



GOVERNMENT GAZETTE

OF THE

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Government Notice

MINISTRY OF INFORMATION AND COMMUNICATIONS TECHNOLOGY

No. 64

2011

COMMENCEMENT OF COMMUNICATIONS ACT, 2009 (ACT NO. 8 of 2009)

Under section 136(1) of the Communications Act, 2009 (Act No. 8 of 2009), I determine that the date on which the said Act (except Part 4 and 6 of Chapter V and Chapter IX) comes into operation is the date of publication of this notice.

J. KAAPANDA
MINISTER OF INFORMATION AND
COMMUNICATIONS TECHNOLOGY

Windhoek, 29 April 2011

General Notices

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 123

2011

REASONS DOCUMENT

The Board of the Communications Regulatory Authority of Namibia (CRAN) publishes this “Reasons Document”, to accompany the publication of the following regulations:

1. Regulations Setting out Broadcasting and Telecommunications Service Licence Categories;
2. Regulations Regarding Transitional Procedures for Telecommunications and Broadcasting; Service Licences and Spectrum Use Licences;
3. Regulations Regarding the Submission of Interconnection Agreements and Tariffs;
4. Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences; and
5. Regulations Regarding Consumer Complaints.

Background

The Board of CRAN, in terms of the Communications Act, 2009 published draft regulations for public comment, on 11 February 2011.

The following persons submitted comments.

- MultiChoice Namibia
- Mobile Telecommunications Limited
- Telecom Namibia
- Wireless Technologies Namibia
- The Namibia Consumer Trust
- TBN Namibia TV, UNAM Radio, Channel 7 Radio, Ohangwena Community Radio, Live FM Rehoboth, Karas Community Radio, BASE FM and Robin Tyson of the University of Namibia.

Decisions of CRAN

Licence Categories

Broadcasting Services

In setting out broadcasting services licence categories, CRAN has taken a forward looking approach that ensures that:

- i. The categorisation used does not infringe on the rights of current licensees; licensees will be able to continue doing what they have been doing with regard to providing services.
- ii. The categorisation does not stop any licensee from taking advantage of any emerging or future new technology.

iii. The categorisation does not get into the business models of the broadcasters.

Comments were raised about section 84(2) of the Act. CRAN took the various factors itemised in section 84(2) into account and resolved them through adopting a technology neutral approach, which is consistent with forward looking regulation. CRAN understands the spectrum scarcity issue, but considers it an issue that should not adversely impact broadcasting service licence categories.

Telecommunications Services

Some comments raised the issue of technology and service neutral telecommunications licensing. In the regulations published, it has been clarified that all of the telecommunications service categories of licences set out in the Regulations Setting out Broadcasting and Telecommunications Service Licence Categories, are technology and service neutral.

Procedural Regulations

The Authority made changes to the draft regulations based on the comments, many of which focused on the rights of parties to be heard adequately the Authority. The regulations as finally adopted strike the right balance between fairness and efficiency and give the Authority the flexibility to deal with matters as they arise, ensuring both fairness and efficiency. That said, if it is determined that any of the procedures need to be amended from time to time, the Authority will initiate a new rule-making proceeding to amend the regulations as and when necessary.

L. JACOBS
CHAIRPERSON
BOARD OF THE COMMUNICATIONS
REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 124

2011

**REGULATIONS SETTING OUT BROADCASTING AND TELECOMMUNICATIONS
SERVICE LICENCE CATEGORIES**

The Board of the Communications Regulatory Authority of Namibia, in terms of sections 37, 38 and 84, read with section 129 of the Communications Act, 2009 (Act No. 8 of 2009), hereby prescribes these “Regulations Setting out Broadcasting and Telecommunications Service Licence Categories”, effective from the date the Act comes into operation as determined by the Minister in terms of section 136(1) of the Act.

Definitions

1. In these regulations, any word or expression to which a meaning is assigned in the Act, shall have the same meaning and –

“Act” means the Communications Act, 2009 (Act No. 8 of 2009);

“Aeronautical service” means a radio service used principally for the purpose of the transmission of messages from and to aircraft;

“Alarm system service” means a radio service used in connection with the operations of an alarm system;

“Amateur service” means a radio service used for the purpose of self-training in radio communications, intercommunication using radio communications and technical investigation into radio communications by persons who do so solely for personal use and have no pecuniary interest in the operations of the service;

“Broadcasting back-haul system service” means a telecommunications service used in connection with the operations of a broadcasting back-haul system, whereby broadcasting content is transported to the point where it is made available in its final content format, from where it will be conveyed to any broadcast target area;

“Class telecommunications licence” means a licence awarded to a person who applies to the Authority and meets the criteria of the class and is not otherwise disqualified from holding a class licence;

“Commercial broadcasting service” means a broadcasting service operating for profit;

“Community broadcasting service” means a broadcasting service that serves a particular community (either geographic or a group of persons having a common interest) and is wholly-owned by a non-profit association registered in terms of section 21 of the Companies Act, 2004 (Act No. 28 of 2004) or, if it is not registered, is established in terms of a constitution (or other agreement) containing provisions that comply with the effect of the provisions of section 21 of the Companies Act, 2004 (Act No. 28 of 2004);

“Electronic communications network service” or “ECNS” means a service whereby a person makes available an electronic communications network, whether by sale, lease or otherwise –

- (a) for that person’s own use for the provision of an electronic communications service;
- (b) to another person for that other person’s use in the provision of an electronic communications service; or

(c) for resale;

“Electronic communications service” or “ECS” means any service provided to the public, sections of the public, or the subscribers to such service, which consists wholly or mainly of the conveyance of electronic communications over an electronic communications network, but excludes broadcasting services;

“Emergency response system service” means a radio service used in connection with the operations of an emergency response system;

“Individual licence” means a licence awarded to Telecom in terms of section 45 of the Act to provide ECNS and ECS;

“Maritime service” means a radio service between maritime ship stations, maritime coast stations and on-board communications stations associated with maritime ship stations, survival craft stations or emergency position indicating radio beacon stations;

“Navigation and radar system service” means a radio service used in connection with the operations of a navigation and radar system;

“Non-profit ECNS/ECS” means an electronic communications network service or electronic communications service that is wholly-owned by a non-profit association registered in terms of section 21 of the Companies Act, 2004 (Act No. 28 of 2004) or, if it is not registered, is established in terms of a constitution (or other agreement) containing provisions that comply with the effect of the provisions of section 21 of the Companies Act, 2004 (Act No. 28 of 2004);

“Private ECNS/ECS network” means an electronic communications network used for providing an electronic communications network service or electronic communications service solely for the provider’s own use;

“Public broadcasting service” means any broadcasting service provided by the Namibian Broadcasting Corporation;

“Resale of ECNS/ECS” means acquiring, through lease or other commercial arrangement, an electronic communications network service or electronic communications service and making such electronic communications network service or electronic communications service available to subscribers for a fee;

“Signal distribution” means the electronic communications network service where the output signal of a broadcasting service is taken from the point of origin, being the point where such signal is made available in its final content format, from where it is conveyed to any broadcast target area, by means of electronic communications.

Submission of documents to the Authority

2. In these regulations “submit in writing to the Authority” means by hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek or at alternative addresses set out by the Authority from time to time.

Purpose

3. (1) These regulations set out the broadcasting licence categories in terms of section 84 of the Communications Act.

(2) These regulations set out the telecommunications licence categories in terms of sections 37 and 38 of the Communications Act.

Broadcasting service licence categories

4. (1) The following are categories of broadcasting service licences -

- (a) Commercial;
- (b) Community;
- (c) Public; and
- (d) Signal Distribution.

(2) In respect of the commercial, community, and public broadcasting service categories, each broadcasting service licensee may provide its own signal distribution service or may contract with a signal distribution service licensee for such service.

(3) In respect of the commercial, community, and public broadcasting service categories, each broadcasting service licensee must, in addition to its broadcasting service licence, obtain from the Authority any required radio frequency spectrum licence.

Telecommunications service licence categories

5. (1) The following are categories of telecommunications service licences, all of which are technology and service neutral -

- (a) Individual (Comprehensive telecommunications service licence (ECNS and ECS)); and
- (b) Class;
 - (i) ECS;
 - (ii) ECNS; and
 - (iii) Comprehensive telecommunications service licence (ECNS and ECS).

(2) Persons may provide the following telecommunications services without a licence -

- (a) Private ECNS/ECS;
- (b) Resale of ECNS/ECS;
- (c) Non-profit ECNS/ECS;
- (d) Amateur service;
- (e) Aeronautical service;
- (f) Maritime service;
- (g) Navigation and radar system service;

- (h) Alarm system service;
- (i) Emergency response system service; and
- (j) Broadcasting back-haul system service.

(3) Each telecommunications service licensee must, in addition to its telecommunications service licence, and each person providing a telecommunications service that may be provided without a licence, must obtain from the Authority any required radio frequency spectrum licences.

Manner of prosecuting regulatory offences

6. (1) The form of summons to be issued by the Authority in terms of section 115(1) of the Act, is included herein and marked “SUMMONS IN TERMS OF SECTION 115(1) OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009)”.

(2) The form of notice the accused must submit in writing to the Authority in terms of section 115(2) and (6) of the Act is included herein, marked “NOTICE IN TERMS OF SECTION 115(2) AND (6) OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) - RESPONSE TO SUMMONS”.

SUMMONS IN TERMS OF SECTION 115(1) OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009)

To [Insert name of the accused]:	
Date:	
[Insert the following information, if known]	
Physical Address:	
Postal Address:	
Tel:	
Fax:	
E-mail:	

You are herewith notified in terms of section 115(1) of the Communications Act, 2009 (Act No. 8 of 2009) , that on or about the _____ day of _____, 20____, at or near _____, you are alleged to have committed a regulatory offence in terms of section 114 of the Act, in that you [*Set out allegation of facts, and state the regulatory offence that the accused is alleged to have committed*]:

The Authority may, after a hearing to determine the appropriate sanction or penalty, impose any or all of the following penalties, in terms of section 115(4) of the Act, if you admit the offence alleged in this summons or admit a different offence and the Authority accepts that admission:

Impose a fine;

Declare any telecommunications equipment or radio apparatus forfeited; and

Amend or withdraw any licence issued to you.

If you deny the offence alleged or the Authority does not accept your admission of a different offence, the Authority may forward a request to prosecute the matter to the Prosecutor-General.

In terms of section 115(2) and (6) of the Act, you must deliver a notice to the Authority, within thirty (30) days from the date of acknowledging receipt of this summons, indicating whether you admit or deny the commission of the offence alleged or whether you admit any other offence referred to in section 114 of the Act, in the form prescribed by the Authority, entitled “NOTICE IN TERMS OF SECTION 115(2) AND (6) OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) - RESPONSE TO SUMMONS”.

ACKNOWLEDGEMENT OF RECEIPT BY ACCUSED:

Full Name:	
Date:	
Place:	
Signature:	

FOR OFFICE USE ONLY:

DELIVERED BY:	
Full Name:	
Date:	
Place:	
Signature:	

NOTICE IN TERMS OF SECTION 115(2) AND (6) OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) - RESPONSE TO SUMMONS

From [Insert full, legal name]	
Date:	
[Insert the following information]	
Physical Address:	
Postal Address:	
Tel:	
Fax:	
E-mail:	

Admission of Offence:

I herewith admit that I committed the regulatory offence stated in the summons issued by the Communications Regulatory Authority of Namibia on _____, reference number _____.

OR

In response to the summons issued by the Communications Regulatory Authority of Namibia on _____, reference number _____, I herewith admit an alternative regulatory offence referred to in section 114 of the Communications Act, 2009. [State facts and state the regulatory offence admitted.]

OR

Denial of Offence:

I herewith deny that I committed the regulatory offence stated in the summons issued by the Communications Regulatory Authority of Namibia on _____, reference number _____.
[State facts supporting the denial.]

SIGNATURE OF ACCUSED

Signed at _____ on the _____ day of _____ 20____.

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

L. JACOBS
CHAIRPERSON
BOARD OF THE COMMUNICATIONS
REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 125

2011

**REGULATIONS REGARDING TRANSITIONAL PROCEDURES FOR
TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND
SPECTRUM USE LICENCES**

The Board of the Communications Regulatory Authority of Namibia, in terms of sections 45(1), 92, 101 and 135, read with section 129 of the Communications Act, 2009 (Act No. 8 of 2009), publishes these "Regulations Regarding Transitional Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences", effective from the date the Act comes into operation as determined by the Minister in terms of section 136(1) of the Act.

Definitions

1. In these regulations, any word or expression to which a meaning is assigned in the Act, shall have the same meaning, and -

"Act" means the Communications Act, 2009 (Act No. 8 of 2009).

Submission of documents to the Authority

2. In these regulations "submit in writing to the Authority" means 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: cran@cran.na;

(4) by facsimile to the following facsimile number: +264 6123 8646; or

(5) in any other manner or at alternative addresses set out by the Authority from time to time.

Applicability

3. These regulations are applicable to the transition of licences and specifically to -

(1) licensees contemplated in sections 92 and 135(2) of the Act;

(2) persons lawfully providing services without a licence contemplated in section 135(5) of the Act, including the Namibian Broadcasting Corporation;

(3) Telecom Namibia Limited's deemed applications in terms of sections 45(1) and 101(9) of the Act;

(4) applicants contemplated in section 135(10) of the Act;

(5) person's having authority to use spectrum contemplated in section 101(11) of the Act; and

(6) the application to use spectrum required for defence purposes by the Namibian Defence Force or any other organ of the State in terms of section 101(12) of the Act.

Telecommunications and broadcasting service licensees contemplated in sections 92 and 135(2) of the Act

4. (1) A person who holds a licence to provide telecommunications services or broadcasting services or operate, construct or use an electronic communications network contemplated by section 135(2) of the Act, must submit a copy of their licence or licences to the Authority within thirty (30) days from the date the relevant provisions of the Act come into operation, provided that if any of the following information is not included in the licence or licences or is inaccurate as recorded in the licence or licences, the licensee must submit such information in writing in the form made available by the Authority -

- (a) full and official name of the licensee and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;
- (b) name of the contact person (if different) and the following contact details -
 - (i) physical address;
 - (ii) postal address;
 - (iii) telephone number(s);
 - (iv) facsimile numbers(s); and
 - (v) electronic mail address(es);
- (c) full details of all ownership interests in the licensee, including the identity and nationality of holders of ownership interests and if the holders of ownership interests are juristic persons, full details of all the juristic persons' ownership interests;
- (d) full details regarding foreign ownership interests in the licensee;
- (e) a complete, accurate and concise statement of the services licensed, including a description and diagram of any network operated, constructed or used;
- (f) an indication whether and to what extent the services are currently being provided;
- (g) an indication whether and to what extent applicable licence fees (including spectrum use fees) have been paid and proof thereof; and
- (h) any other information the licensee believes might be relevant to the Authority in carrying out its functions set out in section 135(2) of the Act.

(2) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Persons lawfully providing services without a licence contemplated in section 135(5) of the Act, including the Namibian Broadcasting Corporation; and Telecom Namibia Limited's deemed applications in terms of sections 45(1) and 101(9) of the Act

5. (1) A person who is lawfully providing a service or operating, constructing or using a network without a licence as contemplated in section 135(5) of the Act (including Namibian

Broadcasting Corporation and Telecom Namibia Limited), must submit, in writing to the Authority within sixty (60) days from the date the relevant provisions of the Act come into operation, the following information and documentation in the form made available by the Authority -

- (a) the full and official name of the person providing a service or operating, constructing or using a network, and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;
- (b) the name of the contact person (if different) and the following contact details -
 - (i) physical address;
 - (ii) postal address;
 - (iii) telephone number(s);
 - (iv) facsimile numbers(s); and
 - (v) electronic mail address(es);
- (c) full details of all ownership interests in the person referred to in regulation 5(1)(a), including the identity and nationality of holders of ownership interests and if the holders of ownership interests are juristic persons, full details of all the juristic persons' ownership interests;
- (d) full details regarding foreign ownership interests in the person referred to in regulation 5(1)(a); and
- (e) a complete, accurate and concise statement of the services being provided, including a description and diagram of any network operated, constructed or used.

(2) Any person who is lawfully providing a service or operating, constructing or using a network without a licence as contemplated in section 135(5) of the Act (excluding Telecom and those persons providing services that may be provided without a licence in terms of regulations made in terms of section 37 the Act), must submit in writing to the Authority within the time set out in section 135(5) the Act, an application for a licence or licences in the form made available by the Authority.

- (3) The application must -
 - (a) identify the legal basis on which the service is provided or network operated, constructed or used;
 - (b) indicate the licence or licences that the person referred to in regulation 5(2) believes it is entitled to in terms of the Regulations Setting out Broadcasting and Telecommunications Service Licence Categories, setting out a clear and concise statement of motivation, including reference to the relevant provisions of the Act and regulations; and
 - (c) include any other information the person referred to in regulation 5(2) believes might be relevant to the Authority in carrying out its functions set out in sections 135(5-8) of the Act.

(4) Telecom Namibia Limited must submit in writing to the Authority within six (6) months of the coming into operation of the Act, an amendment to its deemed licence application provided for in sections 45(1) and 101(9) of the Act, proposing detailed licence conditions related to

the issues set out in sections 45(2), 45(3), 45(4), 45(5), 45(6) of the Act in the form made available by the Authority.

(5) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Applicants contemplated in section 135(10) of the Act

6. (1) Any person who has an application pending before the Namibian Communications Commission as contemplated in section 135(10) of the Act, must submit in writing to the Authority within thirty (30) days from the date the relevant provisions of the Act come into operation, the following information and documentation in the form made available by the Authority -

- (a) the full and official name of the applicant and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;
- (b) the name of the contact person (if different) and the following contact details -
 - (i) physical address;
 - (ii) postal address;
 - (iii) telephone number(s);
 - (iv) facsimile numbers(s); and
 - (v) electronic mail address(es);
- (c) a copy of the pending application if available or if not available, a concise statement of the application, and a concise statement of the history and status of the application; and
- (d) an amendment to the application as contemplated in section 135(11) to include -
 - (i) full details of all ownership interests in the applicant, including the identity and nationality of holders of ownership interests and if the holders of ownership interests are juristic persons, full details of all the juristic persons' ownership interests;
 - (ii) full details regarding foreign ownership interests in the applicant; and
 - (iii) any other amendment, setting out clear and concise reasons for the amendment, including references to any relevant provisions of the Act.

(2) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Persons having authority to use spectrum contemplated in sections 101(11) of the Act

7. (1) Any person who holds a licence, certificate or authority (collectively, in this regulation 7, a licence) contemplated by section 101(11) of the Act must submit a copy of their licence or licences to the Authority within thirty (30) days from the date the relevant provisions of the Act come into operation, provided that if any of the following information is not included in the licence or licences or is inaccurate as recorded in the licence or licences, the licensee must submit such information in writing in the form made available by the Authority -

- (a) full and official name of the licensee, and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;
- (b) name of the contact person (if different) and the following contact details -
 - (i) physical address;
 - (ii) postal address;
 - (iii) telephone number(s);
 - (iv) facsimile numbers(s); and
 - (v) electronic mail address(es);
- (c) full details of all ownership interests in the licensee, including the identity and nationality of holders of ownership interests and if the holders of ownership interests are juristic persons, full details of all the juristic persons' ownership interests;
- (d) full details regarding foreign ownership interests in the licensee;
- (e) a complete and accurate list of licences, certificates and authorities held, and in respect of spectrum use licences, a list of radio frequencies or groups of radio frequencies licensed, and a concise explanation of the services provided using the spectrum, including a description and diagram of any network operated, constructed or used;
- (f) an indication whether and to what extent the spectrum is currently being used; and
- (g) an indication whether and to what extent spectrum use fees have been paid and proof thereof.

(2) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

The application to use spectrum required for defence purposes by the Namibian Defence Force or any other organ of the State in terms of section 101(12) of the Act

8. (1) The Namibian Defence Force and any other organ of State using spectrum for defence purposes that is a deemed licensee in terms of section 101(12) of the Act, must submit in writing to the Authority within thirty (30) days from the date the relevant provisions of the Act come into operation, the following information and documentation in the form made available by the Authority -

- (a) the full and official name of the deemed licensee;
- (b) the name of the contact person and the following contact details -
 - (i) physical address;
 - (ii) postal address;
 - (iii) telephone number(s);
 - (iv) facsimile numbers(s); and

(v) electronic mail address(es).

(2) The Namibian Defence Force and any other organ of State using spectrum for defence purposes that is a deemed licensee in terms of section 101(12) of the Act must also submit in writing to the Authority within the time set out in section 101(12) of the Act, an application for a licence or licences required by the Act.

(3) The application must include -

- (a) a complete and accurate list of radio frequencies or groups of radio frequencies that have been assigned to it for defence purposes;
- (b) an indication whether and to what extent the spectrum is currently being used;
- (c) a copy of any radio frequency assignments;
- (d) an indication whether and to what extent spectrum use fees have been paid and proof thereof;
- (e) any other information the deemed licensee believes might be relevant to the Authority in carrying out its functions set out in sections 101(12) of the Act.

(4) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Licence review procedures

9. (1) In respect of any licence review to be performed by the Authority in terms of these regulations, as soon as possible after receiving the information submitted by licensees in terms of these regulations, the Authority will publish a notice in the *Government Gazette* setting out the list of licences issued under previous licensing dispensations along with an indication as to what licence or licences will be issued to the licensees in terms of the Regulations Setting out Broadcasting and Telecommunications Service Licence Categories.

(2) Any person who has a right to a licence that does not appear on the list contemplated in regulation 9(1) above, must submit the information required by these regulations in writing to the Authority within fourteen (14) days from the date of publication of the *Government Gazette* referred to in regulation 9(1), after which the Authority will publish a second notice in the *Government Gazette* setting out a revised list of licences.

(3) After the Authority publishes the second notice referred to in regulation 9(2), the public may submit in writing to the Authority, comments, within thirty (30) days from the date of publication.

(4) If the Authority considers it necessary, it will provide the opportunity to the licensee to respond to public comments.

(5) Licensee responses to public comments must be submitted in writing to the Authority within the time set out by the Authority, which time may not be less than fourteen (14) days from the submission of public comments or if the opportunity for the submission of responses is published in a subsequent *Government Gazette*, not less than fourteen (14) days from the date of publication.

(6) The time for the submission of licensee responses are to be determined by the Authority in light of the nature of the review proceeding.

(7) The Authority may consider written submissions not timeously filed if, in its opinion, it is practicable to do so.

(8) The Authority may request further written submissions, for example, further information or clarification, which must be provided to the Authority in the time and the manner set out by the Authority.

(9) All written submissions must -

(a) 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;

(b) be clear and concise; and

(c) conform to any further requirements determined by the Authority from time to time.

(10) After receiving any written and oral submissions, the Authority will issue the appropriate new licences contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence Categories to licensees, provided however -

(a) If any licensee does not provide all of the information required by these regulations in the time provided, the licensee's licence may be revoked by the Authority and no new licence will be issued, and in the case of spectrum licences, spectrum may be reallocated to other licensees; and

(b) No new licence will be issued to licensees in terms of these regulations until -

(i) all fees due and payable in respect of the licences being reviewed are paid; and

(ii) all licences issued under previous licensing dispensations are returned to the Authority; and

(c) If the licensee is providing a service that falls within the category of services that may be provided without a licence, the Authority will not issue a service licence to that person.

Transitional licence application procedures

10. (1) Excepting the application to use spectrum by the Namibian Defence Force and any other organ of State using spectrum for defence purposes, in respect of any licence application made or amended in terms of these regulations, the Authority will publish notice of the application in the *Government Gazette*.

(2) After the Authority publishes a notice of an application in the *Government Gazette*, the public may submit in writing to the Authority, comments, within the time set out in the notice, which time may not be less than thirty (30) days from the date of publication.

(3) If the Authority considers it necessary, it will provide the opportunity to the applicant to respond to public comments.

(4) Applicant responses to public comments must be submitted in writing to the Authority within the time established by the Authority, which time may be not less than fourteen (14) days from the submission of public comments or if the opportunity for the submission of responses

is published in a subsequent *Government Gazette*, not less than fourteen (14) days from the date of publication.

(5) The times for the submission of public comments and applicant responses are to be determined by the Authority in light of the nature of the licence application.

(6) The Authority may consider written submissions not timeously filed if, in its opinion, it is practicable to do so.

(7) The Authority may request further written submissions, for example, further information or clarification, which must be provided to the Authority in the time and the manner set out by the Authority.

(8) All written submissions must -

(a) 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;

(b) be clear and concise; and

(c) conform to any further requirements determined by the Authority from time to time.

(9) After considering any licence application made or amended in terms of these regulations and any written and oral submissions, the Authority will either deny the application or grant the application, in whole or in part, and issue the appropriate licence or licences contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence Categories, provided however -

(a) If any applicant does not provide all of the information required by these regulations in the time provided, the Authority will not grant and issue a licence; and

(b) If the applicant is intending to provide a service that falls within the category of services that may be provided without a licence, the Authority will not issue a service licence to that person.

Oral hearings

11. (1) If the Authority considers it necessary or appropriate, it will also hear oral submissions in respect of any licence review carried out or licence application made or amended in terms of these regulations.

(2) The Authority must invite the public to make oral submissions at least fourteen (14) days prior to the hearing.

(3) Unless otherwise specified by the Authority, hearings will be open to the public.

(4) The format and agenda of the hearing is at the discretion of the Authority, depending on the nature of the proceeding, provided however, that the hearing should be informal in nature.

(5) All oral submissions must -

(a) include a statement of the name and contact details of the person making the oral submission and the name and contact details of the person for whom the oral submission is made, if different;

- (b) be clear and concise; and
 - (c) conform to any further requirements determined by the Authority from time to time.
- (6) If the Authority considers it necessary, it will provide the opportunity to the licensee or applicant to respond to oral submissions.
- (7) The Authority may request further oral or written submissions, for example, further information or clarification, which must be provided to the Authority in the time and the manner set out by the Authority.
- (8) At the conclusion of the hearing, a concise report summarising the oral submissions must be prepared and placed in the relevant file by the Authority.

Confidential information

12. (1) Any person providing information or documentation may designate information as confidential, provided, however, if the Authority is of the opinion that the information is not confidential, it must inform the person that it may withdraw the information, agree that it will not be treated as confidential, or request a hearing on the issue of confidentiality to be conducted in terms of section 28 of the Act.

(2) Any person making oral submissions may request a closed hearing on the grounds that the submissions are confidential. Closed hearings will be treated as confidential meetings in terms of section 29 of the Act, and the notice of the closed meeting required by section 29(4) must be maintained in the relevant file.

Condonation

13. (1) In the event any party is unable to comply with the times set out in these regulations, they may request from the Authority an extension of time at least seven (7) days prior to the time set out.

(2) The Authority will respond to the request for condonation within two (2) days, and may either grant or deny the request, in its sole discretion, based on, among other things, the nature of the proceeding and the reasons for non-compliance with the times set out.

***Ex parte* communications**

14. A person may not communicate with the members of the Board, the CEO or staff members of, or consultants to the Authority to discuss the subject matter of a licence review or licence application proceeding, except as provided for herein.

Record of proceedings

15. (1) All documents deemed relevant by the Authority to the licence review proceedings contemplated by the Act and these regulations, including information and documentation provided in terms of these regulations and decisions made by the Authority, must be maintained by the Authority in a file at the head offices of the Authority and if practicable, on the Authority's website.

(2) All documents deemed relevant by the Authority to the licence application proceedings contemplated by the Act and these regulations, including information and documentation provided in terms of these regulations and decisions made by the Authority, must be maintained by the Authority separately for each application proceeding in files located at the head offices of the Authority and if practicable, electronically, on the Authority's website.

(3) Except for confidential information, any person may examine the licence review and licence application proceedings files either 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, or, if available, on the Authority's website where copies may be downloaded free of charge.

Publication of licensing decisions and licences

16. (1) All decisions made in terms of these regulations and the relevant provisions of the Act will be communicated to the applicants and licensees and other relevant parties in writing together with reasons, and may be published in the *Government Gazette*.

(2) The Authority's register of licences maintained in terms of section 27(3) of the Act and copies of all licences, will be held at the head offices of the Authority and if practicable, on the Authority's website.

(3) Any person may examine the register of licences and copies of licences either 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, or, if available, on the Authority's website where copies may be downloaded free of charge.

Reconsideration

17. (1) The Authority may, on its own, reconsider any decision made in terms of these regulations within the time set out in section 31 of the Act.

(2) Any person may request the Authority in writing to reconsider any decision made in terms of these regulations within thirty (30) days of notice of the decision, and the Authority will reconsider such regulation within the time set out in section 31 of the Act.

(3) The Authority may publish its decision on reconsideration without further submissions being received, or it may provide an opportunity for further submissions in a manner stated by the Authority.

L. JACOBS
CHAIRPERSON
BOARD OF THE COMMUNICATIONS
REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 126

2011

**REGULATIONS REGARDING THE SUBMISSION OF
INTERCONNECTION AGREEMENTS AND TARIFFS**

The Board of the Communications Regulatory Authority of Namibia, in terms of sections 49 and 53, read with section 129 of the Communications Act, 2009 (Act No. 8 of 2009), publishes these “Regulations Regarding the Submission of Interconnection Agreements and Tariffs”, effective from the date the Act comes into operation as determined by the Minister in terms of section 136(1) of the Act.

Definitions

1. In these regulations, any word or expression to which a meaning is assigned in the Act, shall have the same meaning and –

“Act” means the Communications Act, 2009 (Act No. 8 of 2009);

“Domestic Interconnection Agreement” means an interconnection agreement concluded between persons who are licensed to provide services in Namibia or who are providing services in Namibia that may be provided without a licence; and

“International Interconnection Agreement” means an interconnection agreement concluded between a person who is licensed to provide services in Namibia or who is providing services in Namibia that may be provided without a licence, and a person authorised to provide services in a jurisdiction outside of Namibia.

Submission of documents to the Authority

2. In these regulations “submit in writing to the Authority” means 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: cran@cran.na;

(4) by facsimile to the following facsimile number: +264 61 23 8646; or

(5) in any other manner or at alternative addresses set out by the Authority from time to time.

Applicability

3. (1) These regulations are applicable to the submission of interconnection agreements to the Authority in terms of sections 49(4) and (16) of the Act.

(2) These regulations are applicable to the submission and amendment of tariffs in terms of sections 53(6) and (7) of the Act.

Interconnection agreements

4. (1) All parties to Domestic Interconnection Agreements must submit in writing to the Authority copies of all Domestic Interconnection Agreements within the time set out in section 49(4) of the Act.

(2) All domestic parties to International Interconnection Agreements must submit in writing to the Authority copies of all International Interconnection Agreements within the time set out in section 49(16) of the Act.

(3) The Authority may request further information or documentation regarding the submitted interconnection agreements, which must be provided to the Authority in the time and the manner set out by the Authority.

(4) All interconnection agreements submitted in terms of these regulations must include a cover letter containing the name and contact details of the person submitting the agreement and the name and contact details of the person for whom the agreement is submitted, if different.

Decisions and publication of interconnection agreements

5. (1) After considering a Domestic Interconnection Agreement and any further written information or documentation regarding the interconnection agreement, the Authority must approve or disapprove the interconnection agreement in the manner set out in section 49(6) of the Act.

(2) After considering an International Interconnection Agreement and any further written information or documentation regarding the interconnection agreement, the Authority must determine whether it has the effect of impairing competition or the interoperability of networks, and if it does, hold a hearing to impose obligations on the licensee as contemplated in section 49(17) of the Act.

(3) The Authority must maintain a register of interconnection agreements submitted to it and copies of all interconnection agreements, physically at the head offices of the Authority and if practicable, electronically, on the Authority's website.

(4) Any person may examine the register of interconnection agreements and copies of interconnection agreements either 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, or if available on the Authority's website where copies may be downloaded free of charge.

Oral hearings regarding international interconnection agreements

6. (1) If the Authority determines that an International Interconnection Agreement has the effect of impairing competition or the interoperability of networks, the Authority must invite the licensee and the public to make oral submissions by notice in the *Government Gazette* at least fourteen (14) days prior to the hearing.

(2) Unless otherwise specified by the Authority, hearings will be open to the public.

(3) The format and agenda of the hearing is at the discretion of the Authority, provided however, the hearing should be informal in nature.

(4) All oral submissions must -

(a) include a statement of the name and contact details of the person making the oral submission and the name and contact details of the person for whom the oral submission is made, if different;

- (b) be clear and concise; and
 - (c) conform to any further requirements determined by the Authority from time to time.
- (5) If the Authority considers it necessary, it will provide the opportunity to the licensee to respond to oral submissions.
- (6) The Authority may request further oral or written submissions, for example, further information or clarification, which must be provided to the Authority in the time and the manner set out by the Authority.
- (7) At the conclusion of the hearing, a concise report summarising the oral submissions must be prepared and placed in the relevant file by the Authority.

Tariffs

7. (1) All persons who are entitled to a comprehensive telecommunications service licence in the licence transition process in terms of section 135 of the Act, must submit in writing to the Authority a tariff within the time set out in section 53(6) of the Act, or an amendment to a tariff contemplated in section 53(7) of the Act within the time set out in section 53(8) of the Act.
- (2) The tariffs and amendments must comply with the provisions of section 53 of the Act, including sections 53(8), (9), and (18).
- (3) The Authority may request further information or documentation regarding the submitted tariffs and amendments, which must be provided to the Authority in the time and the manner set out by the Authority.
- (4) All tariffs and amendments submitted in terms of these regulations must include a cover letter containing the name and contact details of the person submitting the tariff and the name and contact details of the person for whom the tariff is submitted, if different.

Decisions and publication of tariffs

8. (1) After the submission of a tariff or tariff amendment, the Authority will as soon as is practicable, publish a notice of the submission in the *Government Gazette*.
- (2) The Authority must maintain copies of all tariffs submitted to it at the head offices of the Authority and if practicable, on the Authority's website.
- (3) Any person may examine copies the tariffs and tariff amendments 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, or, if practicable, on the Authority's website where copies may be downloaded free of charge.
- (4) After considering the tariff or tariff amendment and any further written information or documentation, the Authority must take such action as is contemplated in sections 53(12-19) of the Act.
- (5) The Authority must maintain a register of approved tariffs and tariff amendments (to be known as the register of tariffs), and copies of all such tariffs and tariff amendments, at the head offices of the Authority and if practicable, on the Authority's website.
- (6) Any person may examine the register of tariffs and copies of approved tariffs and tariff amendments either 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, or, if available, on the Authority's website where copies may be downloaded free of charge.

Written submissions on tariffs

9. (1) After the Authority publishes a *Government Gazette* notice referred to in regulation 8(1), the public may submit in writing to the Authority written comments within fourteen (14) days from the date of publication of the notice.

(2) The person who submitted the tariff or tariff amendment 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.

(3) The Authority may consider written submissions not timeously filed if, in its opinion, it is practicable to do so.

(4) The Authority may request further written submissions, for example, further information or clarification, which must be provided to the Authority in the time and the manner set out by the Authority.

(5) All written submissions must -

(a) 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

(b) be clear and concise; and

(c) conform to any further requirements determined by the Authority from time to time.

Confidential information

10. (1) Any person submitting documents or making written submissions to the Authority in terms of these regulations may designate information as confidential, provided, however, if the Authority is of the opinion that the information is not confidential, it must inform the person that he or she may withdraw the information, agree that it will not be treated as confidential, or request a hearing on the issue of confidentiality to be conducted in terms of section 28 of the Act, provided however that tariffs and interconnection agreements themselves are not confidential.

(2) Any person making oral submissions may request a closed hearing on the grounds that the submissions are confidential, provided however that tariffs and interconnection agreements themselves are not confidential. A closed hearing will be treated as a confidential meeting in terms of section 29 of the Act, and the notice of the closed meeting required by section 29(4) must be maintained in the relevant file.

Condonation

11. (1) In the event any party is unable to comply with the times set out in these regulations, they may request from the Authority an extension of time at least seven (7) days prior to the time set out.

(2) The Authority will respond to the request for condonation within two (2) days, and may either grant or deny the request, in its sole discretion, based on, among other things, the nature of the proceeding and the reasons for non-compliance with the times set out.

***Ex parte* communications**

12. (1) A person may not communicate with the members of the Board to discuss the subject matter of a submission made in terms of these regulations, unless a request to do so is

addressed to the Chairperson of the Board, has been granted, and provided that the person and the Board both must submit a report to the Authority summarising the substance of the discussion and indicating whom was communicated with and when.

(2) A person may communicate with the CEO or staff members of, or consultants to the Authority, at the official premises of the Authority, to discuss the subject matter of a submission made in terms of these regulations, provided however, the person and the CEO or staff members of, or consultants to the Authority both must submit a report to the Authority summarising the substance of the discussion and indicating whom was communicated with and when.

Record of proceedings

13. (1) All documents deemed relevant by the Authority to the interconnection and tariff proceedings contemplated by the Act and these regulations, including documents submitted to the Authority, written submissions, reports of oral hearings, and *ex parte* communication reports must be maintained by the Authority in a file kept separate for each proceeding, at the head offices of the Authority and if practicable, on the Authority's website.

(2) Except for confidential information, any person may examine a interconnection agreement or tariff proceeding file either 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, or, if available, on the Authority's website where copies may be downloaded free of charge.

Reconsideration

14. (1) The Authority may reconsider any decision made in terms of these regulations, within the time set out in section 31 of the Act.

(2) Any person may request the Authority in writing to reconsider any decision made in terms of these regulations, within thirty (30) days, and the Authority will reconsider such regulation within the time set out in section 31 of the Act.

(3) The Authority may publish its decision on reconsideration without further submissions being received, or it may provide an opportunity for the public to provide further written or oral submissions in a manner determined by the Authority.

L. JACOBS
CHAIRPERSON
BOARD OF THE COMMUNICATIONS
REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 127

2011

REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Board of the Communications Regulatory Authority of Namibia, in terms of sections 40, 85 and 101, read with section 129 of the Communications Act, 2009 (Act No. 8 of 2009), hereby publishes these “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, effective from the date the Act comes into operation as determined by the Minister in terms of section 136(1) of the Act.

Definitions

1. In these regulations, any word or expression to which a meaning is assigned in the Act, shall have the same meaning and –

“Act” means the Communications Act, 2009 (Act No. 8 of 2009).

Submission of documents to the Authority

2. In these regulations “submit in writing to the Authority” means 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: cran@cran.na;

(4) by facsimile to the following facsimile number: +264 61 23 8646; or

(5) in any other manner or at alternative addresses set out by the Authority from time to time.

Applicability

3. These regulations are applicable to -

(1) Class telecommunications service licence applications;

(2) Broadcasting service licence applications;

(3) Spectrum use licence applications, where the Authority, in its sole discretion, determines that spectrum use licence applications will be processed on a first come, first served basis;

(4) Licence transfer applications (for telecommunications service, broadcasting service and spectrum use);

(5) Licence amendment applications (for telecommunications service, broadcasting service and spectrum use);

(6) Licence renewal applications (for telecommunications service, broadcasting service and spectrum use); and

(7) Withdrawal of licences by licensees (for telecommunications service, broadcasting service and spectrum use).

Class telecommunications service licence applications

4. (1) A person intending to provide a class telecommunications service must submit, in writing to the Authority, an application for a class telecommunications service licence in the form made available by the Authority.

(2) The application must –

(a) set out the full and official name of the person intending to provide a class telecommunications service (applicant), and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;

(b) set out the name of the contact person (if different from the applicant) and the following contact details –

(i) physical address;

(ii) postal address;

(iii) telephone number(s);

(iv) facsimile numbers(s); and

(v) electronic mail address(es);

(c) set out full details of all ownership interests in the applicant, including the identity and nationality of holders of ownership interests and if the holders of ownership interests are juristic persons, full details of all their ownership interests;

(d) set out full details regarding foreign ownership interests in the applicant;

(e) identify the category of class telecommunications service licence as contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence Categories;

(f) set out a complete, accurate and concise statement of the telecommunications services intended to be provided, including a description and diagram of any network to be operated, constructed or used; and

(g) include any other information the applicant believes might be relevant to the Authority in considering the application.

(3) The class telecommunications service licence application must be accompanied by the relevant application fee as determined by the Authority from time to time.

(4) The class telecommunications service licence application must be accompanied by a spectrum use licence application if the applicant intends to use spectrum in the provision of the telecommunications service.

(5) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Broadcasting service licence applications

5. (1) Any person intending to provide a broadcasting service as contemplated in the Act and Regulations Setting out Broadcasting and Telecommunications Service Licence Categories, must submit, in writing to the Authority, an application for a broadcasting service licence in the form made available by the Authority.

- (2) The application must –
- (a) set out the full and official name of the person intending to provide a broadcasting service (applicant), and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;
 - (b) set out the name of the contact person (if different from the applicant) and the following contact details –
 - (i) physical address;
 - (ii) postal address;
 - (iii) telephone number(s);
 - (iv) facsimile numbers(s); and
 - (v) electronic mail address(es);
 - (c) set out full details of all ownership interests in the applicant, including the identity and nationality of holders of ownership interests and if the holders of ownership interests are juristic persons, full details of all their ownership interests;
 - (d) set out full details regarding foreign ownership interests in the applicant;
 - (e) if the applicant is a juristic person, set out full names, nationalities and identity numbers of the members of the Board of Directors or other governing body;
 - (f) identify the category of broadcasting service licence as contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence Categories;
 - (g) in respect of the commercial, community, and public broadcasting service categories, indicate whether the applicant intends to provide its own signal distribution service or whether it intends to contract with a signal distribution service licensee for such service;
 - (h) in respect of the commercial, community, and public broadcasting service categories, indicate whether the applicant intends to use spectrum in the provision of the broadcasting service;
 - (i) set out a complete, accurate and concise statement of the broadcasting services intended to be provided;
 - (j) in respect of commercial, community, and public broadcasting service categories, set out a proposed programme schedule detailing the daily transmission time allocated to different programme types;

- (k) include a statement of accounts setting out the financial resources available to the applicant in relation to the broadcasting service licence applied for;
 - (l) include a concise statement of expertise and experience of the applicant;
 - (m) indicate full details of any ownership interests held in existing broadcasting services licences and other broadcasting services licence applications, by the applicant and if the applicant is a juristic persons, by persons who hold ownership interests in the applicant; and
 - (n) include any other information the applicant believes might be relevant to the Authority in considering the application.
- (3) The broadcasting service licence application must be accompanied by the relevant application fee as determined by the Authority from time to time.
- (4) In respect of commercial, community, and public broadcasting service categories, the broadcasting service licence application must be accompanied by a spectrum use licence application if the applicant intends to use spectrum in the provision of the broadcasting service.
- (5) In respect of commercial, community, and public broadcasting service categories, the broadcasting service licence application must be accompanied by a signal distribution licence application if the applicant intends to provide its own signal distribution service and the applicant is not already a signal distribution service licensee.
- (6) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Spectrum use licence applications

6. (1) Any person intending to use spectrum, where the Authority, in its sole discretion, determines that spectrum use licence applications will be processed on a first come, first served basis, must submit, in writing to the Authority, an application for a spectrum use licence in the form made available by the Authority.
- (2) The application must -
- (a) set out the full and official name of the person intending to use spectrum (applicant), and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;
 - (b) set out the name of the contact person (if different from the applicant) and the following contact details -
 - (i) physical address;
 - (ii) postal address;
 - (iii) telephone number(s);
 - (iv) facsimile numbers(s); and
 - (v) electronic mail address(es);
 - (c) set out full details of all ownership interests in the applicant, including the identity and nationality of holders of ownership interests and if the holders of ownership interests are juristic persons, full details of all their ownership interests;

- (d) set out a complete list of radio frequencies or groups of radio frequencies being applied for;
- (e) set out a complete, accurate and concise statement of the services intended to be provided using the spectrum being applied for;
- (f) include the completed technical portion of the application form made available by the Authority; and
- (g) include any other information the applicant believes might be relevant to the Authority in considering the application.

(3) The spectrum use licence application must be accompanied by the relevant application fee as determined by the Authority from time to time.

(4) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Transfer of licences and transfer of control of licences

7. (1) A licensee may request the Authority to authorise the transfer of its licence or the transfer of control of its licence by submitting in writing to the Authority, an application to transfer a licence or transfer control of a licence, in the form made available by the Authority.

(2) Name changes and transfers of ownership interests not resulting in a transfer of control do not require prior approval from the Authority, however the Authority must be notified of the impending change at least fourteen (14) days prior to the effective date.

(3) The application must -

- (a) set out details of the licence, including the licence number and include a copy of the licence;
- (b) set out full details of the licensee, including the full and official name of the licensee, and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;
- (c) set out the name of the contact person (if different from the licensee) and the following contact details -
 - (i) physical address;
 - (ii) postal address;
 - (iii) telephone number(s);
 - (iv) facsimile numbers(s); and
 - (v) electronic mail address(es);
- (d) in respect of telecommunications service licences, set out the details of the proposed new licensee, called for in sections 4 (2) (a) - (d) and (g) of these regulations;
- (e) in respect of broadcasting service licences, set out the details of the proposed new licensee, called for in sections 5 (2) (a) - (e) and 5 (2) (k) - (n) of these regulations;

- (f) in respect of spectrum use licences, set out the details of the proposed new licensee called for in sections 6 (2) (a) - (c) and (g) of these regulations;
 - (g) set out a complete, accurate and concise statement of the reasons for the proposed transfer or transfer of control; and
 - (h) include any other information the applicant believes might be relevant to the Authority in considering the application.
- (4) The transfer application must be accompanied by the relevant application fee as determined by the Authority from time to time.
- (5) If any amendment to the licence is sought, the licence transfer application must be accompanied by a licence amendment application.
- (6) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Amendment of licences

8. (1) A licensee may request the Authority to amend its licence by submitting in writing to the Authority, an application to amend a licence in the form made available by the Authority.

(2) Changes to the licensee's name and name and details of contact persons do not require prior approval from the Authority, but the Authority must be notified of the impending change at least fourteen (14) days prior to the effective date.

- (3) The application must -
 - (a) set out details of the licence, including the licence number and include a copy of the licence;
 - (b) set out full details of the licensee, including the full and official name of the licensee, and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;
 - (c) set out the name of the contact person (if different from the licensee) and the following contact details -
 - (i) physical address;
 - (ii) postal address;
 - (iii) telephone number(s);
 - (iv) facsimile numbers(s); and
 - (v) electronic mail address(es);
 - (d) set out a complete, accurate and concise statement of the proposed amendment;
 - (e) set out a complete, accurate and concise statement of the reasons for the proposed amendment; and

- (f) include any other information the applicant believes might be relevant to the Authority in considering the application.

(4) The amendment application must be accompanied by the relevant application fee as determined by the Authority from time to time.

(5) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Renewal of licences

9. (1) A licensee may request the Authority to renew its licence by submitting in writing to the Authority, an application to renew a licence in the form made available by the Authority.

(2) The application must -

(a) set out details of the licence, including the licence number and include a copy of the licence;

(b) set out full details of the licensee, including the full and official name of the licensee, and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;

(c) set out the name of the contact person (if different from the licensee) and the following contact details -

(i) physical address;

(ii) postal address;

(iii) telephone number(s);

(iv) facsimile numbers(s); and

(v) electronic mail address(es);

(d) set out a complete and accurate statement detailing any action taken by the Authority or other entity with competent jurisdiction in relation to any breach or alleged breach by the licensee of the Act, regulations or the licensee's licence; and

(e) include any other information the applicant believes might be relevant to the Authority in considering the application.

(3) The amendment application must be accompanied by the relevant application fee as determined by the Authority from time to time.

(4) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Withdrawal of licences

10. (1) If a licensee cannot provide service in accordance with its licence for a period greater than twenty-four (24) hours, it must notify the Authority of that occurrence within twenty-four (24) hours of the occurrence, or if the licensee was unaware of the interruption of service, as soon as the licensee becomes aware of the occurrence.

(2) If a licensee intends to permanently discontinue providing service in accordance with its licence, it must request the Authority to withdraw its licence by submitting in writing to the Authority, an application to withdraw a licence in the form made available by the Authority.

(3) The application must -

- (a) set out full details of the licence, including the licence number and include a copy of the licence;
- (b) set out full details of the licensee, including the full and official name of the licensee, and if a natural person, the identity number of that person, and if a juristic person, the registration number of that person;
- (c) set out the name of the contact person (if different from the licensee) and the following contact details -
 - (i) physical address;
 - (ii) postal address;
 - (iii) telephone number(s);
 - (iv) facsimile numbers(s); and
 - (v) electronic mail address(es);
- (d) set out a complete, accurate and concise statement of the reasons for the proposed withdrawal;
- (e) set out the date the licensee intends to permanently discontinue providing service, which must be at least sixty (60) days after the date the application is submitted;
- (f) indicate whether the licensee has paid all fees payable to the Authority in relation to the licence; and
- (g) include any other information the applicant believes might be relevant to the Authority in considering the application.

(4) The Authority may request further information or documentation, which must be provided to the Authority in the time and the manner set out by the Authority.

Application procedures

11. (1) In respect of any application made in terms of these regulations, the Authority will publish a notice of the application in the *Government Gazette*.

(2) After the Authority publishes notice of an application in the *Government Gazette*, the public may submit in writing to the Authority, comments within the time set out in the notice, which time may not be less than fourteen (14) days from the date of publication.

(3) If the Authority considers it necessary, it will provide the opportunity to the applicant to respond to public comments.

(4) Applicant responses to public comments must be submitted in writing to the Authority within the time set out by the Authority, which time may be not less than fourteen (14) days from the submission of public comments or if the opportunity for the submission of responses

is published in a subsequent *Government Gazette*, not less than fourteen (14) days from the date of publication.

(5) The times for the submission of public comments and applicant responses are to be determined by the Authority in light of the nature of the application.

(6) The Authority may consider written submissions not timeously filed if, in its opinion, it is practicable to do so.

(7) The Authority may request further written submissions, for example, further information or clarification, which must be provided to the Authority in the time and the manner set out by the Authority.

(8) All written submissions must -

(a) 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;

(b) be clear and concise; and

(c) conform to any further requirements determined by the Authority from time to time.

(9) After considering any application made in terms of these regulations and any written and oral submissions, the Authority will either deny the application or grant the application, in whole or in part, and –

(a) issue the appropriate licence in respect of class telecommunications service licence applications, broadcasting services licence applications and spectrum use licence applications;

(b) issue the appropriate licence to the transferee in respect of licence transfer applications;

(c) issue an amended licence in respect of licence amendment applications; or

(d) issue a renewal licence in respect of licence renewal applications.

(10) In the event the Authority is unable to render a decision within thirty (30) days, the Authority will inform the applicant or licensee of its inability and the reasons for such inability and what measures are being taken to address the matter urgently, which matter must then be addressed within a further maximum period of fourteen (14) days, unless the Authority has identified extraordinary circumstances, beyond its reasonable control that makes it impossible to render its decision within the further maximum period of fourteen (14) days.

Licence modification procedures

12. (1) The Authority may initiate a licence modification proceeding contemplated in section 42(2) of the Act by providing notice to a licensee setting out the proposed modification and the grounds for such modification.

(2) The licensee may submit in writing to the Authority, comments within the time set out in the notice, which time may not be less than thirty (30) days from the date of notice.

(3) Thereafter, the Authority will publish a notice, either as originally proposed or as modified taking into account the licensee's comments, of a proposed licence modification in the *Government Gazette*.

(4) After the Authority publishes the notice of a proposed licence modification in the *Government Gazette*, the public may submit in writing to the Authority, comments within the time set out in the notice, which time may not be less than thirty (30) days from the date of publication.

(5) If the Authority considers it necessary, it will provide the opportunity to the licensee to respond to public comments.

(6) Licensee responses to public comments must be submitted in writing to the Authority within the time set out by the Authority, which time may be not less than fourteen (14) days from the submission of public comments or if the opportunity for the submission of responses is published in a subsequent *Government Gazette*, not less than fourteen (14) days from the date of publication.

(7) The times for the submission of public comments and licensee responses are to be determined by the Authority in light of the nature of the application.

(8) The Authority may consider written submissions not timeously filed if, in its opinion, it is practicable to do so.

(9) The Authority may request further written submissions, for example, further information or clarification, which must be provided to the Authority in the time and the manner set out by the Authority.

(10) All written submissions must -

- (a) 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;
- (b) be clear and concise; and
- (c) conform to any further requirements determined by the Authority from time to time.

(11) After considering any written and oral submissions in respect of a proposed licence modification, the Authority must either issue a modified licence or decide not to issue the modified licence.

(12) In the event the Authority is unable to render a decision within thirty (30) days, the Authority will inform the applicant or licensee of its inability and the reasons for such inability and what measures are being taken to address the matter urgently, which matter must then be addressed within a further maximum period of fourteen (14) days, unless the Authority has identified extraordinary circumstances, beyond its reasonable control that makes it impossible to render its decision within the further maximum period of fourteen (14) days.

Oral hearings

13. (1) If the Authority considers it necessary or appropriate, it will also hear oral submissions in respect of any application made in terms of these regulations or any licence modification proceeding.

(2) The Authority must invite the public to make oral submissions at least fourteen (14) days prior to the hearing.

(3) Unless otherwise specified by the Authority, hearings will be open to the public.

(4) The format and agenda of the hearing is at the discretion of the Authority, depending on the nature of the proceeding, provided however, that the hearing should be informal in nature.

- (5) All oral submissions must -
- (a) include a statement indicating the name and contact details of the person making the oral submission and the name and contact details of the person for whom the oral submission is made, if different;
 - (b) be clear and concise; and
 - (c) conform to any further requirements determined by the Authority from time to time.
- (6) If the Authority considers it necessary, it will provide the opportunity to the licensee or applicant to respond to oral submissions.
- (7) The Authority may request further oral or written submissions, for example, further information or clarification, which must be provided to the Authority in the time and the manner set out by the Authority.
- (8) At the conclusion of the hearing, a concise report summarising the oral submissions must be prepared and placed in the relevant application file by the Authority.

Confidential information

14. (1) Any person providing information or documentation may designate information as confidential, provided, however, if the Authority is of the opinion that the information is not confidential, it must inform the person that it may withdraw the information, agree that it will not be treated as confidential, or request a hearing on the issue of confidentiality to be conducted in terms of section 28 of the Act.

(2) Any person making oral submissions may request a closed hearing on the grounds that the submissions are confidential. Closed hearings will be treated as confidential meetings in terms of section 29 of the Act, and the notice of the closed meeting required by section 29(4) must be maintained in the relevant application file.

Condonation

15. (1) In the event any party is unable to comply with the times set out in these regulations, they may request from the Authority an extension of time at least seven (7) days prior to the time set out.

(2) The Authority will respond to the request for condonation within two (2) days, and may either grant or deny the request, in its sole discretion, based on, among other things, the nature of the proceeding and the reasons for non-compliance with the times set out.

***Ex parte* communications**

16. A person may not communicate with the members of the Board, the CEO or staff members of, or consultants to the Authority, to discuss the subject matter of an application proceeding, except as provided for herein.

Record of proceedings

17. (1) All documents deemed relevant by the Authority to the application proceedings contemplated by these regulations, including information and documentation provided in terms of these regulations and decisions made by the Authority, must be maintained by the Authority separately for each application in files located at the head offices of the Authority and, if practicable, on the Authority's website.

(2) Except for confidential information, any person may examine the application proceeding files either 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 from time to time, and, if available, on the Authority's website where copies may be downloaded free of charge.

Publication of licensing decisions and licences

18. (1) All decisions made in terms of these regulations will be communicated to the applicants and other relevant parties in writing together with reasons, and may be published in the *Government Gazette*.

(2) The Authority's register of licences maintained in terms of section 27(3) of the Act and copies of all licences, will be held at the head offices of the Authority and if practicable, on the Authority's website.

(3) Any person may examine the register of licences and copies of licences either 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, and, if available, on the Authority's website where copies may be downloaded free of charge.

Reconsideration

19. (1) The Authority may, on its own, reconsider any decision made in terms of these regulations within the time set out in section 31 of the Act.

(2) Any person may submit to the Authority in writing a request to reconsider any decision made in terms of these regulations within thirty (30) days of notice of the decision, and the Authority will reconsider such regulation within the time set out in section 31 of the Act.

(3) The Authority may publish its decision on reconsideration without further submissions being received, or it may provide an opportunity for further submissions in a manner set out by the Authority.

L. JACOBS
CHAIRPERSON
BOARD OF THE COMMUNICATIONS
REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 128

2011

REGULATIONS REGARDING CONSUMER COMPLAINTS

The Board of the Communications Regulatory Authority of Namibia, in terms sections 90(1) and 131, read with section 129 of the Communications Act, 2009 (Act No. 8 of 2009), hereby publishes these “Regulations Regarding Consumer Complaints”, effective from the date the Act comes into operation as determined by the Minister in terms of section 136(1) of the Act.

Definitions

1. In these regulations, any word or expression to which a meaning is assigned in the Act, shall have the same meaning, and -

“Act” means the Communications Act, 2009 (Act No. 8 of 2009);

“Complaint(s)” means any complaint -

- (a) alleging non-compliance or breach of a licence;
- (b) alleging non-compliance or breach of a contract;
- (c) alleging non-compliance or breach of the Act or regulations; and
- (d) shall include, but is not limited to, complaints involving the following -
 - (i) billing;
 - (ii) charges and refunds;
 - (iii) service deliver and product delivery;
 - (iv) confidential information;
 - (v) customer services and customer treatment; and
 - (vi) service interruptions and dropped calls.

“Complainant” means any person, natural or juristic, who is a customer or potential customer of a person providing a service contemplated in the Act; and

“Respondent” means the person against whom the Complaint is lodged, either a licensee or a person providing a service without a licence.

Submission of documents to the Authority

2. In these regulations submit or lodge “in writing to the Authority” means 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: cran@cran.na;
- (4) by facsimile to the following facsimile number: +264 61 23 8646; or
- (5) in any other manner or at alternative addresses set out by the Authority from time to time.

Applicability

3. (1) These regulations are applicable to all Complaints submitted by Complainants and specifically to -

- (a) Complaints contemplated in terms of section 90(1) of the Act; and
- (b) Complaints contemplated in terms of section 131 of the Act.

Submission of complaints by complainants

4. (1) A Complainant may submit a Complaint in writing to the Authority on a form made available by the Authority -

(a) after the Complainant has submitted the substance of the Complaint to the Respondent and after fourteen (14) days, the Respondent has not adequately resolved the matter; or

(b) upon a showing of good cause why the substance of the Complaint was not first submitted to the Respondent.

(2) Complaints shall contain -

- (a) the name and contact details of the Complainant and the name and contact details of the person submitting the Complaint, if different;
- (b) the name of the Respondent, or if the name of the Respondent is unknown, as many identifying details as are available in order to assist the Authority in identifying the Respondent;
- (c) an accurate and concise statement of the facts illustrating the Complaint and demonstrating that the Respondent acted wrongly;
- (d) a clear and concise statement of the specific relief or remedy sought; and
- (e) any other relevant information.

(3) Licensees and persons providing services without a licence must establish clear and simple internal procedures for the resolution of Complaints submitted directly to them by customers and potential customers, which must include provisions ensuring the resolution of Complaints within fourteen (14) days of receipt of a Complaint and notifying complainants of the right to submit a Complaint to the Authority in terms of these regulations if the matter has not been resolved within fourteen (14) days.

(4) Licensees and persons providing services without a licence must maintain records of all internal Complaints and Complaints submitted to the Authority in terms of these regulations, and provide an annual report to the Authority in the format and on the date set out by the Authority, along with a copy of their internal procedures.

Adjudication of complaints

5. (1) Upon receiving a Complaint, the Authority will within forty-eight (48) hours -

- (a) issue the Complainant with an acknowledgement of receipt of the Complaint and a reference number; and
- (b) if the Complaint is not frivolous, inform the Respondent of the Complaint and provide a copy of the Complaint.

(2) The Respondent must submit in writing to the Authority its response to the Complaint within seven (7) days of receipt of the Complaint. The Respondent must simultaneously provide a copy of the response to the Complainant.

(3) The Complainant may submit in writing to the Authority its reply to the response within seven (7) days of receipt of the Respondent's response. The Complainant must simultaneously provide a copy of the reply to the Respondent.

(4) All written submissions must be clear and concise and conform to any further requirements determined by the Authority from time to time.

(5) The Authority may request additional information or documentation from the Complainant or the Respondent relating to the Complaint, and may stipulate the time periods within and the manner in which such information or documentation should be submitted.

(6) Thereafter, the Authority may either, and in no particular order -

- (a) order mediation in terms of section 132 of the Act;
- (b) initiate an investigation in terms of sections 122 – 127 of the Act;
- (c) conduct oral hearings;
- (d) dismiss the Complaint, either wholly or partly;
- (e) grant the relief sought in the Complaint, either wholly or partly;
- (f) impose any appropriate penalty, including a fine; or
- (g) take any other action or decision, as may be appropriate in the circumstances, or refuse to take any action or decision, as may be appropriate in the circumstances.

Oral hearings

6. (1) If the Authority considers it necessary or appropriate, it will conduct an oral hearing.

(2) The Authority must invite the Complainant and Respondent and any witnesses, at least seven (7) days prior to the oral hearing, to make oral submissions.

(3) Unless otherwise specified by the Authority, hearings will be open to the public.

(4) The format and agenda of the hearing is at the discretion of the Authority, depending on the nature of the Complaint.

- (5) All oral submissions must –
- (a) include a statement of the name and contact details of the person making the oral submission and the name and contact details of the person for whom the oral submissions is made, if different; and
 - (b) be clear and concise; and
 - (c) conform to any further requirements determined by the Authority.
- (6) If the Authority considers it necessary, it will provide the opportunity for the submission of responses to oral submissions.
- (7) The Authority may request further oral or written submissions, for example, further information or clarification, from the person making the oral submissions, which documentation must be provided to the Authority in the time and the manner set out by the Authority.
- (8) At the conclusion of the hearing, a concise report summarising the oral submissions must be prepared by the Authority as part of the record of the hearing.

Decisions of the Authority

7. (1) The Authority will render a decision in respect of the Complaint within fourteen (14) days.
- (2) After rendering its decision, the Authority will reduce the decision to writing, which must contain -
- (a) concise findings of fact and conclusions of law; and
 - (b) the appropriate order, sanction, relief, or remedy or the denial of the requested order, sanction, relief or remedy.
- (3) In the event the Authority is unable to render a decision within fourteen (14) days, the Authority will inform the Complainant and the Respondent of its inability and the reasons for such inability and what measures are being taken to address the matter urgently. The matter must be addressed within a further maximum period of fourteen (14) days, unless the Authority has identified extraordinary circumstances beyond its reasonable control that makes it impossible to render its decision within the further maximum period of fourteen (14) days.

Confidential information

8. (1) Any person providing information or documentation may designate information as confidential, provided, however, if the Authority is of the opinion that the information is not confidential, it must inform the person that it may withdraw the information, agree that it will not be treated as confidential, or request a hearing on the issue of confidentiality to be conducted in terms of section 28 of the Act.
- (2) Any person making oral submissions may request a closed hearing on the grounds that the submissions are confidential. Closed hearings will be treated as confidential meetings in terms of section 29 of the Act, and the notice of the closed meeting required by section 29(4) must be maintained in the relevant Complaint file.

Condonation

9. (1) In the event any party is unable to comply with the times set out in these regulations, they may request from the Authority an extension of time at least seven (7) days prior to the time set out.

(2) The Authority will respond to the request for condonation within two (2) days, and may either grant or deny the request, in its sole discretion, based on, among other things, the nature of the proceeding and the reasons for non-compliance with the times set out.

(3) In the event the Authority grants the request for condonation, the extension of time may not exceed the maximum period of fourteen (14) days calculated from the original time set out.

Ex parte communications

10. A person may not communicate with the members of the Board, the CEO or staff members of, or consultants to the Authority to discuss the subject matter of any Complaint, except as provided for herein.

Record of proceedings

11. (1) All documents deemed relevant by the Authority to a Complaint must be maintained by the Authority in the most appropriate format.

(2) Except for confidential information, any person may examine the file of a Complaint 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, and, if practicable on the Authority's website where copies may be downloaded free of charge.

Publication of decisions

12. (1) After concluding a Complaint proceeding, the Authority shall inform the Complainant and the Respondent of its decision and deliver a copy of the decision to the aforementioned parties.

(2) The Authority will maintain a public register of its decisions rendered and copies of all decisions, at the head offices of the Authority and if practicable, on the Authority's website.

(3) Any person may examine the register of decisions and copies of decisions 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, and, if available, on the Authority's website where copies may be downloaded free of charge.

Reconsideration

13. (1) The Authority may reconsider any decision made in terms of these regulations, within the time set out in section 31 of the Act.

(2) Any person may request the Authority in writing to reconsider any decision made in terms of these regulations, within thirty (30) days of the publication of the final decision, and the Authority will reconsider such regulation within the time set out in section 31 of the Act.

(3) The Authority may publish its decision on reconsideration without further submissions being received, or it may provide an opportunity for the public to provide further written or oral submissions in a manner stated by the Authority.

L. JACOBS
CHAIRPERSON
BOARD OF THE COMMUNICATIONS
REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 129

2011

**PUBLICATION OF FORMS REFERRED TO IN THE
REGULATIONS REGARDING CONSUMER COMPLAINTS**

The Board of the Communications Regulatory Authority of Namibia , in terms of the Regulations Regarding Consumer Complaints, prescribed the content of the various forms.

The regulations require the Authority to make the forms available. Accordingly, the following two (2) forms are herewith published in the *Government Gazette*:

1. Complaint Form: Consumer Complaints and
2. Report Form: Consumer Complaints

The Authority will also make the forms available on its website, where they may be downloaded free of charge.

L. JACOBS
CHAIRPERSON
BOARD OF THE COMMUNICATIONS
REGULATORY AUTHORITY OF NAMIBIA

**COMPLAINT FORM
CONSUMER COMPLAINTS**

In terms of Regulation 4 of the Regulations Regarding Consumer Complaints, consumer Complaints must be submitted on this form, after the Respondent has been given fourteen (14) days to first resolve the matter.

Was this complaint first submitted to the Respondent? _____

If yes, what date was it submitted to the Respondent? _____

If no, first submit a complaint to the Respondent and allow the Respondent fourteen (14) days to resolve the matter, alternatively provide a clear and concise statement of the reason why the complaint was not first submitted to the Respondent.

After completing this form, sign it and submit it to the Authority as required by the Regulations Regarding Consumer Complaints.

A. COMPLAINANT

Complainant	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

B. CONTACT PERSON (IF DIFFERENT FROM COMPLAINANT)

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

C. RESPONDENT

Respondent	
------------	--

D. COMPLAINT

Provide an accurate and concise statement of the facts illustrating the Complaint and demonstrating that the Respondent acted wrongly.

E. RELIEF SOUGHT

Provide a clear and concise statement of the specific relief or remedy sought.

F. ANY OTHER INFORMATION

Provide any other relevant information.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

**REPORT FORM
CONSUMER COMPLAINTS**

In terms of Regulation 4(3) of the Regulations Regarding Consumer Complaints, licensees and persons providing services without a licence must maintain records of all complaints and provide an annual report to the Authority on this form.

After completing this form, sign it and submit it to the Authority by no later than 31 January for the previous calendar year.

A. LICENSEE OR PERSON PROVIDING A SERVICE WITHOUT A LICENCE

Name	
Indicate whether the person is a licensee or a person providing a service without a licence	

B. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

C. COMPLAINTS STATISTICS

Number of complaints received	
Number of Complaints resolved within 14 days	
Number of Complaints resolved after 14 days	
Number of complaints not resolved after 14 days	
Number of complaints not resolved after 14 days, which were subsequently submitted to the Authority	
Nature of complaints most received (eg, billing, charges, service and product delivery, confidential information, customer service, service interruptions and dropped calls)	1.
	2.
	3.
Any preventative measures taken in response to complaints	
Any other relevant information	

D. COMPLAINTS SUBMITTED TO CRAN

Complainant	Nature of Complaint	Date Received	Resolution or Status

E. UNRESOLVED COMPLAINTS NOT SUBMITTED TO CRAN

Complainant	Nature of Complaint	Date Received	Resolution or Status

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 130

2011

**PUBLICATION OF FORMS REFERRED TO IN THE REGULATIONS REGARDING
TRANSITIONAL PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING
SERVICE LICENCES AND SPECTRUM USE LICENCES**

The Board of the Communications Regulatory Authority of Namibia, in terms of the Regulations Regarding Transitional Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, prescribed the content of certain information and application forms.

The regulations require the Authority to make the forms available. Accordingly, the following seven (7) information and application forms are herewith published in the *Government Gazette*:

1. Information Form to be submitted by Telecommunications and Broadcasting Service Licensees contemplated in sections 92 and 135(2) of the Act;
2. Information Form to be submitted by Persons Lawfully Providing Services Without a Licence Contemplated in section 135(5) of the Act, (including Namibian Broadcasting Corporation, and Telecom Namibia Limited);
3. Application Form to be Submitted by Persons Lawfully Providing Services Without a Licence Contemplated in section 135(5) of the Act;
4. Information Form to be Submitted by Persons with Pending Applications Submitted to the Namibian Communications Commission Contemplated in section 135(10) of the Act;
5. Information Form to be Submitted by Persons Having Authority to Use Spectrum Contemplated in section 101(11) of the Act;
6. Information Form for the Use of Spectrum for Defence Purposes to be Submitted by the Namibian Defence Force and any other Organ of State Contemplated in section 101(12) of the Act; and
7. Application Form for the Use of Spectrum for Defence Purposes to be Submitted by the Namibian Defence Force and any other Organ of State Contemplated in section 101(12) of the Act.

The Authority will also make the forms available on its website, where they may be downloaded free of charge.

L. JACOBS
CHAIRPERSON
BOARD OF THE COMMUNICATIONS
REGULATORY AUTHORITY OF NAMIBIA

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

E. SERVICES BEING PROVIDED

Provide a complete, accurate and concise statement of the services being provided, including a description and diagram of any network operated, constructed or used.

F. LICENCE FEES

Indicate whether and to what extent applicable licence fees (including spectrum use fees) have been paid and submit proof thereof.

G. ANY OTHER INFORMATION

Provide any other information you believe might be relevant to the Authority.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

APPLICATION FORM
TO BE SUBMITTED BY PERSONS LAWFULLY PROVIDING SERVICES
WITHOUT A LICENCE CONTEMPLATED IN SECTION 135(5)
OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009)

In terms of Regulations 5(2) and (3) of the Regulations Regarding Transitional Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, you are required to submit an application on this form.

After completing the form, sign it and submit it (as well as any other attachments) to the Authority as required by Regulation 5(2) and (3).

A. APPLICANT

Applicant	
ID or Registration Number of Applicant	

B. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

C. LEGAL BASIS

Identify the legal basis on which the service is provided or network operated, constructed or used.

D. LICENCE CATEGORY(IES)

Indicate the licence or licences that you believe you are entitled in terms of the Regulations Regarding Broadcasting and Telecommunications Service Licence Categories made in terms of sections 37, 38 and 84, and set out a clear and concise statement of motivation, including reference to the relevant provisions of the Act and Regulations.

E. ANY OTHER INFORMATION

Provide any other information you believe might be relevant to the Authority.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

INFORMATION FORM

TO BE SUBMITTED BY PERSONS WITH PENDING APPLICATIONS SUBMITTED TO THE
NAMIBIAN COMMUNICATIONS COMMISSION CONTEMPLATED IN SECTION 135(10)
OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009)

In terms of Regulation 6 of the Regulations Regarding Transitional Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, you are required to provide the following information on this form.

After completing the form, sign it and submit it along any attachments to the Authority as required by Regulation 6.

A. LICENSEE

Licensee	
ID or Registration Number of Licensee	

B. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

C. PENDING APPLICATION

Attach a copy of the pending application if available, and if not, provide a concise statement of the pending application and a concise statement of the history and status of the pending application.

D. AMENDMENT TO THE PENDING APPLICATION

1. OWNERSHIP INTERESTS

Owner Name	Percentage of Ownership	Nationality of Owner

Reproduce the table above and complete it for each owner who is a juristic person.

2. FOREIGN OWNERSHIP INTERESTS

Provide full details regarding foreign ownership interests in the licensee.

3. ANY OTHER AMENDMENT

Indicate any other amendment, setting out clear and concise reasons for the amendment, including references to the relevant provisions of the Act.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

E. LIST OF LICENCES, CERTIFICATES AND AUTHORITIES HELD

Provide a complete and accurate list of licences, certificates and authorities held and in respect of spectrum use licences, a list of radio frequencies or groups of radio frequencies licensed, and a concise explanation of the services provided using the spectrum, including a description and diagram of any network operated, constructed or used.

F. USE OF SPECTRUM

Indicate whether and to what extent the spectrum is currently being used.

G. LICENCE FEES

Indicate whether and to what extent applicable spectrum use fees have been paid and submit proof thereof.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

INFORMATION FORM
FOR THE USE OF SPECTRUM FOR DEFENCE PURPOSES TO BE SUBMITTED BY THE
NAMIBIAN DEFENCE FORCE OR OTHER ORGAN OF THE STATE CONTEMPLATED IN
SECTION 101(12) OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009)

In terms of Regulation 8(1) of the Regulations Regarding Transitional Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, you are required to submit the information on this form.

After completing the form, sign it and submit it along with any attachments to the Authority as required by Regulation 8.

A. DEEMED LICENSEE

Deemed Licensee	
-----------------	--

B. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

E. LICENCE FEES

Indicate whether and to what extent spectrum use fees have been paid and submit proof thereof.

F. ANY OTHER INFORMATION

Provide any other information you believe might be relevant to the Authority.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 131

2011

**PUBLICATION OF FORMS REFERRED TO IN THE REGULATIONS REGARDING
LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING
SERVICE LICENCES AND SPECTRUM USE LICENCES**

The Board of the Communications Regulatory Authority of Namibia, in terms of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licence, prescribed the content of certain application forms.

The regulations require the Authority to make the forms available. Accordingly, the following nine (9) application forms are herewith published in the *Government Gazette*:

1. Application Form: Class Telecommunications Service Licence;
2. Application Form: Broadcasting Service Licence;
3. Application Form: Spectrum Use Licence;
4. Application Form: Transfer of Licences and Transfer of Control of Licences - Telecommunications Service Licences;
5. Application Form: Transfer of Licences and Transfer of Control of Licences - Broadcasting Service Licences;
6. Application Form: Transfer of Licences and Transfer of Control of Licences - Spectrum Use Licences;
7. Application Form: Amendment of Telecommunications or Broadcasting Service Licence or Spectrum Use Licence;
8. Application Form: Renewal of Telecommunications or Broadcasting Service Licence or Spectrum Use Licence; and
9. Application Form: Withdrawal of Telecommunications or Broadcasting Service Licence and Spectrum Use Licence.

The Authority will also make the forms available on its website, where they may be downloaded free of charge.

L. JACOBS
CHAIRPERSON
BOARD OF THE COMMUNICATIONS
REGULATORY AUTHORITY OF NAMIBIA

E. CATEGORY OF CLASS TELECOMMUNICATIONS SERVICE LICENCE

Identify the type of telecommunications service licence for which you are applying.

Class ECS	
Class ECNS	
Class Comprehensive telecommunications service licence (ECS and ECNS)	

F. SERVICES TO BE PROVIDED

Set out a complete, accurate and concise statement of the telecommunications services you intend to provide, including a description and diagram of any envisaged network to be operated, constructed or used.

G. ANY OTHER INFORMATION

Provide any other information you believe might be relevant to the Authority in considering this application.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

E. BOARD OF DIRECTORS

If the applicant is a juristic person, set out full names, nationalities and identity numbers of the members of the Board of Directors or other governing body.

Director Name	Nationality	Identity number

F. CATEGORY OF BROADCASTING SERVICE LICENCE

Identify the type of broadcasting service licence for which you are applying.

Commercial broadcasting service	
Community broadcasting service	
Public broadcasting service	
Signal distribution	

G. SIGNAL DISTRIBUTION

If this application is for a commercial, community, or public broadcasting service licence, indicate whether the applicant intends to provide its own signal distribution service, and if so, ensure that an application for a signal distribution licence is simultaneously submitted with the Authority, or whether it intends to contract with a signal distribution service licensee for such service, and if so, identify the signal distribution service licensee.

H. SPECTRUM USE

If this application is for a commercial, community, or public broadcasting service licence, indicate whether the applicant intends to use spectrum in the provision of the broadcasting service, and if so, ensure that an application for a spectrum use licence is simultaneously submitted with the Authority.

N. ANY OTHER INFORMATION

Provide any other information you believe might be relevant to the Authority in considering this application.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

G. TECHNICAL PORTION

Complete the relevant part(s).

1. Indicate the transmission medium(s) (e.g. terrestrial, satellite, etc.)

2. Describe the geographic coverage area(s). Indicate the radius covered by both antenna's and the transmitters. Attach a diagram of each coverage area.

3. Indicate the physical address(es) where the transmitter(s) would be located and include the geographical co-ordinates, up to seconds.

4. Indicate the make and model of the transmitter. Attach the specifications, including frequency requirements of the equipment and type approval certificates.

5. Indicate the modulation scheme.

6. Indicate the bit rate (bits/s).

7. Indicate the transmitter power (dBW/W).

8. Indicate the antenna make and model. Attach the specifications, including frequency requirements of the equipment and type approval certificates.

9. Indicate the description, the make and model of the relevant equipment. Attach the specifications, including frequency requirements of the equipment and type approval certificates.

10. Indicate the maximum antenna gain (dB).

11. Indicate the antenna diameter (m).

12. Indicate the antenna polarization (H/V).

13. Indicate the effective radiated power (dBW/Watt).

14. Indicate receiver sensitivity threshold (dBm).

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

APPLICATION FORM
TRANSFER OF LICENCES AND TRANSFER OF CONTROL OF LICENCES:
TELECOMMUNICATIONS SERVICE LICENCES

In terms of Regulation 7 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, a person intending to transfer its licence or transfer control of its licence must submit an application to the Authority on this form.

After completing the form, sign it and submit it to the Authority as required by Regulation 7, along with the relevant application fee or proof that the application fee has been paid to the Authority.

A. LICENCE

Set out details of the licence and attach a copy of the licence.

Licence Type	
Licence Number	

B. LICENSEE

Licensee	
ID or Registration Number of Licensee	

C. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

D. TRANSFEREE

Transferee	
ID or Registration Number of Transferee	

E. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

**APPLICATION FORM
TRANSFER OF LICENCES AND TRANSFER OF CONTROL OF LICENCES:
BROADCASTING SERVICE LICENCES**

In terms of Regulation 7 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, a person intending to transfer its licence or transfer the control of its licence must submit an application to the Authority in this form.

After completing the form, sign it and submit it to the Authority as required by Regulation 7.

A. LICENSEE

Licensee	
ID or Registration Number of Licensee	

B. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

C. DETAILS OF THE LICENCE

Attach a copy of the licence the applicant licensee wishes to transfer or transfer control of.

DATE OF ISSUE OF LICENCE:	
LICENCE NUMBER:	
TYPE OF LICENCE: (Indicate the category of service(s) licensed)	
RADIO SPECTRUM LICENCED:	

D. PROPOSED TRANSFEREE

Licensee	
ID or Registration Number of Licensee	

E. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

F. OWNERSHIP INTERESTS IN THE TRANSFEREE

Owner Name	Percentage of Ownership	Nationality of Owner

Reproduce the table above and complete it for each owner who is a juristic person.

G. FOREIGN OWNERSHIP INTERESTS

Provide full details regarding foreign ownership interests in the transferee.

H. TRANSFEREE BOARD OF DIRECTORS

No.	Directors Full Names	Nationality	Identity numbers

I. TRANSFREE FINANCIAL RESOURCES

Include a statement of accounts setting out the financial resources available to the transferee in relation to the broadcasting service licence applied for.

J. EXPERTISE AND EXPERIENCE

State, concisely the expertise and experience of the transferee.

Completed and signed by (Insert Name) _____ at
_____ in his/her capacity as _____, duly
authorised and warranting such authority and confirming that the information submitted herein is
true and correct, on the _____ day of _____, ____.

Signature:

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

APPLICATION FORM
TRANSFER OF LICENCES AND TRANSFER OF CONTROL OF LICENCES:
SPECTRUM USE LICENCES

In terms of Regulation 7 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, a person intending to transfer its licence or transfer control of its licence must submit an application to the Authority on this form.

After completing the form, sign it and submit it to the Authority as required by Regulation 7, along with the relevant application fee or proof that the application fee has been paid to the Authority.

A. LICENCE

Set out details of the licence and attach a copy of the licence.

Licence Type	
Licence Number	

B. LICENSEE

Licensee	
ID or Registration Number of Licensee	

C. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

D. TRANSFEREE

Transferee	
ID or Registration Number of Transferee	

E. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

F. OWNERSHIP INTERESTS

Owner Name	Percentage of Ownership	Nationality of Owner

G. REASONS FOR THE PROPOSED TRANSFER

Set out a complete, accurate and concise statement of the reasons for the proposed transfer or transfer of control.

H. ANY OTHER INFORMATION

Provide any other information you believe might be relevant to the Authority in considering this application.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

E. REASONS FOR THE PROPOSED AMENDMENT

Set out a complete, accurate and concise statement of the reasons for the proposed amendment.

F. ANY OTHER INFORMATION

Provide any other information you believe might be relevant to the Authority in considering this application.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

E. ANY OTHER INFORMATION

Provide any other information you believe might be relevant to the Authority in considering this application.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	

**APPLICATION FORM
WITHDRAWAL OF TELECOMMUNICATIONS OR BROADCASTING SERVICE LICENCE
AND SPECTRUM USE LICENCE**

In terms of Regulation 10 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, a licensee that intends to permanently discontinue providing service in accordance with its licence must request the Authority to withdraw its licence by submitting an application to the withdraw a licence on this form.

After completing the form, sign it and submit it to the Authority as required by Regulation 10.

A. LICENCE

Set out details of the licence and attach a copy of the licence.

Licence Type	
Licence Number	

B. LICENSEE

Licensee	
ID or Registration Number of Licensee	

C. CONTACT PERSON

Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number(s)	
Electronic mail address(es)	

D. REASONS FOR THE PROPOSED WITHDRAWAL

Set out a complete, accurate and concise statement of the reasons for the proposed withdrawal.

E. DATE OF DISCONTINUATION

Set out the date the licensee intends to permanently discontinue providing services.

F. FEES

Indicate whether the licensee has paid all fees payable to the Authority in relation to the licence.

G. ANY OTHER INFORMATION

Provide any other information you believe might be relevant to the Authority in considering this application.

Signed by _____ at _____ in his/her capacity as _____, duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____, 20__.

Signature

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name:	
Date:	
Place:	
Signature:	
