and existing customers to acquire the new envisaged services. The Applicant has an asset portfolio exceeding twenty nine million Namibian Dollars (N\$29,000,000.00) to provide financial backing to extend its product portfolio.

(d) *the fact that the applicant has been subject to penalties referred to in section 115(4)*”;

The Applicant has not been issued with any fines in respect of section 115(4) of the Act.

The Authority is of the opinion that the application for a Class Comprehensive Telecommunications Service Licence as submitted by the Applicant complies with all criteria as set out above. The application is further aligned with the objectives of the Communications Act, 2009 in that it promotes competition in the market, promotes local investment in the ICT industry and provides Namibians with a wider choice of telecommunication services.

The Authority resolved at its meeting held 25 May 2016 to recommend to the CRAN Board of Directors to approve the application for a Class Comprehensive Telecommunications Service licence (ECS & ECNS) as applied for by the Applicant.

Application for spectrum use licence

Pursuant to the provisions of section 101(6) of the Act, an Applicant may only be issued with a spectrum use licence, where the operation of a network or the provision of broadcasting service or the use thereof entails the use of radio waves.

As indicated above, section 101(7) of the Communications Act stipulates as follows:

“When a person applies for a licence to operate a network or provide telecommunications services or broadcasting services, that person must also apply for such spectrum licences as are necessary to render the service concerned.”

Section 101(8) places a duty on the Authority to consider the application for spectrum in conjunction with the application for a service licence and to ensure that such spectrum use licence as may be required is issued to enable the Applicant to render the services for which the service licence is issued.

Read jointly, these sections suggest that if an Applicant has applied for a telecommunications service licence, it must also have such spectrum use licence as is necessary to render the service concerned and further that a spectrum use licence is required in addition to a broadcasting service licence.

The Applicant submitted an application for a spectrum use licence on 9 March 2016. As per the information presented on the application form and supporting documentation, the Applicant intends to utilise spectrum in 5725 – 5875 MHz and 24.05 – 24.25 GHz spectrum band to provide wireless links to its customers as required to facilitate the provisioning of telecommunications services.

The aforementioned spectrum bands are deemed to be licence exempt subject to adherence to technical conditions set out in the Regulations regarding Licence Exempt Spectrum as published in Government Gazette No. 4839, General Notice No. 395 dated 25 November 2011.

The Authority recommends to the CRAN Board of Directors that no spectrum use licence is to be awarded to the Applicant based on the fact that the utilisation of the spectrum bands are licence exempt subject to adherence to the following technical conditions-

- i) Utilisation of the spectrum band 5725-5875 MHz is subject to a maximum power output of 4 Watt peak equivalent isotropically radiated power (eirp); and
- ii) Utilisation of the spectrum band 24.05-24.25 GHz is subject to a maximum power output of 100 mW eirp.

DECISION

In terms of section 38 and 101 of the Communications Act, the Authority herewith approves –

1. The application for a telecommunications service licence submitted by Omnitel Namibia (Pty) Ltd based on the criteria as set out in Section 39 of the Act and award the Applicant with a Class Comprehensive Telecommunications Service Licence (ECS and ECNS);
2. The licence be awarded subject to the provisions of the Communications Act, 2009 (Act No. 8 of 2009) and Regulations regarding Licence Conditions for Telecommunications Service Licences as published in Government Gazette No. 5037, General Notice No. 308 dated 13 September 2012; and
3. That the utilisation of spectrum in 5725 -5875 MHz and 24.05-24.45 GHz is subject to the technical conditions contained in Regulations regarding Licensing Exempt Spectrum as published in Government Gazette No. 4839, General Notice No. 395 dated 25 November 2011.

Kindly take note that section 31 of the Communications Act provides that the Authority may, on its own motion or on a petition filed by an aggrieved party to any proceedings, reconsider any order or decision that it has made, within 90 days from the date of making that decision or issuing that order.

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 325

2016

NOTICE IN TERMS OF SECTIONS 101 OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) AND THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of Section 101(13) of the Communications Act, 2009 (Act No. 8 of 2009) read with Regulations 6 and 11 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 the application for amendment for the Spectrum Use Licence awarded to **Hitradio Namibia CC** has been approved.

THE FOLLOWING ARE THE REASONS FOR THE DECISION:

Hitradio (hereinafter referred to as “the Applicant”) was awarded a spectrum use licence to provide FM broadcasting services within the geographical area of Karibib from its site located at Erongo Mountain.

The licence was awarded in terms of section 101 of the Communications Act read with 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 2015.

The Authority published the final notice in respect of this licence in Government Gazette No. 5148, General Notice No. 73 dated 13 March 2013.

BACKGROUND TO APPLICATION

On 15 July 2013, the Authority received a licensee complaint from HitRadio, indicating that they are of the opinion that the utilisation of the frequency 94.7 MHz at Erongo Mountain will cause interference with the frequency assigned to Radio Kudu located at Affenberg near Karibib and submitted a request that their spectrum use licence as awarded on 13 March 2013 be amended.

PROCEDURAL COMPLIANCE

Following due process in terms of Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Government Gazette 5980, General Notice No. 88 dated 31 March 2016, allowing thirty (30) days for public comments from the date of publication of the Notice in the *Gazette*. The commenting period lapsed on 3 May 2016, and no comments were received.

ANALYSIS BY THE AUTHORITY

Section 101(13) of the Communications Act, 2009 provides as follows-

“(13) The Authority may amend a spectrum licence issued under subsection (2)-

- (a) *To implement any frequency band plan or in the interest of orderly frequency management, if the amendment will not cause substantial prejudice to the licensee;*
- (b) *If requested thereto by the licensee concerned”*

Although the transmitters of the Hitradio and Radio Kudu are not located on the same infrastructure, it is noted that the said broadcasting licensees provide services from towers located on high-lying

areas, namely Erongo Mountain and Affenberg to the community of Karibib. This fact in itself increases the possibility for interference and requires diligent analysis of spectrum to be assigned taking account of not only the targeted area of transmission, but also adjacent geographical areas that may be affected dependent on the power output of the transmitters implemented.

The Authority is of the opinion that the requesting licensee, Hitradio will not be prejudiced in any way should the amendment of the spectrum use licence be approved due to the fact that the said licensee submitted the request in accordance with Section 101(13)(b) of the Act.

The Authority identified 102.2 MHz as a suitable frequency taking into account existing licensees assigned spectrum use licences on Erongo Mountain itself and in all adjacent geographical areas. It should be noted that no changes are to be made to the transmitter's power output or location of the transmitter tower on Erongo Mountain.

The Authority resolved to recommend to the Board of Directors to grant approval that the spectrum use licence awarded to Hitradio for 94.7 MHz be amended to 102.2 MHz, without any changes to the power output or geographical location of the existing spectrum use licence.

DECISION

In terms of section 101(13) of the Communications Act, the Authority herewith approves –

1. The amendment of the spectrum use licence awarded to Hitradio at Erongo Mountain from 94.7 MHz to 102.2 MHz;
2. That the power output and geographical location as specified with the award of the aforementioned spectrum use licence on 13 March 2013 remains unchanged; and
3. That the amended licence is awarded subject to the relevant provisions of the Communications Act, 2009 (Act No. 8 of 2009) and the Regulations Regarding License Conditions for Spectrum Use Licensee as published in Government Gazette No. 5354, General Notice No. 469 dated 2 December 2013.

Kindly take note that section 31 of the Communications Act provides that the Authority may, on its own motion or on a petition filed by an aggrieved party to any proceedings, reconsider any order or decision that it has made, within 90 days from the date of making that decision or issuing that order.

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 326

2016

NOTICE IN TERMS OF SECTIONS 101 OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) AND THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of Section 38 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) read with Regulations 11(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 (as amended), herewith gives notice that the application for a Class Comprehensive Telecommunications Service Licence for **Mattie Investments 152 CC t/a IT Guru Solutions** has been approved.

THE FOLLOWING ARE THE REASONS FOR THE DECISION:

Mattie Investments 152 CC t/a IT Guru Solutions (hereinafter referred to as “the Applicant”) submitted an application for a Class Comprehensive Telecommunications Service Licence (ECS & ECNS) and Spectrum Use Licence application on 14 December 2014 in accordance with sections 38 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as the “Act”) and 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, for consideration by the Authority. All licence application fees in respect of the application were paid.

BACKGROUND TO APPLICATION

As per documentation submitted with the application for a Class Comprehensive Telecommunications Service Licence (ECS & ECNS), the Applicant is a 60% Namibian company with registration number CC/2011/5393. There is a 40% South African shareholding in the Applicant’s ownership level as indicated below in Table 1-

Table 1: Ownership structure

Name of Owner	Percentage of Ownership	Nationality of Owner
Wesley Dylan Bruwer	40%	South African
Bernd Finkeldeh	30%	Namibian
Leigh Westerdale	30%	Namibian

Section 101 (7) of the Communications Act, 2009 (Act No. 8 of 2009), provides that “*where a person applies for a licence to operate a network or provide telecommunications services or broadcasting services, that a person must also apply for such spectrum use licences as are necessary to render the service concerned.*”

The Applicant submitted an application for spectrum use licences on 15 December 2014 accompanied by all technical information as required in section G of the application form.

As required by regulation 4(2)(f) of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Applicant submitted a technical description of the telecommunication services to be provided, tariff information and company registration documents to support the Applicant in its future business rollout.

The Applicant subsequently provided proof of available funding and an amended founding statement on 15 May 2015.

PROCEDURAL COMPLIANCE

Following due process in terms of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Government Gazette 5867, General Notice No. 527 dated 2 November 2015, allowing fourteen (14) days for public comments from the date of publication of the Notice in the *Gazette*. The commenting period lapsed on 16 November 2015. Comments were received from Misty Bay Investments 140 CC within the aforementioned time period. The Authority forwarded these comments to the Applicant on 18 November 2015 and requested the Applicant to submit reply comments thereto. The Applicant submitted reply comments on 24 November 2015.

All comments and reply comments are summarised as follows:

Summary of comments submitted by Misty Bay Investments 140 CC

Misty Bay Investments 140 CC commented that it assumed that the Applicant will utilise spectrum licence exempt bands and that it is of the opinion that this band is congested in the Erongo region and may therefore, affect current licence holders negatively. Further that the Authority needs to find a way to licence smaller operators to prevent proliferation of operators in the same region utilising licence exempt spectrum.

Summary of reply comments submitted by the Applicant

The Applicant responded that their market analysis has shown very low utilisation of the 5 GHz spectrum licence exempt band in the Erongo region minimizing the possibility of interference. The Applicant is further of the opinion that an increase in competition through licensing of more entities to provide telecommunications services will be to the benefit of the customer.

The Authority's response to the written comments and reply comments submitted

The Authority wish to emphasize that any party utilising spectrum licence exempt spectrum bands are not protected from interference as stipulated in the Regulations. Further that the utilisation of the aforementioned bands therefore constitutes a calculated business risk and there is no prohibition on any applicant or existing licensee to apply for spectrum use licences in other spectrum bands allocated for fixed services to ensure a higher quality of service to their customers.

The last day for the decision is 16 July 2016 following the last correspondence and documentation submitted by the Applicant on 16 May 2016. Please note that decisions are to be made within sixty (60) days from date on which all documentation has been submitted to the Authority.

REQUEST FOR INFORMATION

Oral Submissions

The Authority requested the Applicant to make an oral submission in respect of its application on 2 February 2016.

At the oral hearing, the Applicant gave a brief overview of its ownership structure, the spectrum to be utilised, envisaged product and service portfolio, network layout and diagrams, envisaged site sharing with Telecom Namibia Limited and financial projections for a period of five (5) years.

After the oral submission made by the Applicant, the Authority requested the Applicant on 10 February 2016 to provide-

- i) A detailed five year business plan which should include income and expenditure;
- ii) Site sharing agreement with Telecom Namibia Limited; and
- iii) Clarification in respect of the spectrum to be utilised due to the fact that the spectrum to be utilised for network rollout as presented during the oral submission does not correspond to the spectrum as specified on your application form.

The Applicant submitted a revised business plan on 17 February 2016 and a new Spectrum Use Licence application on 16 May 2016 respectively.

ANALYSIS BY THE AUTHORITY

Application for Class Comprehensive Telecommunications Service Licence (ECS & ECNS)

The Namibian market is currently served by thirteen (13) telecommunications service licensees.

When considering the award of a telecommunications service licence, the Authority is obliged to consider the provisions of section 39(3) of the Communications Act, which provides as follows:

“Without limiting the power to refuse a licence when the granting of a licence is not in the public interest, the Authority may refuse the licence on one or more of the following grounds-

(a) national defence or public security”;

The Authority has not received any information, nor noted any issues in the application submitted by Applicant that suggests that the Applicant will pose a threat to national defence or public security.

“(b) technical constraints due to limited availability of frequencies”;

Based on the facts presented, the Applicant intends to provide telecommunications services to small and medium sized companies utilising licence exempt spectrum.

Based on the utilisation of licence exempt spectrum there exists no technical constraints due to limited availability of frequencies as referred to above.

“(c) the lack of technical or financial capability to substantially meet the obligations arising out of the applicant’s operating conditions or the fact that it does not meet prior specified selection criteria; or”

The Applicant intends to limit its service offerings to small and medium sized companies and residential consumers within Walvis Bay, Langstrand, Swakopmund and surrounding areas by providing wireless network connections and IT support systems.

The Applicant has presented a solid competitor analysis and business plan aimed at luring clients from existing providers. It should be noted that the Applicant will compete with larger licensees offering similar services creating uncertainty in respect of the projected revenue forecast whilst the presented operational expenditure is conservative creating an opportunity to hold reserves for future investments.

“(d) the fact that the applicant has been subject to penalties referred to in section 115(4)”;

The Applicant has not been issued with any fines in respect of section 115(4) of the Act.

The Authority is of the opinion that the application for a Class Comprehensive telecommunications Service Licence (ECS & ECNS) as submitted by the Applicant complies with the criteria as set out above. The application is further aligned with the objectives of the Communications Act, 2009 in that it promotes competition in the market, local investment in the ICT industry and provides Namibians (within the Erongo region) with a wider choice of telecommunication services.

The Authority resolved at its meeting held 25 May 2016 to recommend to the CRAN Board of Directors to approve the application for a Class Comprehensive Telecommunications Service Licence (ECS & ECNS) as applied for by the Applicant.

Application for spectrum use licence

Pursuant to the provisions of section 101(6) of the Act, an Applicant may only be issued with a spectrum use licence, where the operation of a network or the provision of telecommunications service or the use thereof entails the use of radio waves.

As indicated above, section 101(7) of the Communications Act stipulates as follows:

“When a person applies for a licence to operate a network or provide telecommunications services or broadcasting services, that person must also apply for such spectrum licences as are necessary to render the service concerned.”

Section 101(8) places a duty on the Authority to consider the application for spectrum in conjunction with the application for a service licence and to ensure that such spectrum use licence as may be required is issued to enable the Applicant to render the services for which the service licence is issued.

Read jointly, these sections suggest that if an Applicant has applied for a telecommunications service licence, it must also have such spectrum use licence as is necessary to render the service concerned and further that a spectrum use licence is required in addition to a telecommunications service licence.

The Applicant initially submitted an application for a spectrum use licence on 15 December 2014 and subsequently replaced the aforementioned application with a new spectrum use application on 16 May 2016.

As per the information presented on the application form and supporting documentation, the Applicant intends to utilise spectrum in 5725 – 5875 MHz spectrum band to provide wireless links to its customers as required to facilitate the provisioning of telecommunications services.

The aforementioned spectrum bands are deemed to be licence exempt subject to adherence to technical conditions set out in the Regulations regarding Licence Exempt Spectrum as published in Government Gazette No. 4839, General Notice No. 395 dated 25 November 2011.

The Authority there recommends to the CRAN Board of Directors that no spectrum use licence is to be awarded to the Applicant based on the fact that the utilisation of the spectrum bands are licence exempt subject to adherence to the following technical conditions-

- i) Utilisation of the spectrum band 5725-5875 MHz is subject to a maximum power output of 4 Watt peak equivalent isotropically radiated power (eirp).

DECISION

In terms of section 38 and 101 of the Communications Act, the Authority herewith approves –

1. Approve the application for a telecommunications service licence submitted by Mattie Investments 152 CC t/a IT Guru Solutions based on the criteria as set out in Section 39 of the Act and award the Applicant with a Class Comprehensive Telecommunications Service Licence (ECS and ECNS);
2. The licence be awarded subject to the provisions of the Communications Act, 2009 (Act No. 8 of 2009) and Regulations regarding Licence Conditions for Telecommunications Service Licences as published in Government Gazette No. 5037, General Notice No. 308 dated 13 September 2012; and
3. That the utilisation of spectrum in 5725 -5875 MHz is subject to the technical conditions contained in Regulations regarding Licensing Exempt Spectrum as published in Government Gazette No. 4839, General Notice No. 395 dated 25 November 2011.

Kindly take note that section 31 of the Communications Act provides that the Authority may, on its own motion or on a petition filed by an aggrieved party to any proceedings, reconsider any order or decision that it has made, within 90 days from the date of making that decision or issuing that order.

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 327

2016

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

The Communications Regulatory Authority of Namibia, in terms of section 38(10)(i) of the Communications Act read with regulation 7, 11 and 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, herewith gives notice that it has approved the transfer of licence and control of licence from **Schoemans Technology (Pty) Ltd** to Wi-Tel Service Provider (Pty) Ltd.

1. INTRODUCTION

In terms of section 35(1) of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as “the Act”), Schoemans Technology (Pty) Ltd (hereinafter referred to as “Schoemans”), filed for the transfer of spectrum use licence on 2 March 2015. The licenses will be transferred to Wi-Tel Service Provider (Pty) Ltd.

2. PROCEDURAL COMPLIANCE

The notice of transfer was published as General Notice No. 520 in the Government Gazette No. 5867 dated 2 November 2015 in terms of Regulation 7 and 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Licences” 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 fourteen (14) days from the date of publication of the notice in the *Gazette*, which period lapsed on 16 November 2015.

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 Schoemans.

3. SUBSTANTIVE ANALYSIS OF APPLICATION

Regulation 7 of the Licensing Procedure Regulations provides that a licensee may request the Authority to authorize the transfer of its license or the transfer of control of its license and indicate the reasons for the transfer.

Schoemans indicated in the application that the reason for the transfer is that it finds it difficult to attract investors to allow for network building and expansion when trading under the name of Schoemans Technology (Pty) Ltd. This is mainly due to the fact that investors want to invest in the telecommunications market and not the ICT and Security Markets, which is the original niche market of Schoemans Technologies (Pty) Ltd. It is owing to the above that transferor would therefore like to transfer the licence to Wi Tel Service Provider (Pty) Ltd.

Schoemans is of the opinion that the transfer of licenses would further enable them to attract more investors as prescribed by section 2(i) of the Act and will increase competition as prescribed by section 2(k) of the Act.

The current shareholding of Schoemans is as follows:

Licensee	Licensee's citizenship or place of incorporation	Percentage stock owned by Namibian citizens or Namibian companies controlled by Namibian citizens
Schoemans Technologies (Pty) Ltd	Namibian	100%

The table below depicts the Proposed Shareholding and new licensee after the transfer of control and transfer of licence:

Licensee	Licensee's citizenship or place of incorporation	Percentage stock owned by Namibian citizens or Namibian companies controlled by Namibian citizens
Witel Service Provider (Pty) Ltd	Namibian	100%

Section 2(e) of the Communications Act, 2009 (Act No. 8 of 2009) states that one of the objectives of the Act is the promotion of local participation in the communications sector in Namibia. Schoemans Technology (Pty) Ltd is a 100% owned Namibian company. In turn Schoemans is the 100% shareholder of Wi-Tel Service Provider (Pty) Ltd. The transfer will thus be in conformity with the objects of the Communications Act.

On 29 October 2015, the Authority's Board of Directors approved the transfer of the licence and transfer of control of the Class Comprehensive Telecommunications Service Licence (ECS & ECNS), which decision was conveyed to the Applicant and further published in Government Gazette No. 5908 General Notice No. 573 dated 24 December 2015.

The service licence was transferred prior to the spectrum use licence due to the fact that the Authority had omitted to publish the transfer of control of spectrum licence application together with that of the service licence, which was published on 12 August 2015. The application for the spectrum use licence was thus only published on 2 November 2015.

Therefore a recommendation to approve the transfer of the service licence would naturally be accompanied by an approval of the transfer of the spectrum use licences. This is owing to the fact that in terms of section 101(6) of the Act, the type of service licence held by Applicant requires spectrum to provide services and the two licences can thus not stand alone. The Authority therefore recommends that the CRAN Board of Directors approves the application for transfer of licence and transfer of control of the spectrum use licence nation wide for fixed and WiMAX type services.

In addition to the above, the Authority is satisfied that the transfer of licences will not lead to any anti-competitive practices as defined in section 33(3) of the Act and therefore the Authority does not need to impose any conditions to maintain competition in the telecommunications sector as prescribed by section 33(4) of the Act.

All requirements in terms of Regulation 7 of the "Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Licenses" that deals with the transfer of licenses have been adhered to in that:

1. All pertinent information as required by Regulation 7(3) was submitted to the Authority in that Schoemans filed for the transfer of the licenses in the prescribed manner with the Authority for approval.

2. The transfer application was accompanied by the relevant application fee as required by Regulation 7(4).
3. The Board approved the transfer of licence and transfer of control of licences from Schoemans Technology (Pty) Ltd to Wi-Tel Service Provider (Pty) Ltd for Class Comprehensive Telecommunications Service Licence (ECS & ECNS) and the approval was published in Government Gazette No. 5908, General Notice No. 573 dated 24 December 2015. Spectrum use licences should be transferred in concurrence with service licences.

4. APPROVAL

The Authority herewith approves the transfer of the Spectrum Use License from Schoemans Technology (Pty) Ltd to Wi-Tel Service Provider (Pty) Ltd for the provision of telecommunications services as indicated below:

3650.000 – 3675.000 MHz

10755.000 – 10835.000 MHz

11285.000 – 11365.000 MHz.

F. KISHI

CHAIRPERSON OF THE BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 328

2016

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 13 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 read with section 42(2) of the Communications Act, 2009, herewith proposes that the following persons Spectrum Use License be modified:

Licensee	Percentage of Stock owned by Namibian Citizens or Namibian citizens or Namibian Companies controlled by Namibian Citizens;	Licence to be Modified	Radio Frequencies or group of frequencies to be modified;	Grounds for Modification	Proposed radio Frequencies or group of frequencies to be assigned;	Service provided using frequency assigned	Party providing Signal Distribution
Namibian Broadcasting Corporation (NBC)	Established in terms of section 2 of the Namibian Broadcasting Act (Act No. 9 of 1991)	Spectrum Use Licence as issued on 13 September 2012, published in Government Gazette 5037, Notice 306.	94.7 MHz (Gross Hertzog - Windhoek)	The frequency 91.7 MHz and 92.6 MHz at Gross Hertzog has been assigned to NBC National Radio (English). Frequency 92.6 MHz has covered a greater part of Windhoek and the surrounding areas, hence the decision to amend 91.7 MHz for Touch FM.	91.7 MHz	FM Broadcasting Service	Own

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
