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General Notices

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 667

2024

NOTICE OF DEFERRAL OF FINAL PUBLICATION OF REGULATIONS PRESCRIBING LIMIT ON TARIFFS FOR TELECOMMUNICATION SERVICES: COMMUNICATIONS ACT, 2009

The Communications Regulatory Authority of Namibia under regulation 11(1)(b) of the Regulations regarding Rule-Making Procedure published under General Notice No. 334 of 17 December 2010 hereby gives notice to temporarily defer the publication of the final Regulations prescribing Limits on Tariffs for Telecommunication Services as commenced by the Notice of Intention to Make Regulations prescribing Limits on Tariffs for Telecommunication Services as published under General Notice No. 389 of 2 August 2024.

After considering all written submissions, the Authority has decided to conduct a Long-run Incremental Cost Study ("LRIC") for these regulations. The Authority therefore defers the final publication of the regulations pending the completion of the study. Further updates on the new timeline of publication will be provided as determined. The Authority requests all Licensees and the public to cooperate with the Authority during the conducting of the study.

T. K. MUFETI
CHAIRPERSON OF THE BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 668

2024

**AMENDMENT OF 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**

In terms of section 81(5) read with section 129 of the Communications Act, 2009 (Act No. 8 of 2009), the Communications Regulatory Authority of Namibia amends 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 published as set out in the Schedule.

T. K. MUFETI
CHAIRPERSON OF THE BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

SCHEDULE

Definition

1. In these Regulations “the Regulations” means 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 published under General Notice No. 97 of 1 April 2016 as amended by General Notice No. 500 of 30 August 2018, General Notice No. 445 of 30 August 2021 and General Notice No. 675 of November 2022.

Amendment of Annexure D

2. The Regulations are amended by the substitution for Annexure D of the following Annexure:

ANNEXURE D
Regulation 39(e)

CHARGEABLE

In terms of regulation 39(e) the Authority hereby determine the reference value.

The reference value is set at One Namibian Dollars and Sixty-Eight Four Two (N\$ 1.6842).

Number	Weight	N\$ (Fees Payable)
3 Digit Numbers	= 1000,000	= 1,684,200.00
4 Digit Numbers	= 100,000	= 168,420.00
5 Digit Numbers	= 10,000	= 16,842.00
6 Digit Numbers	= 1,000	=1.684.42
7 Digit Numbers	= 100	=168.42
8 Digit Numbers	= 10	=16.842
9 Digit Numbers	= 1	= 1.6842

Annual Number Fee = number x weight x reference value ”.

COMMENTS IN TERMS OF THE NOTICE TO AMEND THE NUMBERING REGULATIONS

COMMENTS	REPLY COMMENTS FROM CRAN
Mobile Telecommunications Limited (MTC) Comments	
<p>Principles of cost recovery: This suggests that while the costs of regulating numbers may be recovered, it is important that the Authority considers the costs and benefits of its approach to setting fees for numbers. The Authority does not appear to have done so.</p>	<p>Pursuant to Section 81(5) of the Act <i>the Authority is mandated to develop, manage and administer the national numbering resources</i>. Section 81(5) states that “: <i>The Authority must allocate licensees adequate prefixes, numbers and numbering ranges without unreasonable delay, in an objective non-discriminatory, proportionate and transparent manner, in return for a fee that is no greater than necessary to compensate for the management costs of the numbering plan and the control of its use.</i></p>
<p>Numbering management and control activities, costing and fees</p> <p>The Authority has only two roles in terms of numbering: (1) Administration and coordination, and (2) Ensuring transparency and promoting competition in how numbers are allocated.</p> <p>The costs associated with these activities are typically low and may rely on a small number of people (even one), who may only be dedicated partially to numbering. For instance, the Authority only report one human resource dedicated to numbering on its website. The Authority’s annual reports does not document activities relating to number administration and the development of numbering regulations, rather than substantial operational activities involving numbering. In this regard, we underscore that it is unlikely that the Authority devotes significant time to numbering activities, given the limited demand for these services.</p> <p>The proposed Regulations indicate that the cost of managing numbers in Namibia include: “The total cost of managing the numbering plan and the control of its use includes cost for the numbering audit, legal fees, calculation of fees and compliance management. “ For transparency, the direct costs for these activities should be provided, especially for numbering audits, legal fees and compliance, if any. Activities such as the making of regulations (to increase fees) ought to be covered under the regulatory levy.</p> <p>The Authority’s estimated costs of numbering management was NAD 1,848,967 in 2022/2023 and projected to be NAD 2,230,960 in 2023/2024 and NAD 3,034,167 in 2024/2025 respectively. However, the increase is not justified or reasonable. Nonetheless, assuming that these costs do indeed relate to the costs of managing and controlling numbers, a question arises as to how the costs should be apportioned between codes of different lengths.</p>	<p>The Authority published the discussion paper to ensure transparency in the management and costing of the numbering plan and control thereof. All costs associated with managing numbers are considered and not merely cost of human resources as alleged. These costs include but is not limited to salaries, managing of the numbering plan and the control of its use, cost for the numbering audit, legal fees, calculation of fees and compliance management.</p> <p>The Authority employs Activity Based Costing (ABC) to allocate costs to different revenue streams, ensuring that each revenue stream solely recovers the costs associated with its management. Consequently, numbering fees recover the cost of administering and managing numbering, spectrum fees recover the cost of managing spectrum and the regulatory levy recovers the costs associated with regulatory oversight.</p> <p>Due to operational challenges, the Authority was unable to review the costing of numbers in 2023. This resulted in certain under-recoveries necessitating a higher increase in numbering fees to address the shortfall.</p>

COMMENTS	REPLY COMMENTS FROM CRAN
<p>Previously, the Authority divided its estimated annual costs by the total quantity of numbers that it estimated were in use to arrive at a base cost per number. For example, in 2021/2022, the base cost was calculated as NAD 0.62, being NAD 2,000,000 divided by 3,217,751 numbers.</p> <p>The Authority has attached a relative value to numbers using different lengths of digits according to the supply of numbers. This value per number increases by a factor of 10 for each digit that is dropped. In other words, there are 10 times as many 9-digit numbers as there are 8-digit numbers, and therefore the value of an eight-digit number is ten times as high as that of a 9-digit number. There are 1 million times as many 9-digit numbers as there are 3-digit numbers, and there is a corresponding value difference for each number. However, the Authority has not made any attempt to apportion its costs to the various number lengths.</p> <p>The Authority divided its costs by the total quantity of numbers in use in order to arrive at the base price, without considering that it will in fact recover significantly higher fees per unit from shorter-digit codes. One three-digit number will cost a customer NAD 1, 702.300. This means that two customers who uses three-digit codes can cover the projected management costs of the Authority. This suggests that the Authority's (1) computation of the base price, and (2) apportionment of costs between different shortcode lengths, are incorrect.</p> <p>Further, the Authority does not appear to have considered the willingness of customers to pay for short codes. For example, most of MTC's customers have moved from 3-digit short codes to numbers with more digits to save costs. It is unimaginable that any customer would be willing to pay NAD 1,702.300 per year for a number. This will result in the Authority hoarding developmental resources.</p> <p>Furthermore, the Authority's failed to benchmark with other countries, as the proposed reference value far exceeds fees in other countries. We now proceed to comment on the proposed Regulations paragraph by paragraph.</p>	<p>The Authority applied the same methodology used in prior years to determine the numbering fees The Authority, as an autonomous entity, is not obligated to benchmark against other jurisdictions as it has to ensure that its regulation is impartial. Section 81(5) of the Act clearly states that the fees must reflect the cost of managing numbering resources.</p>

COMMENTS	REPLY COMMENTS FROM CRAN
<p>Telephone numbers are a national resource for the customers and not for the licensees. The licensees only facilitate the use of these numbers for the customers unique communication needs. All direct costs associated with the use of numbers is passed on to the customer. The increase in competition in the market and the emergence of new numbering requirements have not increased the demand for numbers. At paragraph 4, the Authority correctly concluded that “the 2023 audit once again showed a significant decline in the amount of numbers used”.</p> <p>The economic conclusions at paragraph 2 do not support the proposed increase in the number reference value.</p> <p>The last part of the economic conclusions presupposes that new operators and service providers do not have access to numbers. There is no shortage of numbering resources. New market entrants have equal access to numbers, including numbers with particular characteristics that make them attractive to customers. From a competition perspective, the only hurdle faced by new market entrants is the delay in the allocation of numbering resources which negatively affects customer experience.</p>	<p>Numbers are classified as a scarce resource, and their management and pricing should reflect their economic value. The key issue is not who considers numbers to be scarce, but the fact that they are indeed a finite resource hence the need to ensure that we advocate for efficient, transparent and equitable utilisation of numbering resources. The prudent use and management of this resource is directly linked to their availability, preservation and the price associated with them. This management is aimed at protecting consumers from disruptive, premature and potential costly numbering</p>
<p>The Authority does not provide a breakdown of the costs related to the management and control of the Numbering Plan, which are not covered by the regulatory levy.</p> <p>The Authority should investigate the decline in the utilisation of numbers and devise a strategy to make numbering resources accessible. As indicated above, the direct costs of the use of a number by a customer is passed on to the customer. Most customers have refused to use convenient numbers due to the high cost of numbers. For example, an institution like the Motor Vehicle Accident Fund of Namibia, opted for a 4 digit number instead of a convenient and easy-to-remember 3 digit number.</p> <p>The artificial adoption of principles and conclusions from international reports without any reference to the impact on the provisions of telecommunications services in Namibia is counterproductive. The Authority should consider that the increase of the reference value will result in the further decrease in the use of numbers and an increase in the cost of telecommunications services. With this trend, no customer will be interested in numbers with less than 9 digits. Regulations ought to facilitate the use of numbers rather than restrict.</p> <p>The Authority should consider improving its management efficiencies in order to reduce its management costs.</p> <p>The direct impact of the proposed increase of the numbering reference value will be directly passed on to the customers. This directly increases the cost of telecommunications services and is counterproductive to other projects initiated by the Authority to reduce the cost of telecommunications services in Namibia.</p>	<p>The decline in the utilisation of numbers is attributed to market driven factors such as the pre-paid packages offered by licensees. Previously, customers utilised multiple SIM cards when packages such as Aweh and Jiva could only be recharged after a 7-day period. However, with the introduction of more flexible recharging options and extended validity periods, the need for multiple SIM cards has diminished. This became evident during SIM registration when most customers only registered one SIM card.</p> <p>The economic value of numbers is a function of both cost and numbers utilised. While the Authority exercises control over the cost of managing numbers through prudent spending, it has no control over the numbers used by the licensees and customers</p>

COMMENTS	REPLY COMMENTS FROM CRAN
<p>The Authority's proposed Regulations to recover the costs of managing and controlling numbers, will result in the Authority unfairly and unlawfully recovering fees far in excess of its costs. This is as a result of a range of factors, including</p> <p>The Authority's estimated annual costs are not justified or proven and do not exclude costs covered under the regulatory levy.</p> <p>There is limited numbering activities carried out by the Authority, suggesting that its actual costs are very low.</p> <p>The quantity of numbers in use is projected to be static over time, resulting in inflated base costs.</p> <p>The Authority divided its costs by the total quantity of numbers in use to arrive at the base price, without considering that it will recover significantly higher fees per number from shorter-digit codes.</p> <p>The Authority does not appear to have taken into account customers willingness to pay for short codes.</p> <p>The Authority has not carefully considered the maximum rates for short codes in other countries.</p> <p>The Authority's proposed fee structure is therefore likely to recover fees far in excess of its costs, and the proposed regulations will likely result in unused numbers.</p> <p>There is no shortage of numbers in any range or an unequal access to numbers by new entrants.</p> <p>The Authority did not indicate how much was expended on different cost items, for example legal fees.</p> <p>The Authority failed to investigate and appreciate what is causing the decrease in the utilisation of numbering resources by customers.</p>	<p>The Authority remains of the opinion that the proposed costs are justified under section 81(5) of the Act. It is important to note that these fees are not part of the regulatory levy. The Authority utilises the ABC costing method to allocate the cost of number management to numbering fees as it does for spectrum, type approval, and the regulatory levy.</p> <p>The volume of numbers in use is predicted to stay relatively stable due to the nature of the packages currently offered in the market. Since the numbering fees are reviewed annually and based on the numbering audit of previous years, the Authority is making an assumption that the number of SIM cards would be constant for the year 2024/2025.</p> <p>The same methodology used in previous years has been applied in the current review. Due to the significant resources consumed by three-digit numbers, the fees for these numbers are appropriately high to reflect their limited availability, thus discouraging unnecessary utilisation by licensees and customers.</p> <p>The Authority is not required to conduct international benchmarking, as the Act clearly mandates that fees must reflect the costs associated with the administrative management of numbering resources. Finally, the revised fees will not result in over-recovery, as detailed in the discussion paper. The value and management of numbering resources are based on their scarcity and the need for efficient allocation. The reasons for the decrease in the utilisation of numbers are primarily market-driven, as explained.</p> <p>Following careful recalculation, the numbering fees will be adjusted to N\$ 1.6842 per number.</p>

UPDATED DISCUSSION PAPER ON REVIEW OF NUMBERING FEES FOR CRAN 2024**September 2024****TABLE OF CONTENT**

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1. Introduction

In 2016, CRAN set out *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*. The fees prescribed in these regulations were charged for the first time in 2018 and then subsequent years. In 2021, the regulations were revised in line with section 81(5) of the Communications Act, 2009 (Act No. 8 of 2009) which provides that “*the Authority must allocate numbers in return for a fee that is no greater than necessary to compensate for the management costs of the numbering plan and control of its use.*” The essence of the review was to ensure that the fees charged are no greater than necessary to compensate for the management costs of the numbering plan and the control of its use.

The objectives of the Act guide all of CRAN’s actions: The fees CRAN collects are subject to the objectives of the Act, which fit in with the general trend towards liberalisation, privatisation and increased competition in order to meet the objectives of affordability and increased penetration.

Regulation 39(1)(f) of the said regulations provides for the review of numbering fees. In 2021 CRAN allocated the costs as prescribed in the Act to the numbering to determine the numbering fees for 2021. The same methodology was followed in 2022.

2. Economics of Numbering

The rise of new services and the advent of competition have given to telecommunication numbers a significant economic dimension. Any economic considerations around numbers arise for two main reasons:

- a) Firstly, a fairly administered numbering plan can facilitate competition in service provision and thus bring benefits to users by reducing tariffs and by increasing the quality standards in services provided. In order for competition to flourish, however, operators and service providers should be treated on an equal basis regarding access to number resources.
- b) Secondly, numbers become important tools in the hands of value-added service providers. Given that most of these services are highly profitable for operators, the allocation of specific number ranges to provide exclusive access to services such as mobile telephony, personal communication and premium rate services increases the value of numbers. Moreover, it is recognised that a limited range of numbers contain “higher” value than others, because their memorable structure brings benefits to the called party. (OECD/GD (95)117)

As competition increases and new numbering requirements emerge, it becomes universally recognised that “*telephone numbers are a national resource and should be for the customer -- not for the operators to brand*” (OFTEL, 1993a). New operators and service providers need to have access to numbers and have the right to utilise them in a way that best suits their needs and can facilitate service provision.

Not all number ranges have the same value to users. Different users may attribute more value to a number than others based on how easy it is to remember and what it might be utilised for. Numbers are therefore, a scarce resource that should be managed and paid for taking the economic value of the number into consideration.

3. Current Numbering Fees

The current numbering fees, as set in 2022, are as follows in Table 1:

Table 1: Current numbering fees	
3 Digit Numbers	= 410,000
4 Digit Numbers	= 41,000
5 Digit Numbers	= 4,100
6 Digit Numbers	= 410.00
7 Digit Numbers	= 41.00
8 Digit Numbers	= 4.100
9 Digit Numbers	= 0.4100

4. CRAN Management Costs of Numbering Plan

The total cost of managing the numbering plan and the control of its use includes cost for the numbering audit, legal fees, calculation of fees and compliance management. The costs from 2022/2023 to 2023/2024 and projected costs for 2024/2025 are as follows:

Table 2: Costing	2022/2023	2023/2024	2024/2025
Management costs per financial year (N\$)	(1,848,967)	(2,230,960)	(3,034,167)
Revenue	1,335,843	1,157,059	
Profit/Loss	(513,124)	(1,073,901)	(3,034,167)
Numbers	3,452,638	2,439,169	2,439,169
Source:	AFS	Projected	Projected

CRAN collected total revenue from numbering in 2022/2023 in the amount of N\$1,335,843. The fee was therefore not cost reflective due to the decline in numbers utilised which only became apparent with the numbering audit in October 2022. The 2023 audit once again showed a significant decline in the amount of numbers used. This resulted in an under recovery of N\$1,073,901 from the budgeted amount of N\$2,230,960. CRAN did not prescribe fees in 2023.

The methodology used allows for any over- or under recovery to be subtracted or added in the following year to ensure that the numbering fees collected by CRAN only pay for the management of the numbering plan as envisaged in the Act. Therefore, an amount of N\$ 1,073,901.00 must be added to the 2024/2025 budgeted amount to ensure cost recovery. The reason for the under-recovery was due to less numbers being utilised by the licensees holding number licenses, as provided during the number audit.

This resulted in less revenue than what was budgeted for. It is therefore necessary to add the under recovery amount as calculated in Table 3 below.

Table 3: Reconciliation of Numbering Cost and Revenue	
2024/2025	
Total Budgeted Cost	N\$3,034,167
Plus: under-recovery	N\$1,073,901

Total Revenue required	N\$4,108,086
Total Numbers	N\$2,439,169
Cost per number	N\$1.6842

5. CONCLUSION

Considering the above and pursuant to section 81(5) of the Communications Act, the new fee for numbering for 2024/2025 shall be set at N\$1.6842.

6. REFERENCES

OECD (1995-01-01), “The Economic and Regulatory Aspects of Telecommunication Numbering”, OECD Digital Economy Papers, No. 12, OECD Publishing, Paris. <http://dx.doi.org/10.1787/237502514428>
