



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notices

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 51

2017

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

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

THE FOLLOWING ARE THE REASONS FOR THE DECISION:

1. INTRODUCTION

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

2. BACKGROUND

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

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

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 The previous tariff submission, submitted on 29 June 2016, was withdrawn as General Notice No. 419 published in Government Gazette No. 6155 dated 25 October 2016.

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

3. PROCEDURAL COMPLIANCE

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

Comments were invited from the public, in terms of the Notice published in the *Gazette*, within a period of fourteen (14) days from the date of publication of the Notice in the *Gazette*, which period lapsed on 2 December 2016.

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

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

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

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

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

The tariff information is as follows:

Table 1:

LICENSEE: Salt Essential Information Technology (PTY) Ltd.				
Product	Qty. Unit	Old Tariff per Unit N\$	New Tariff per Unit N\$	Percentage Change
<i>Messaging & Collaboration Services</i>				
MS Exchange Messaging (1 GByte, Anti-Spam, ActiveSync, Backup, CAL, Outlook License and Software)	per mailbox	92.40	129.99	40.68%
MS Exchange Messaging (1 GByte, Anti-Spam, ActiveSync, Backup, CAL, Outlook License and Software) for customers with more than 200 mailboxes	per mailbox	PRODUCT DISCONTINUED		
MS Exchange Messaging (1 GByte, Anti-Spam, ActiveSync, Backup, CAL, Outlook License but no software)	per mailbox	69.30	89.99	29.86%
Mail Archiving (Backup, License, Web Access) The product is the same but the licensing has changed. The Vendor is now charging a monthly usage fee per customer on top of the normal per user charge to make use of the product.	per user (optional)	14.08	18,99/ per user per month 1 2 5 , 0 0 / p e r company per month	34.87%
Fax Integration (for current customers only)	per user (optional)	89.65	159.59	78%
<i>WAN Services</i>				
WAN - Link between Customer and SALT Co-Location (Metro Ethernet - MPLS link Kbps as per last mile link, for pro rata usage on Metro E link to MPLS cloud)	per kbps	0.58	0.77	32.76%

<i>DNS & Web Services - NEW PRODUCTS</i>				
Website Hosting & Domain Name (1 GB Website Space, 1 second level domain .na)	per website	N/A	447.60	
Website Hosting (no Web design or content) must include min 32 kbps Ent Int + 1 Public IP	per website	N/A	608.33	
Domain Name & Website Hosting (1 second level .na domain, 1 GB Website space) must include min 32 kbps Ent Int + 1 Public IP	per website	N/A	938.43	
Domain Name & Website Hosting (1 second level com./org./alt./edu./co.na and .com, 1 GB Website space) must include min 32 kbps Ent Int + 1 Public IP	per website	N/A	648.85	
Dedicated Website Hosting (no Web design or content) shared IP, must include min 32 kbps Ent Internet	per website	N/A	556.00	
Domain Name & Website Hosting (1 second level .na domain, 1 GB Website space) shared IP, must include min 32 kbps Ent Internet	per website	N/A	886.09	
Domain Name & Website Hosting (1 second level com./org./alt./edu./co.na and .com, 1 GB Website space) shared IP, must include min 32 kbps Ent Internet	per website	N/A	596.52	

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

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

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

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

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

5. DECISION

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

F. KISHI

CHAIRPERSON OF THE BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 52

2017

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

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

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

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

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

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

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

- (1) by hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;
- (2) by post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;
- (3) by electronic mail to the following address: legal@cran.na; and
- (4) by facsimile to the following facsimile number: +264 61 222790.
- (5) by fax to e-mail to: 0886550852

F. KISHI

CHAIRPERSON OF THE BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

SCHEDULE 1**SUBMISSION OF PROPOSED TARIFFS
BY PARATUS TELECOMMUNICATIONS LIMITED
COMMUNICATIONS ACT, 2009**

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

FIXED LTE POSTPAID PACKAGES

	Fixed Deluxe	Fixed Premier	Fixed Ultimate
Connection Fee - N\$	285.00	285.00	285.00
Monthly Fee - N\$	695.00	925.00	1,145.00
Installation Fees	1,250.00	1,250.00	1,250.00
Data Included Per Month	30GB	60GB	125GB
Contract period	24 months	24 months	24 months

*** ALL PRICES EXCLUDE VAT**

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 53

2017

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

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

(a)

Applicants Name;	Applicant's citizenship or place of incorporation;	Percentage of Stock owned by Namibian Citizens or Namibian Companies Controlled by Namibian Citizens;	Category of Broadcasting service licence as contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence categories;	Provision of signal distribution;	Breach of License;	Proof of Application fees paid up to date submitted?
Carol-Ann Van Der Walt t/a Efm Sound Broadcasting	Namibian	100%	Commercial Broadcasting Service	Own	No breach or alleged breach recorded	Yes

(b)

Applicants Name;	Applicant's citizenship or place of incorporation;	Percentage of Stock owned by Namibian Citizens or Namibian Companies Controlled by Namibian Citizens;	Category of Broadcasting service licence as contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence categories;	Provision of signal distribution;	Breach of License;	Proof of Application fees paid up to date submitted?
Hit Radio Namibia CC	Namibian	100%	Commercial Broadcasting Service	Own	No breach or alleged breach recorded	Yes

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

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

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

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

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

F. KISHI

CHAIRPERSON OF THE BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 54

2017

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

The Communications Regulatory Authority of Namibia, in terms of regulations 11 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, as published in Government Gazette No. 4785, General Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that the Applicant referred to in the table below has submitted the following application to the Authority:

(a) Application for Class Comprehensive Telecommunications Service Licence (ECNS and ECS)

Applicant;	Applicant's Citizenship or place of incorporation;	Percentage of Stock owned by Namibian Citizens or Namibian citizens or Namibian Companies controlled by Namibian Citizens;	Category of Class Telecommunications service intended to be provided;	Does applicant intend to use spectrum in the provision of the telecommunication service?	Concise statement on Services intended to be provided;	Descrip- tion of geographic coverage area(s);	Proof of Li- cence Applica- tion Fees Paid Up to Date Submitted?
Loc8 Mobile CC	Namibia	100 %	Class Comprehensive Telecommunications Service Licence (ECNS and ECS).	Although applicant intends to use spectrum in the provision of the telecommunications services, it is in the spectrum exempt band as contained in the Regulations Regarding Licence Exempt Spectrum ¹ .	Electronic Communications	Namibia	Yes

¹ As published in Government Gazette No. 4839, General Notice No. 395 dated 25 November 2011.

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

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

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

All written submissions must be made either physically or electronically -

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

CHAIRPERSON OF THE BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 55

2017

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

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

Application for Class Network Facilities Service Licence

Applicant;	Applicant’s Citi- zenship or place of incorporation;	Percentage of Stock owned by Namibian Citizens or Namibian citizens or Namibian Companies controlled by Namibian Citizens;	Category of Licence Applied for;	Description of geographic coverage area(s);	Proof of Licence Ap- plication Fees Paid Up to Date Submit- ted?
PowerCom (Pty) Ltd	Namibia	100%	Network Fa- cilities Service Licence	Republic of Namibia	Yes

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

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

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

All written submissions must be made either physically or electronically -

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

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 56

2017

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

The Communications Regulatory Authority of Namibia, in terms of regulations 11 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, as published in Government Gazette No. 4785, General Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that the Applicant referred to in the table below has submitted the following application to the Authority:

(a) Application for Class Comprehensive Telecommunications Service Licence (ECNS and ECS)

Applicant;	Applicant's Citizenship or place of incor- poration;	Percentage of Stock owned by Namibian Citizens or Namibian citizens or Namibian Companies con- trolled by Namibian Citizens;	Category of Class Telecommunications service intended to be provided;	Does applicant intend to use spectrum in the provision of the telecommunica- tion service?	Concise state- ment on Services intended to be provided;	Description of geo- graphic coverage area(s);	Proof of Licence Application Fees Paid Up to Date Submitted?
Schoemans Technologies (Pty) Ltd	Namibia	100 %	Class Comprehensive Telecommunications Service Licence (ECNS and ECS).	No	Electronic Commu- nications	Namibia	Yes

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

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

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

All written submissions must be made either physically or electronically -

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

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 57

2017

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

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

Application for Class Network Facilities Service Licence

Applicant;	Applicant's Citizenship or place of incorpora- tion;	Percentage of Stock owned by Namibian Citizens or Na- mibian citizens or Namibian Compa- nies controlled by Namibian Citizens;	Category of Licence Applied for;	Description of geographic coverage area(s);	Proof of Licence Application Fees Paid Up to Date Submit- ted?
Virtua Porting XS (Pty) Ltd	Namibia	51%	Network Facilities Service Licence	Republic of Namibia	Yes

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

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

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

All written submissions must be made either physically or electronically -

- (1) By hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;
- (2) By post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;
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- (5) By fax to e-mail to: 088642748.

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 58

2017

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

The Communications Regulatory Authority of Namibia, in terms of regulation 8 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licence, in Government Gazette No. 4785, General Notice No. 272 dated 29 August 2011, 5442 Government Gazette 7 April 2014 5 herewith gives notice that The Namibian Broadcasting Corporation has applied for Amendment to its Spectrum Use Licence with the Authority as set out below:

Licensee	Percentage of Stock owned by Namibian Citizens or Namibian citizens or Namibian Companies controlled by Namibian Citizens;	Licence to be Amended	Proposed Amendment	Grounds for Amendment	Geographic Coverage Area	Party providing Signal Distribution
Namibian Broadcasting Corporation (NBC)	Established in terms of section 2 of the Namibian Broadcasting Act (Act No. 9 of 1991)	Spectrum Use Licence as issued on 13 September 2012, published in Government Gazette 5037, Notice 306.	Location of the DTT transmission from Khorixas town 20°22'19.43"S 14°57'33.58"E to Renosterkop 20°31'24.9"S 15°13'38.4"E	According to the DTT band plan as per Government Gazette 5201 Notice no. 166 (29 May 2013) NBC TV is planned to broadcast from Khorixas town. Initially NBC planned to construct a new site at Khorixas with a 150m mast but analysis conducted of the population distribution demonstrates that the benefits of constructing a new site at Khorixas does not justify the cost.	Khorixas 20°31'24.9"S 15°13'38.4"E	Own

The public may submit comments in writing to the Authority within a period of thirty (30) days from the date of publication of this notice in the Gazette.

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

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

- (1) by hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;
- (2) by post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;
- (3) by electronic mail to the following address: legal@cran.na; and
- (4) by facsimile to the following facsimile number: +264 61 222790.
- (5) by fax to e-mail to: 0886550852

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

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 59

2017

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

The Communications Regulatory Authority of Namibia in terms of Regulation 22(1) of the Regulations regarding the National Numbering Plan for Namibia for use in the provision of Telecommunications Services in the Republic of Namibia, Numbering Licence Fees and Procedures for Number Licences as published in Government Gazette No. 5983, General Notice No. 97 dated 1 April 2016, herewith gives notice that the persons referred to in the table below, submitted an application for Number Licence to the Authority:

Applicant's Name	Applicants' Citizenship or place of incorporation	Percentage of Stock owned by Namibian Citizens or Namibian Companies controlled by Namibian Citizens	Number Category	Number of Blocks considered to be awarded by the Authority	Numbers to be considered for assignment (Start - End)	Description of geographic area(s)	Service to be provided using number applied for
Mobile Telephone Networks Business Solutions (Namibia) (Pty) Ltd t/a MTN Business	South African	0% ¹	Electronic Communications (84) Machine-to-Machine (89)	1 block (100,000 numbers) 1 block (100,000 numbers)	0840000000 – 0840099999 089000000000 – 089000099999	National National	Telecommunications Services

¹ Subject to Section 46(2) of the communications Act, 2009 (Act No 8 of 2009).

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

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

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

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

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

F. KISHI

CHAIRPERSON OF THE BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 60

2017

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

The Communications Regulatory Authority of Namibia, in terms of Regulation 11 (19) of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, in Government Gazette No. 4785, General Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that, pursuant to the provisions of section 35 of the Communications Act (No 8 of 2009) it has approved the transfer of control of the Telecommunications Service Licence and all Spectrum Use Licences of **Mobile Telecommunications Limited** as follows:

Licensee;	Type of license;	Transferor;	Transferee;	Compliance with section 46	Percentage of Stock being transferred;	Reasons for the proposed transfer;
Mobile Telecommunications Limited (MTC)	<ol style="list-style-type: none"> <li data-bbox="323 1442 459 1765">1. Class Comprehensive Telecommunications Services License (ECS and ECNS) <li data-bbox="323 1330 549 1765">2. All Spectrum use licenses issued to MTC in terms of section 101 of the Communications Act 	Africatel Holdings B.V	Samba Luxco S.A.R.L or its wholly owned subsidiary, Samba DutchCo B.V	Authorisation granted by the Minister of Information and Communication Technology as per the provisions of section 46(2) of the Act, dated 27 January 2017.	34%	The proposed transaction is part of a negotiated settlement between Samba, Africatel KG and Africatel.

PROCEDURAL COMPLIANCE

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

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

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

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

EVALUATION OF THE OBJECTS OF THE ACT

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

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

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

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

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

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

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

By transferring the control from Africatel to Samba this objective of the Act would be met since Samba is a private investor.

Section 2(k) of the Act states the object of the Act is to ensure fair competition and consumer protection in the telecommunication sector.

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

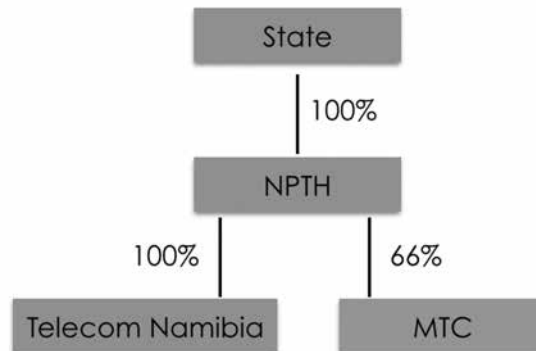


Figure 3: NPTH shareholding

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

AUTHORIZATION BY MINISTER IN TERMS OF SECTION 46(2)

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

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

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

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

COMPETITION CONSIDERATIONS

Section 34 deals with the jurisdiction of the Authority. It states that the *Authority must in its functions under the Act, promote, develop and enforce fair competition and equality of treatment among all providers of telecommunications and broadcasting services and users of such services.*

Section 33(1) and (2) of the Act deals with the economic considerations that need to be taken into account and specifically the issues of competition and the abuse of dominance. The Authority is of the view that the transaction at hand will not restrict or distort competition in the market.

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

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

DECISION

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

1. The transfer of control of Telecommunications Service License and all spectrum use licenses issued to Mobile Telecommunications Limited from Africatel Holdings B.V to Samba Luxco S.A.R.L or its wholly owned subsidiary, Samba DutchCo B.V2.
2. Pursuant to Regulation 11(5) of Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Licenses, the commenting period for this application to be reduced from fourteen (14) to five (5) given the nature and urgency of the application.

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

M.MOSES

**VICE CHAIRPERSON OF THE BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**
