



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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CONTENTS

Page

GENERAL NOTICE

No. 674	Communications Regulatory Authority of Namibia: Notice of intention to issue a Moratorium on Applications for Spectrum Use Licenses in the Frequency Band 87.5-108 Mhz, for Analogue FM Radio Broadcasting and Broadcasting Service Licenses for Analogue FM Radio Services: Communications Act, 2009	1
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General Notice

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 674

2018

NOTICE OF INTENTION TO ISSUE A MORATORIUM ON APPLICATIONS FOR SPECTRUM USE LICENSES IN THE FREQUENCY BAND 87.5-108 MHZ, FOR ANALOGUE FM RADIO BROADCASTING AND BROADCASTING SERVICE LICENSES FOR ANALOGUE FM RADIO SERVICES: COMMUNICATIONS ACT, 2009

The Communications Regulatory Authority of Namibia, in terms of section 129(1)(d) - (e) of the Communications Act, 2009 (Act No. 8 of 2009), read together with regulation 3(2) of the Regulations Regarding Rule-Making Procedures, published in Government Gazette No. 4630, General Notice No. 334, dated 17 December 2010, and pursuant to sections 99(1) and 100(2)(b), 101(6) and (8) of the Communications Act, 2009 (Act No. 8 of 2009), hereby gives notice that it intends to impose a Moratorium on:

- (a) The issuance of spectrum use licenses in the frequency band 87.5-108 MHz, for the provision of analogue FM radio broadcasting; and
- (b) The issuance of broadcasting service licenses for analogue FM radio services, where the provision of such service or the use thereof entails the use of radio waves as contemplated in section 101(6) and (8) of the Communications Act, 2009 (Act No. 8 of 2009).

1. Background

As set out in the Frequency Band Plan of Namibia, the frequency band 87.5-108 MHz is allocated to analogue FM radio broadcasting. This is the only spectrum band that may be utilised for analogue FM radio broadcasting. The increase in the number of broadcasting service licensees has resulted in the scarcity of analogue FM spectrum in most geographical areas in Namibia, especially in urban areas.

In order to ensure that the radio frequency spectrum is utilized and managed in an orderly, efficient and effective manner as contemplated in section 99 of the Act, the Authority intends to conduct a review of the frequency channeling plan for analogue FM radio broadcasting. The review will require a detailed spectrum analysis, coverage prediction, cross border coordination and analysis of various transmitter power outputs to ensure maximum use of the available radio frequency spectrum available.

2. Reasons and extent of Moratorium

In order to conduct the review of the frequency channeling plan, it is necessary to ensure a static database of assigned spectrum to allow for an analysis of available spectrum, consider possible changes in frequency assignments and carry out coverage predictions, and conduct an assessment in respect of power outputs and other technical requirements. It will not be possible to complete the review of the spectrum database while concurrently awarding new spectrum licenses to broadcasting service licensees.

Section 101 of the Communications Act, 2009 (Act No. 8 of 2009) sets out the following entwined relationship between a broadcasting service license and spectrum use license:

- (c) any person applying for a license to provide broadcasting services must also apply for such spectrum license as is necessary to render the service concerned;
- (d) a spectrum use license is required in addition to any broadcasting service license where the provision of the broadcasting service entails the transmission of signals by radio waves.
- (e) The Authority must consider any spectrum use license application together with an application for a broadcasting service license.

Therefore, the imposition of a Moratorium on applications for spectrum use licenses will be extended to applications for broadcasting service licenses, if the applicant intends to use radio waves to provide broadcasting services.

3. Details of the Moratorium

3.1 The Authority intends to impose the Moratorium for a period of fifteen (15) months from date of publication in the Gazette. The following are the reasons for the proposed fifteen (15) months:

- (i) The review of the channelling plan will commence from the date that the final notice of the moratorium is published in the Gazette and will be completed by 31 March 2019;
- (ii) After completion of the review, the amended channelling plan will be published for comments in the Gazette to allow the public an opportunity to comment on the outcome of the process. It is envisaged that this rule-making process will be completed in six (6) months; and

- (iii) After finalisation of the rule-making process, the Authority will commence to implement the modifications of existing spectrum use licenses necessitated by the amended frequency channelling plan. It is envisaged that the modification process will be completed in five (5) months.
- 3.2 All applications received before the commencement of the Moratorium will be considered and finalized. The Authority will also not accept any applications for the amendment of awarded spectrum use licenses and broadcasting service licenses during the Moratorium period. Applications for withdrawal of spectrum use licenses will be considered.
- 3.3 Owing to the fact that section 101(7) places an obligation on any person applying for a service license requiring spectrum to equally apply for a service license in respect of radio broadcasting, the Authority will equally not consider new applications for broadcasting service licences, if such license will require a spectrum use license in the band 87.5-108 MHz.
- 3.4 While the Moratorium will not have an impact on existing assignments, licensees are notified that their existing assignments may be modified as part of the outcome of the review process. This process will be done in terms of the relevant provisions of the regulatory framework and affected licensees will be informed accordingly.

The public may submit written representations on the intended Moratorium to the Authority within a period of fourteen (14) days from the date of this notice.

All written representations must be clear and concise, and must contain the name and contact details of the person making the written representation, or the name and contact details of the person for whom the written representation is made. Representations must be submitted to:

By hand: Communications Regulatory Authority of Namibia
Communication House
56 Robert Mugabe Avenue
Windhoek;

By post: Communications Regulatory Authority of Namibia
Private Bag 13309
Windhoek;

By facsimile: +264 61 222790;

By electronic mail: legal@cran.na; or

By fax to e-mail: 088642748.

F. K. MBANDEKA
CHIEF EXECUTIVE OFFICER
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA
