



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## General Notices

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### COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 81 2016

NOTICE IN TERMS OF SECTIONS 85 AND 101 OF THE COMMUNICATIONS ACT, 2009  
(ACT NO. 8 OF 2009) AND THE REGULATIONS REGARDING LICENSING PROCEDURES  
FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND  
SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of Sections 85 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) read with Regulations 5, 6 and 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that the application for a Commercial Broadcasting Service License and Spectrum Use Licence for **Trustco Administrative Support Services (Pty) Ltd** has been approved.

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

Trustco Administrative Support Services (Pty) Ltd (hereinafter referred to as “the Applicant”) submitted applications for a commercial broadcasting service licence and spectrum use licences on 4 July 2014 in accordance with sections 85 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as the “Act”) and the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use licences as published in

Government Gazette No. 4785, General Notice No. 272 of 29 August 2011, for consideration by the Authority. All licence application fees in respect of the applications were paid.

## BACKGROUND TO APPLICATION

As per documentation submitted with the application for a commercial broadcasting service licence, the Applicant is a 100% Namibian owned company with registration number 2006/299. There are no foreign ownership interests in the Applicant's board or ownership level as indicated below-

Name of Owner	Percentage of Ownership	Nationality of Owner
Trustco Group Holding Ltd	100%	Namibian

Board of Directors	Nationality of Owner
Quinton van Rooyen	Namibian
Elmarie Janse van Rensburg	Namibian
Floors Jacobus Abrahams	Namibian

Section 101 (7) of the Communications Act (Act 8 of 2009) provides as follows:

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

Consequently, the Applicant submitted an application for spectrum use for FM broadcasting frequencies between 87 MHz and 108 MHz dated 4 July 2014 for coverage in the geographical areas as indicated below-

Windhoek	1,000 W
Oshakati	1,000 W
Mariental	100 W
Otjiwarongo	100 W
Rössing Mountain	1,000 W
Keetmanshoop	100 W
Okahandja	100 W

The Applicant did not provide an indication as to which party will provide signal distribution service in terms of Regulation 5(2) of the Regulations Regarding Licensing Procedure for Telecommunications and Broadcasting Service Licences and Spectrum Use License. The Applicant intends to enter into a site sharing agreements with Satcom (Pty) Ltd and Telecom Namibia Limited to attach its antennas and transmitters to the existing infrastructure owned by the aforementioned companies as per documentation and coverage plots submitted to the Authority.

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

## REQUEST FOR INFORMATION

### Oral Submissions

The Authority requested the Applicant to make oral submissions in respect of its application on 8 April 2015.

At the oral hearing, the Applicant gave a brief overview of their target market and competitors, brand development, interactive programming, their financial resources and intended program schedule. The Applicant further indicated that it will broadcast under the brand name of "Mixed FM". The Authority posed various questions to the applicant on the forecasted market growth, the target market it will serve, programme content, financial resources, technical expertise and production facilities.

After the oral submission made by the Applicant, the Authority requested the Applicant on 15 June 2015 to provide the following information-

- (i) Five (5) year sales and expenses forecast; and
- (ii) An income statement and balance sheet.

The Applicant submitted the requested information on 26 June 2015.

#### **Clarification requested on technical documentation submitted**

The following further clarifications in respect of the technical documentation submitted with the application were required as set out in a letter to the Applicant date 4 September 2015 as indicated below-

- (i) The site sharing agreements with Telecom Namibia Limited and the Namibian Broadcasting Corporation;
- (ii) The location of the envisaged broadcasting studio;
- (iii) Provide clarification as to whom will provide signal distribution given that the information was omitted on the application form;
- (iv) To clarify the inclusion of a transmitter site in Swakopmund in the oral submission, whilst the Authority only received an application form for Rössing Mountain;
- (v) To clarify the Applicant's position in respect of its application for a spectrum use licence in Okahandja, as this site was omitted during the oral submission made to the Authority on 8 April 2015; and
- (vi) To clarify the discrepancies in power output at various locations indicated in the oral submission as this information did not correspond to the information contained in the spectrum use licence application forms.

The Applicant requested condonation from the Authority to submit the information on 30 September 2015. All outstanding information was submitted on the due date.

#### **PROCEDURAL COMPLIANCE**

Following due process in terms of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Gazette 5659 Notice No. 30, dated 30 January 2015, allowing fourteen (14) days for public comments from the date of publication of the Notice in the *Gazette*. The commenting period lapsed on 14 February 2015, and no comments were received.

The last day for the decision was 1 December 2015 following the last correspondence and documentation submitted by the Applicant on 30 September 2015.

The Authority was unable to make a decision on 1 December 2015 due to the fact that the Board of Directors needed ample time to analyse the application. As a result the decision date was postponed for seventeen (17) days to 18 December 2015.

The Authority further postponed the decision date for fifty one (51) days to 8 February 2016 due to the fact that the Authority was still in the process of obtaining the Board's decision in respect of the application.

The Authority was unable to make a decision on 8 February 2016 due to circumstances beyond its control and as a result the decision date was postponed for a further nine (9) days to 17 February 2016. The decision was finally made on 11 February 2016.

## **ANALYSIS BY THE AUTHORITY**

### **Application for commercial broadcasting service licence**

The Applicant submitted spectrum use licences for Oshakati, Windhoek, Keetmanshoop, Rössing Mountain (Swakopmund and Walvis Bay, Okahandja and Mariental in conjunction with its application for a commercial broadcasting services licence. Although the geographical areas of Oshakati, Windhoek and Rössing Mountain are served by more than eight (8) commercial broadcasters and the public broadcaster in each location, it should be noted that Keetmanshoop and Mariental do not have as many commercial broadcasters compared to aforementioned geographical locations.

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

*“When considering an application for the issue of broadcasting licence the Authority must have regard to-*

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

The Authority has no reservations on the character of the Applicant or its directors and has also not received any information that suggests that they have a bad character or that they would not be fit to run a radio station.

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

Based on the facts presented, the Applicant has sufficient financial resources to support the implementation of FM radio broadcasting services in a multiple geographical areas across Namibia. The revenue projections of the Applicant compares to those of its outlined competitors. The figure might not be realistic, especially in its first year of business where you have to compete with reputable national broadcasters for clients and listeners, but the advertising packages planned will certainly lure a lot of clients in the long run, which will give them a competitive edge. Some radio stations in Namibia tend to focus on a specific niche market, whereas the Applicant plans to cross the cultural barriers with a diverse target, a factor that can also work in their favour to become a successful commercial broadcaster.

The Applicant’s business case clearly defines all the attributes pertaining to the radio station, and it is evident that they have the financial capacity to turn the station into a viable project. A high-tech recording studio will be opened to the public for media productions, a diversification which will serve as a supplement to the income revenue to be generated by the Applicant.

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

*(i) more than one broadcasting service;*

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

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

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

The Applicant submitted applications for site sharing with Telecom Namibia Limited and the Namibian Broadcasting Corporation. Both entities indicated that they will enter into a site sharing agreement with the Applicant should the licence be awarded by the Authority.

All equipment specifications were submitted whilst the studio will be located at the Trustco offices in Windhoek. The Applicant will be responsible for its own programme production and signal distribution.

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

There is no indication that if awarded a licence, the conditions imposed would unjustly benefit applicant above another licensee.

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

The Applicant intends to provide broadcasting services in urban and rural areas adding the diversity of content in these areas, especially in Mariental and Keetmanshoop, which areas are currently served by a limited number of commercial and community broadcasters.

As per the programme schedule submitted the Applicant will be broadcasting on a twenty four (24) hour basis. Management is therefore of the opinion that the assigned spectrum will be utilised fully should a broadcasting service licence be awarded.

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

The FM broadcasting frequencies in Keetmanshoop, Otjiwarongo, Oshakati and Mariental as applied for is not reserved for future use, however spectrum in the Oshakati area is in short supply given the high number of existing broadcasting licensees and is further compounded by the high volume of applications pending before the Authority for the area.

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

The Applicant did not apply for a community broadcasting service licence.

In light of the above analysis, the Authority is of the opinion:-

- (i) The Applicant has proved that it has sufficient financial resources, a sustainable business case and expertise as required by section 85 (b) of the Act; and
- (ii) The Applicant has also proved that it has access to the infrastructure owned by the Namibian Broadcasting Corporation and Telecom Namibia Limited to install broadcasting equipment to provide services. The Authority is therefore of the opinion that the Applicant will be able to adhere to technical requirements as set out in section 85 (8)(b), (d) and (f) of the Act.

After consideration of the information submitted with the application and evaluation thereof in terms of the criteria as set out in Section 85(8) (b), (d) and (f) of the Communications Act, the Authority concluded to submit a recommendation to the CRAN Board of Directors to approve the service licence application for a commercial broadcasting service licence submitted by the Applicant.

### Application for spectrum use licence

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

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

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

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

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

The Authority noted that the Applicant withdrew its applications in respect of Rössing Mountain and Okahandja as per the letter submitted on 30 September 2015. The said applications are therefore, no longer considered by the Authority.

It should be noted that there is no vacant spectrum available for assignment to prospective applicants in the geographical area of Windhoek. The Authority is therefore unable to consider this application.

### DECISION

In terms of sections 85 and 101 of the Communications Act and the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licenses and Spectrum Use Licenses, the Authority herewith approves:

- (i) The application for a commercial broadcasting service licence submitted by TRUSTCO Administrative Support Services (Pty) Ltd based on the criteria as set out in Section 85(8) of the Act;
- (ii) That the licence is awarded subject to the Regulations regarding Licence Conditions for Broadcasting Service Licences as published in Government *Gazette* No. 5037, Notice No. 309 dated 13 September 2012;
- (iii) The applications for spectrum use licences submitted in conjunction with the service licence application as indicated below-

(a)	Oshakati	NBC Tower	105.6 MHz	1000W
(b)	Mariental	Satcom Site	104.9 MHz	100W
(c)	Otjiwarongo	Water Tower	105.9 MHz	100W
(d)	Keetmanshoop	Satcom Site	106.0 MHz	100W

- (iv) That the spectrum use licences are awarded subject to the Regulations Setting Out Licence Conditions for Spectrum Use Licences as published in Government *Gazette* No. 5354, Notice No. 469 dated 2 December 2013.

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

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

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 82

2016

**NOTICE TO WITHDRAW SPECTRUM USE LICENCE IN TERMS OF REGULATIONS  
10 AND 11 OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR  
TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM  
USE LICENCES**

**INTRODUCTION**

**Converged Telecommunications Solutions (Pty) Ltd** (hereinafter referred to as “the Applicant”) was awarded a spectrum use licence for 5150 MHz to 5195 MHz to provide telecommunications services on 19 July 2013 in terms of section 101 of the Communications and the Regulations regarding Transitional Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences as published in Government Gazette No. 4737, Notice No. 171 dated 17 June 2011.

The Applicant submitted applications for the withdrawal of the spectrum use licence awarded for telecommunications services in the 5150 MHz to 5195 MHz spectrum band on 23 December 2013 in accordance with section 101 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as “the Act”) and regulation 10(2) of the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences as published in Government Gazette No. 4785, General Notice No. 272 of 29 August 2011, for consideration by the Authority.

**BACKGROUND TO APPLICATION**

The Applicant was awarded a spectrum use licence to implement point-to-multipoint fixed services in the spectrum band 5150 MHz to 5195 MHz by the Authority’s predecessor, the Namibian Communications Commission on 7 November 2008. This spectrum use licence was subsequently transitioned in accordance with section 135 of the Communications Act, 2009.

The Authority published the Regulations Setting Out the Frequency Band Plan for Namibia on 31 May 2013 in Government Gazette No. 5214, General Notice No. 191. In terms of the final acts of ITU WRC-12 and the aforementioned regulations, the spectrum band 5150 MHz to 5195 MHz is allocated to Aeronautical Navigation Fixed Satellite service on a primary basis and Mobile except aeronautical mobile.

Further thereto, the Authority published the Regulations regarding Licence Exempt Spectrum on 25 November 2011 in Government Gazette No. 4839, General Notice No. 395 allocating the spectrum band 5150 MHz to 5350 MHz to Wireless Access Systems or Radio Local Access networks subject to the technical conditions set forth in the regulations. As per regulation, this spectrum band may be used for the aforementioned services provided the equipment is implemented for indoor use only and the power output is limited to 200 mW eirp (effective isotropic radiated power) to prevent interference with any services allocated on a primary and secondary basis by ITU regulations.

The Applicant communicated its intention to utilise the spectrum use licence for 5150 MHz to 5195 MHz for high powered, outdoor point-to-point and point-to-multipoint fixed services as well as small cell backhaul on 28 October 2013.



The Authority informed the Applicant on 18 November 2013 that the utilisation of this spectrum band as envisaged will constitute a breach of the Regulations Setting Out the Frequency Band Plan for Namibia as published in Government Gazette No. 5214, General Notice No. 191 on 31 May 2013 and the Regulations regarding Licence Exempt Spectrum as published in Government Gazette No. 4839, General Notice No. 395 on 25 November 2011.

The Authority subsequently recommended that the Applicant submit an application to withdraw the spectrum use licence awarded for 5150 MHz to 5195 MHz and apply for spectrum in an appropriate spectrum band in accordance with the Regulations Setting Out the Frequency Band Plan for Namibia to implement outdoor point-to-point and point-to-multipoint fixed services and small cell backhaul prior for consideration by the Authority.

The Applicant submitted an application for withdrawal of the spectrum use licence awarded for 5150 MHz to 5195 MHz on 23 December 2013.

### **PROCEDURAL COMPLIANCE**

Following due process in terms of regulation 11 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Gazette 5432, Notice No. 68, dated 27 March 2015, allowing fourteen (14) days for public comments from the date of publication of the Notice in the *Gazette*. The commenting period lapsed on 27 May 2015, and no comments were received.

### **ANALYSIS BY THE AUTHORITY**

During the consideration process the Authority noted that the shareholding indicated on the application for withdrawal was not in accordance with shareholding structure on record and which shareholding formed the basis for the award of the telecommunications service licence and spectrum use licence to the Applicant in July 2013. The Authority subsequently halted the consideration process to gain clarity of the shareholder structure of the Applicant and issued a regulatory summons in respect of a change in shareholder structure without prior approval of such action by the Authority.

Due process in respect of the regulatory summons was concluded as per the decision of the Board of Directors taken on 3 December 2015 to impose a fine of fifty thousand Namibian Dollars (N\$50,000). Subsequently consideration of the application for withdrawal has been concluded. CTS has admitted the offence in this regard and paid the fine on 12 January 2016.

Regulation 10(2) of Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences as published in Government *Gazette* No. 4785, General Notice No. 330 dated 29 August 2011 provides as follows-

***(2) If a licensee intends to permanently discontinue providing service in accordance with its licence, it must request the Authority to withdraw its licence...."***

Accordingly, the Applicant submitted an application for withdrawal of its spectrum use licence awarded in the 5150 MHz to 5195 MHz spectrum band to provide telecommunications services on a national basis in compliance with the provisions contained in the said Regulations.

Although Regulation 10(3) (e) requires the Applicant to set out the date of discontinuance of service at least sixty (60) days from the date of submitting the application for withdrawal, it is noted that the Applicant never commenced utilization of the spectrum to provide any telecommunications services to customers utilising the licence at hand.

Be that as it may and to comply with the regulatory provisions, the date of discontinuation is 23 February 2014 being 60 days from 23 December 2013 (date on which the application was submitted) as contemplated in regulation 10(3)(e) of the Licensing Procedure Regulations.

It should be noted that all spectrum use licence fees relating to these licences have been paid in full until 31 December 2014, as required by Regulation 10(3)(f) of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Services Licences and Spectrum Use Licences. Owing to the fact that the date of discontinuation is 23 February 2014 and the fees for the full 2014 spectrum year have been paid, the Authority will refund Applicant the prorated fees in respect of the said spectrum use licence amounting to N\$ 76,684.93 (seventy six thousand six hundred and eighty four Namibian Dollars and ninety three cents) calculated from date of discontinuation (i.e. 23 February 2014).

No customers are impacted by the withdrawal of the spectrum use licence as no telecommunications services are offered by the Applicant to date utilising spectrum from 5150 MHz to 5195 MHz.

## **DECISION**

In terms of section 101 of the Communications Act and the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority herewith approved:

- (i) The withdrawal of the spectrum use licences awarded to the Converged Telecommunications Solutions (Pty) Ltd on 19 July 2013 to provide telecommunications services as set out hereunder-
  - (a) 5150 MHz to 5195 MHz;
- (ii) That CTS be refunded the amount of N\$ 76 684.93 being the fees for the 2014 spectrum year, pro- rated from 24 February 2014 – 31 December 2014.

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

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## **COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 83

2016

### **LAPSE OF SPECTRUM USE LICENCE IN TERMS OF REGULATION 6(5) OF THE REGULATIONS SETTING OUT LICENCE CONDITIONS FOR SPECTRUM USE LICENCES**

#### **INTRODUCTION**

**Salt Essential IT (Pty) Ltd (hereinafter referred to as “Salt”)** was awarded with a spectrum use licence for 3600 MHz to 3620 MHz to provide fixed/wireless broadband access services in conjunction with their Class Comprehensive Telecommunications Service Licence (ECS and ECNS) in terms of section 101(6) of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as “the Act”) and regulation 6 (1) 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. The award of the spectrum use licences were published in Government Gazette No. 5254, Notice No. 289 dated 31 July 2013 and came into force and effect on the same date.

#### **BACKGROUND TO THE MATTER**

Salt holds a Class Comprehensive Telecommunications Service Licence (ECS and ECNS). As indicated above, Salt was awarded a spectrum use licence for 3600 MHz to 3620 MHz to provide fixed/wireless broadband access services on 31 July 2013 as stated above.

Regulations 6(3) of the Regulations Setting Out Licence Conditions for Spectrum Use Licences as published in Government *Gazette* No. 5354, Notice No. 469 dated 2 December 2013 indicates that in the event that a licensee fails to provide services within six (6) months after the date of issuance thereof, the Authority may declare the licence to be forfeited.

Regulations 6 (4) and (5)(a)(i) of the said regulations reads as follows-

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

*(5) if the Authority-*

*(a) is satisfied that a licensee has-*

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

*(ii) failed to pay licence fees payable*

*(b) The Authority may by written notice to the licensee inform such licensee that it intends to cancel such licensee’s spectrum use licence and in such notice state the grounds for such intended action.”*

In terms of the above-mentioned regulations, Salt was required to commence with the provisioning of fixed/wireless broadband access services on or before 9 June 2014 (being six months from the date of publication of the aforementioned spectrum use licence conditions regulations). Further thereto, Salt failed to pay spectrum use licence fees in respect of the licence awarded for the years 2014 and 2015.

#### **NOTICE OF INTENTION TO CANCEL**

Following due process, the Authority addressed a letter to Salt on 21 May 2015 indicating that Salt has not complied with its spectrum use licence conditions as contained in Regulation 6(4) and 6(5) (a)(i) and (ii) of the Regulations Setting Out Licence Conditions for Spectrum Use Licences and that the Authority intends to cancel the aforementioned spectrum use licences due to the fact that the spectrum use licence is unutilised as no fixed/wireless broadband access services are being offered to date and the spectrum licence fees for 2014 and 2015 amounting to eighty thousand Namibian Dollars (N\$80,000.00) have not been paid.

Salt was requested to make a written representation in terms of regulation 6(6) of the said regulations to the Authority advancing reasons as to why the Authority should not make a determination that the spectrum use licence as awarded to Salt has lapsed as contemplated in the conditions contained in regulations 6(5)(a)(i) and (ii) as cited above.

Salt submitted its response on 25 June 2015 providing proof of payment in respect of the spectrum licence. Salt further stated that it came to the conclusion that the implementation of a network to provide fixed/wireless broadband access will not be financially possible and will place a severe cash burden on the business. Salt further indicated that it has therefore, embarked on an exercise to secure a technical partner or investor to assist in setting up a wireless network. Salt attached three letters from potential investors and a network business plan to their submission.

#### **ANALYSIS OF SUBSTANTIVE ISSUES**

The fact that Salt settled outstanding spectrum fees on 8 June 2015 does not negate the fact that the spectrum remained unutilised from the date of issuance on 31 July 2013 to date, which is the requirement in terms of the said licence.

The spectrum band 3600 MHz to 3800 MHz allocated to fixed/wireless broadband access services in terms of Regulations Setting out the Frequency Band Plan for Namibia has limited vacant spectrum

available. Salt has been awarded 20 MHz of spectrum from 3600 MHz to 3620 MHz based on the network rollout and equipment specifications contained in its application.

Spectrum use licences are awarded subject to the Regulations Setting Out Licence Conditions for Spectrum Use Licences requiring a licensee to utilise spectrum awarded within six (6) months from the date of issuance. The time period as contained in the regulations is based on-

- (i) the fact that an applicant for a spectrum use licence has to submit rollout plans and equipment specifications together with its application form implying that the applicant would have completed its planning process for implementation of the network; and
- (ii) to prevent the hoarding of spectrum by a licensee placing a prohibition on competition in the market.

The Authority noted that Salt did not submit a request for condonation in respect to the said spectrum use licence prior to end of the aforementioned six (6) month period or at any time thereafter for consideration by the Authority.

Salt further states in its submission dated 25 June 2015 that it will not be able to implement a wireless network unless it is able to secure external investment. From the letters submitted in support of this statement indicated (Annexure "B") it is clear that Salt has been unable to secure such funding or a technical partner over the last twelve (12) months and are also unable to provide a future date when such financial resources could be secured.

The award of a spectrum use licence grants the holder of such a licence the right use of the assigned spectrum as per the provisions of section 101 of the Act. The non-utilisation of the spectrum use licence for 3600 MHz to 3620 MHz by Salt results in the hoarding of spectrum and place a limitation on the promotion of competition in the market in that the no other licensee may utilise the said spectrum nor can the Authority consider assignment of the spectrum from 3600 MHz to 3620 MHz to a new entrant as the "right-to-use" has been transferred to Salt with the award of the spectrum use licence on 31 July 2013.

The Licensing Committee therefore resolved at its meeting held on 13 January 2016 to recommend to the Board of Directors that the spectrum use licence awarded to Salt on 31 July 2013 for spectrum from 3600 MHz to 3620 MHz, has lapsed due to the fact that-

- (i) the licensee has failed to launch fixed/wireless broadband access services in terms of regulation 6(4) and 6(5)(a)(i) of the Regulations Setting Out Licence Conditions for Spectrum Use Licences as published in Government Gazette No. 5354, Notice No. 469 dated 2 December 2013;
- (ii) That the Licensee by its own admission does not have the necessary financial resources available to support the implementation of a wireless network and has also not secured such financial resources or a technical partner to date; and
- (iii) the hoarding of spectrum places a limitation on competition in the market and is prohibited in terms of the aforementioned regulations.

It should be noted that no customers are affected as Salt did not provide any services to date utilising the spectrum 3600 MHz to 3620 MHz as contained in the spectrum use licence awarded.

Salt may apply for a reconsideration of this decision as contemplated in section 31 of the Communications Act.

## **DECISION**

In terms of section 101 of the Communications Act read with regulations 6(4) and 6(5)(a)(i) of the Regulations Setting Out Licence Conditions for Spectrum Use Licences, the Authority herewith approved:

- (i) That the spectrum use licence for 3600 MHz to 3620 MHz awarded to Salt Essential IT (Pty) Ltd on 31 July 2013 to provide fixed/wireless broadband has lapsed.

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

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 84

2016

**NOTICE IN TERMS OF SECTIONS 31 OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) AND REGULATION 19(1) REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES**

The Communications Regulatory Authority of Namibia, in terms of section 31 of the Communications Act, 2009 (Act No. 8 of 2009) read with regulation 19(1) of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that the application for reconsideration for **Shalo’m Messenger Ministries** has been approved.

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

**Shalo’m Messenger Ministries (hereinafter referred to as “the Applicant”)** submitted an application for a community broadcasting service licence and spectrum use licence in accordance with sections 85 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as the “Act”) and regulations 5 and 6 of the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences as published in Government *Gazette* No. 4785, General Notice No. 272 of 29 August 2011 (as amended), for providing FM Radio broadcasting services on 15 August 2014.

The Authority informed the Applicant that its applications for a community broadcasting service licence and spectrum use licence in Oshakati have been declined on 21 July 2015

The Applicant submitted an application for reconsideration to the Authority on 10 August 2015 in terms of section 31 of the Communications Act, 2009.

**SUBSTANTIVE ISSUES DURING THE INITIAL APPLICATION**

During the initial consideration of the application, the Authority took into account a number of concerns as indicated below-

**Application for community broadcasting service licence**

The Oshakati area is well serviced by seven (7) commercial broadcasters (Omulunga Radio, Radio 100, Radio Kudu, Radio 99, Radiowave, Cosmos Digital Namibia, Fresh FM), three (3) community broadcasters (Media for Christ, Ohangwena Community Radio, Maroela Trust) and the Namibia Broadcasting Corporation (NBC). Please note that NBC is broadcasting services in nine (9) languages as well as offering a National Radio channel.

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

***“When considering an application for the issue of a broadcasting licence the Authority must have regard to-***

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

The Authority has no reservations of the character of the Applicant or its directors and has also not received any information that suggests that they have a bad character or that they would not be fit to run a radio station.

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

Based on the facts presented, the Applicant intends to finance its broadcasting operations via donations from listeners, sponsors and members, fundraising functions, subscription fees for business calendars and the sale of tapes, CD’s and promotional items as well as advertising revenue.

No proof of any investment funds or financing were submitted though it is stated that the cost of technical equipment will be provided for by a private loan.

The Applicant submitted a 5-year financial forecast. The analysis conducted by the Authority concluded that the financial projections are over ambitious, with a profit margin of 14% whereas nationwide operators have a combined average of only 2% - 3%. With such an indicator, a new operator has to have an advertisement and publicity budget well above that of the Applicant for penetration in the broadcasting market. Listed in the Income Statement forecast, is the Rental Office Space, which after considering the Balance Sheet Fixed Assets listing, there is no property to generate such a type of income. Advertisements’ revenue seems to also be overstated within the first year of business where consumer awareness is likely to be at the minimum level due to the above mentioned understated budget.

With a staff complement of only eleven (11) employees, the Applicant forecasted salary bill is more than a third of total expected expenditure income. Considering an income which is not clearly defined in the business case, it becomes questionable on how they will maintain such a huge operational expense in addition to other expenses.

The forecasted income and expenditure have among others, income such as donations. No clarity was provided on the method of collection of other donations to form the basis for a sustainable source of financial funding.

The repayment of the 21.3% loan can also be highlighted as one of the big omissions in the Income and Expenditure statement and could provide a valid reason as to why they have a high projected Income after Tax and Depreciation (IATD).

When compared to Media for Christ, also a Section 21 Company broadcaster with a focus on preaching the Gospel, it is clear that the Applicant over stated their income and understated their expenditure. Their growth projections of 16% in the first year are over ambitious. Media for Christ, a national broadcaster, is making a loss and has to find other means to subsidise the radio station.

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

***(i) more than one broadcasting service;***

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

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

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

The initial application submitted by the Applicant was supported by an application for site sharing of the Oshakati transmitter tower owned by the Namibian Broadcasting Corporation (NBC).

However the Applicant informed the Authority on 19 May 2015 that it will acquire site sharing via SatCom (Pty) Ltd on the NBC tower and that SatCom (Pty) Ltd will be responsible for the payment to NBC. No proof was submitted as to the existence of a site sharing agreement between NBC and SatCom (Pty) Ltd to support the aforementioned statement.

The Applicant submitted an agreement with Satcom (Pty) Ltd for the maintenance of the transmitter equipment.

The Authority is therefore not convinced that the Applicant has secured access to infrastructure to install its technical equipment and commence broadcasting services utilising assigned spectrum given the discrepancy between the initial application and the documentation submitted on 19 May 2015. In the opinion of the Authority the Applicant will not be able to comply with section 86(2) (q) of the Act nor provide broadcasting services within six (6) months from the date of the award of the service licence as required by the Regulations regarding Licence Conditions for Broadcasting Service Licensees.

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

There is no indication that if awarded a licence the conditions imposed would unjustly benefit Applicant above another licensee.

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

The Applicant has applied for a community broadcasting service licence and intends to broadcast gospel content to a specific community comprising of all age groups, all gender groups in towns, settlements, villages and farming areas within a 150 km radius from the tower on a 24-hour basis.

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

However it should be noted that an Applicant must have the ability to install the relevant technical equipment to facilitate the use of spectrum assigned. The Applicant has failed to provide proof of access to infrastructure to install technical equipment to utilised spectrum to provide broadcasting services or proof of available funding to acquire the necessary technical equipment.

In the opinion of the Authority the Applicant will not be able to comply with the broadcasting service licence conditions and spectrum use licence conditions requiring licensees to commence services and utilisation of spectrum within a period of six (6) months from the date of award of said licences should approval be granted by the CRAN Board of Directors.

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

The FM broadcasting frequency applied for is not reserved for future use, however spectrum in the Oshakati area is in short supply given the high number of existing broadcasting licensees and is further compounded by the high volume of applications pending before the Authority for the area.

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

Given that the Applicant does not meet the criteria as set out in points (b, (d) and (f) above, it is not desirable to give priority to the Applicant’s application for a community broadcasting service licence and spectrum use licence.

In light of the above analysis, the Authority is of the opinion:-

- (i) That the Applicant will encounter sustainability challenges given the fact the Applicant did not provide proof of sufficient funding resources as required by section 85 (b);
- (ii) That based on the analysis of the current projections, the Applicant will not have adequate financial resources, to sustain the station as required by section 85(8)(b) of the Communications Act; and
- (iii) The Applicant failed to provide proof of access to the broadcasting tower owned by the Namibian Broadcasting Corporation to install broadcasting equipment to provide services, despite numerous requests from the Authority to submit proof in the regard. The Applicant will therefore not be able to adhere to technical requirements as set out in section 85 (8)(b), (d) and (f).

**Application for spectrum use licence**

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

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

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

Section 101(8) places a duty on the Authority to consider the application for spectrum in conjunction with the application for a service licence and to ensure that such spectrum use licence as may be required is issued to enable the applicant to render the services for which the service licence is issued. Read jointly, these sections suggest that if an Applicant has applied for a broadcasting service licence, it must also have such spectrum use licence as is necessary to render the service concerned and further that a spectrum use licence is required in addition to a broadcasting service licence. It also indicates that a spectrum use licence cannot be issued for the provision of broadcasting services in the absence of a broadcasting service licence.

Subsequently a recommendation to decline the award of a broadcasting service licence, would naturally be accompanied by a decline of a spectrum use licence, because frequencies for FM broadcasting may only be utilised with a broadcasting service licence.

The Authority therefore recommended that the CRAN Board of Directors decline the application for a spectrum use licence submitted by the Applicant.

**APPLICATION FOR RECONSIDERATION**

**BACKGROUND**

The Authority published its final decision to decline the application for a community broadcasting service licence and spectrum use licence in Oshakati submitted by the Shalo’m Messenger Ministries in Government Gazette No. 5836, General Notice No. 438 dated 24 September 2015.



The Applicant submitted an application for reconsideration to the Authority as per letter dated 07 August 2015 (received on 10 August 2015) in terms of section 31 of the Communications Act, 2009 in response to the letter from the Authority dated 21 July 2015.

### **GROUNDS FOR RECONSIDERATION**

Although the Applicants letter did not expressly state the grounds for reconsideration, it submitted new information in respect of the different reasons for the decline. The Authority has therefore implied those to be the reasons that Applicant wishes for the Authority to consider in reviewing its earlier decision. The new information submitted included a revised 5-year financial forecast, a letter from Satcom (Pty) Ltd for access to the tower infrastructure of the Namibian Broadcasting Corporation and proof of financial resources available to sustain the envisaged radio station. The Authority thus proceeded to re-evaluate the abovementioned documentation as provided by the Applicant.

### **SUBSTANTIVE ISSUES ON RECONSIDERATION**

Based on the new facts presented, the Applicant intends to finance its broadcasting operations via signed confirmations of monthly donations and sponsorships as attached to the new submission and providing funds in excess of four hundred and twenty thousand Namibian Dollars (N\$420,000.00) per year. The Authority deemed this sufficient funding to sustain the operations of a community broadcaster. It should however, be noted that their advertisement revenue remains questionable. In a saturated broadcasting market such as the Oshakati area a substantial advertisement budget will be required to create awareness of a new broadcaster. However, the Applicant only made provision in the budget for N\$ 24, 000 per annum increasing by 6.5% per annum.

All operational expenses pertaining to broadcasters have been included in the revised Income and Expenditure statement, resulting in a very marginal Net Profit difference, from 14% net margin of the initial submission, to 4% in the new submission, closely relating to that of the market. Since the Applicant is applying for a community broadcasting licence it is important that the applicant should be able to sustain itself which was proven in the new submission.

Should the members and sponsors continue to honour their obligations towards the operation of the Applicant, it will not be a major concern if they do not secure a large number of advertisers. In the geographical location they will be operating in, listeners will have to be sourced through word-by-mouth due to their low advertising and publicity budget which remains unchanged from the initial submission, at twenty four thousand Namibian Dollars (N\$ 24,000.00), and an annual increase of 6.5% over the next 5 years.

Since the Applicant applied for a community broadcasting licence they will be subject to other sources of funding to which they have provided the necessary proof. If this trend could be continued in future as projected in the financial forecast, this could be a sustainable venture for years to come. However, as with the initial submission, the Applicant submitted a letter to lease infrastructure from Satcom (Pty) Ltd and not the Namibian Broadcasting Corporation as the rightful owner of the transmitter tower in Oshakati. The Authority therefore remains of the opinion that the Applicant will find it difficult to comply with licensing conditions to launch services and utilise the spectrum use licence within six (6) months from the date of issuance.

Notwithstanding the Authority's technical reservations, the Licensing committee resolved at its meeting held on 13 January 2013 to reconsider its previous recommendation to the CRAN Board of Directors in respect of the application for a community broadcasting service licence and spectrum use licence in Oshakati based on the financial resources and proof of funding as submitted by the Applicant on 10 August 2015 together with its application for reconsideration.

**DECISION**

In terms of section 31 of the Act and the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority herewith approved:

- (i) That the decision contained in Government Gazette No. 5836, Notice No. 438, dated 24 September 2015 is herewith set aside;
- (ii) The award of a community broadcasting service licence to Shalo'm Messenger Ministries based on the criteria as set out in Section 85(8) of the Communications Act which service licence is awarded subject to the Communications Act, 2009 (Act No.8 of 2009) and the Regulations regarding Licence Conditions for Broadcasting Service Licences as published in Government Gazette No. 50
- (iii) The award of spectrum use licence to Shalo'm Messenger Ministries for-
  - (a) Oshakati 106.3 MHz 500W, which licence is awarded subject to the Communications Act, 2009 (Act No. 8 of 2009) and the Regulations Regarding License Conditions for Spectrum Use Licensee as published in Government Gazette No. 5354, General Notice No. 469, dated 2 December 2013;
  - (b) That the above community broadcasting service licence and spectrum use licence is awarded on condition that the Applicant submits an infrastructure sharing agreement with an infrastructure owner to install its broadcasting equipment within three (3) months from the date of award of the aforementioned licences.

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

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 85

2016

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

The Communications Regulatory Authority of Namibia, in terms of Section 101 of the Communications Act, 2009 (Act No. 8 of 2009) read with Regulations 6 and "Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences", in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that the application for additional spectrum for **Fresh FM (Pty) Ltd** has been approved.

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

**Fresh FM (Pty) Ltd** (hereinafter referred to as "the Applicant") submitted applications for four (4) spectrum use licences to provide FM broadcasting services in the geographical areas of Grootfontein, Tsumeb, Rundu and Otjiwarongo on 5 March 2015 in accordance with section 101 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as the "Act") and the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use licences as published in Government Gazette No. 4785, General Notice No. 272 of 29 August 2011, for consideration by the Authority.

## BACKGROUND TO APPLICATION

The Applicant holds a commercial broadcasting service licence, which was awarded on 25 November 2011 in terms of Regulation 9(10) of the Regulations regarding Transitional Procedures for Telecommunications and Broadcasting Services Licences and Spectrum Use Licences as published in Government Gazette No. 4737, General Notice No. 171 dated 17 June 2011 and was awarded spectrum use licences for coverage in the geographical areas of Windhoek and Oshakati in terms of regulation 10 (1) of the aforementioned regulations. The award of the spectrum use licences was published in Government Gazette No. 5037, General Notice No. 306 dated 13 September 2012 and came in force and effect on the same date.

The Applicant was awarded additional spectrum use licences to extend its services to the geographical areas of Swakopmund and Walvis Bay as published in Government Gazette No. 5017, Notice No. 276 dated 17 August 2012.

The Applicant wishes to expand its broadcasting services further to the geographical areas of Grootfontein, Tsumeb, Otjiwarongo and Rundu as per the application forms for spectrum use licences submitted on 5 March 2015. The application forms were submitted together with coverage predictions, the location of broadcasting transmitters and technical equipment specifications. All the transmitters are to be operated with a power output of 100W.

The Applicant does not intend to construct its own transmitter towers. As per documentation submitted, the Applicant will enter into lease agreements with infrastructure owners at Tsumeb Mine, Namwater and Rundu Noordgrens School to install their transmitters on existing infrastructure.

## REQUEST FOR INFORMATION

The Applicant did not submit proof of the site lease agreements with its application forms. Subsequently the Authority requested the Applicant to provide the outstanding documentation on 15 October 2015 as listed hereunder-

- i) Site sharing agreements with the respective organisations for the utilisation of the following sites;
  - a) Rundu Noordgrens School (Rundu);
  - b) Otjiwarongo Water Tower (Otjiwarongo)
  - c) Tsumeb Mine Site (Tsumeb); and
  - d) Grootfontein Water Tower (Grootfontein)
- ii) A prediction coverage map for the transmitter site in Grootfontein as required in Section G of the application form.

The Applicant submitted the aforementioned coverage prediction and a letter from Satcom entitled **“Letter of Acceptance of Applicant to Rent”** on 27 October 2015 to the Authority. No actual site sharing agreements as requested were submitted

The Applicant submitted letters from the Municipality of Grootfontein and Noordgrens Secondary School, Rundu, confirming that authorisation has been granted to Satcom (Pty) Ltd to sublease infrastructure to broadcasters on their behalf on 20 November 2015. The Authority confirmed receipt of the said documents on 18 December 2015 and also granted the Applicant the opportunity to submit the outstanding documentation for Tsumeb and Otjiwarongo at a later date. To date no infrastructure sharing agreements or any documents in respect of Tsumeb and Otjiwarongo have been submitted to the Authority for consideration.

## PROCEDURAL COMPLIANCE

Following due process in terms of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority

published a notice in the Gazette 5805, Notice No. 380, dated 12 August 2015, allowing fourteen (14) days for public comments from the date of publication of the Notice in the Gazette. The commenting period lapsed on 29 August 2015, and no comments were received.

The last day for the decision is 18 February 2016 following the last correspondence delivered to the Applicant on 18 December 2015.

### **ANALYSIS BY THE AUTHORITY**

The Applicant is an established commercial broadcasting service licensee providing FM radio broadcasting services and intends to extend its services to four new geographical areas in Northern Namibia namely: Rundu, Otjiwarongo, Tsumeb and Grootfontein.

FM Radio broadcasting services in the aforementioned areas are currently provided by-

- (i) Rundu – Namibia Broadcasting Corporation, Media for Christ, Omulunga Radio (Pty) Ltd, Radio Kudu and Radio Wave (i.e. 1 community broadcaster, 3 commercial broadcasters and the public broadcaster);
- (ii) Tsumeb – Namibian Broadcasting Corporation, Media for Christ, 99FM (Pty) Ltd, Radio 100 (Pty) Ltd, Radio Kudu (Pty) Ltd and Omulunga Radio (Pty) Ltd ( 1 community broadcaster, 4 commercial broadcasters and the public broadcaster);
- (iii) Grootfontein – Namibian Broadcasting Corporation, Media for Christ, Omulunga Radio (Pty) Ltd, Radio Kudu (Pty) Ltd, HitRadio and Radio Wave CC (1 community broadcaster, 4 commercial broadcasters and the public broadcaster); and
- (iv) Otjiwarongo –Namibian Broadcasting Corporation, Otji-Investments t/a Otji-FM, Media for Christ, Omulunga Radio (Pty) Ltd, HitRadio, Radio Kudu (Pty) Ltd, Radiowave CC, Cosmos Digital Namibia (Pty) Ltd, and 99FM (Pty) Ltd ( 1 community broadcasters, 7 commercial broadcasters and the public broadcaster).

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

- (i) Section 101 of the Communications Act, 2009;
- (ii) International Telecommunications Union Regulations and subsequent international agreements signed by Namibia as a member state of the International Telecommunications Union; and
- (iii) Regulations Setting Out the Frequency Band Plan for Namibia as published in Government *Gazette* No. 5214, General Notice No. 191 dated 31 May 2013.

Section 101(7) of the Communications Act stipulates as follows:

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

The Applicant holds a commercial broadcasting service licence as published in Government *Gazette* No. 4839, General Notice No 393 dated 25 November 2011 and thus may apply for additional spectrum licences to provide services as contained in its broadcasting service licences. The ownership structure of the Applicant is indicated below-

Name of Applicant	Percentage of Namibian Ownership
Fresh FM (Pty) Ltd	100%

The four (4) spectrum use licence application forms as submitted by the Applicant requested the Authority to consider frequencies between 88 MHz and 108 MHz which request conforms to the provisions contained in the abovementioned regulations.

The Authority identified the frequencies as listed hereunder for consideration-

- |       |              |             |           |
|-------|--------------|-------------|-----------|
| (i)   | Grootfontein | 91.300 MHz  | 100W;     |
| (ii)  | Tsumeb       | 91.400 MHz  | 100W;     |
| (iii) | Rundu        | 102.700 MHz | 100W; and |
| (iv)  | Otjiwarongo  | 87.800 MHz  | 100W.     |

It should be noted that the geographical areas of Rundu, Grootfontein and Tsumeb are served by a limited number of broadcasters only as indicated above. The Authority has sufficient spectrum available in all aforementioned areas applied for.

The Authority is of the opinion that the favourable consideration to award the additional spectrum use licences to the Applicant will be aligned with the objectives of the Act in that it will promote private investment in the communications industry and expand the variety of broadcasting services available into rural areas providing Namibia with wider access to information.

However, the Authority notes that the Applicant intends to rent access on infrastructure from Satcom (Pty) Ltd. The aforementioned company is not the owner of the infrastructure to be utilised for implementation of the Applicant's transmitters. However, the Applicant has submitted documentation indicating that Satcom (Pty) Ltd is authorised to sublease access to the water towers located in Grootfontein and infrastructure located at the premises Rundu Noordgrens Skool. To date the said documentation or an agreement with the infrastructure owner has not been submitted in respect of Tsumeb and Otjiwarongo.

The applications in respect of Tsumeb and Otjiwarongo are to be put on hold until the documentation requested by the Authority has been submitted to allow for completion of the consideration process.

## **DECISION**

In terms of section 101 of the Communications Act and the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licenses and Spectrum Use Licenses, the Authority herewith approved:

- (i) Awards two (2) additional spectrum use licences to Fresh FM (Pty) Ltd for the provision of broadcasting service as indicated below-
  - a) Grootfontein 91.300 MHz 100W; and
  - b) Rundu 102.700 MHz 100W.
- (ii) That the licences are awarded subject to the Communications Act, 2009 (Act No. 8 of 2009) and the Regulations Regarding Licence Conditions for Spectrum Use Licensee as published in Government Gazette No. 5354, General Notice No. 469, dated 2 December 2013;

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

**F. KISHI**

**CHAIRPERSON OF THE BOARD OF DIRECTORS**

**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 86

2016

NOTICE IN TERMS OF SECTIONS 85 AND 101 OF THE COMMUNICATIONS ACT, 2009  
(ACT NO. 8 OF 2009) AND THE REGULATIONS REGARDING LICENSING PROCEDURES  
FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND  
SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of Sections 85 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) read with Regulations 5, 6 and 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, in *Government Gazette* No. 4785, Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that the application for a Commercial Broadcasting Service License and Spectrum Use Licence for **Radiance Consulting and Training Services CC t/a Rapids FM** has been approved.

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

**Radiance Consulting and Training Services CC t/a Rapids FM** (hereinafter referred to as “the Applicant”) submitted applications for a commercial broadcasting service licence and spectrum use licence to provide FM broadcasting services in the geographical area of Rundu and Katima Mulilo on 4 February 2015 in accordance with sections 85 and 101 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as the “Act”) and the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use licences as published in *Government Gazette* No. 4785, General Notice No. 272 of 29 August 2011, for consideration by the Authority. All licence application fees in respect of the application were paid.

**BACKGROUND TO APPLICATION**

As per documentation submitted with the application for a commercial broadcasting service licence, the Applicant is a 100% Namibian owned closed corporation with registration number CC/2013/13148. There are no foreign ownership interests in the Applicant’s board or ownership level as indicated below-

Name of Owner	Percentage of Ownership	Nationality of Owner
Sifiso Nyathi	100%	Namibian

Section 101 (7) of the Communications Act (Act 8 of 2009), provides as follows:

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

Consequently, the Applicant submitted an application for spectrum use for FM broadcasting frequency between 87 MHz and 108 MHz dated 4 February 2015 for coverage in the geographical area of Rundu and Katima Mulilo with a transmitter output power of 1KW at each of the aforementioned locations.

The Applicant is intending to provide their own signal distribution services as required by Regulation 5(2)(g) of the Regulations Regarding Licensing Procedure for Telecommunications and Broadcasting Service Licences and Spectrum Use Licenses. The Applicant will enter into a site sharing agreement with the Telecom Namibia Limited to attach its antenna and transmitters to the existing infrastructure owned by Telecom Namibia Limited in Rundu and Katima Mulilo, as per documentation and coverage plot submitted to the Authority. The Applicant has also entered into an agreement with Telecom Namibia Limited to provide a studio link for the studio located in Katima Mulilo.

As required by regulation 5(2)(j) of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Applicant submitted a proposed program schedule indicating its intention to provide broadcasting services focusing on local and international news, live studio interviews and call in programs, and information on health issues on a 24-hour basis from Monday to Sunday. The Applicant intends to broadcast in English, Portuguese and local languages.

## **REQUEST FOR INFORMATION**

### **Outstanding supporting documentation to application**

The Authority requested the Applicant on 8 June 2015 to submit outstanding information in respect of -

- (i) Clarifications in respect of how the connection between the studio and transmitter will be achieved as no application was submitted for a spectrum use licence to be utilised for a studio link;
- (ii) Site share agreements or an environmental impact assessment should the Applicant be constructing its own transmitter tower; and
- (iii) Site coordinates, site address and antenna height as required for a spectrum use application.

The Applicant submitted agreements with Telecom Namibia Limited to provide a studio link and access to its existing infrastructure for installation of the transmitted equipment dated 16 June 2015.

### **3.2 Oral Submissions**

The Authority requested the Applicant to make an oral submission in respect of its application on 1 October 2015.

At the oral hearing, the Applicant gave a brief overview of their business outlook and marketing plan, competitive differentiation, financial resources, expertise and experience and intended program schedule. The Authority posed various questions to the Applicant on the forecasted market growth, the target market it will serve, programme content, financial resources, technical expertise and envisaged site sharing with Telecom Namibia Limited.

After the oral submissions made by the Applicant, the Authority requested the Applicant on 13 October 2015 to provide-

- (i) Revised cost estimates that include the cost of the studio link, spectrum, internet, audit fees, transmission fees and production expenses;
- (ii) Align its start-up financial projections accordingly to reflect the reasonable cost projections that a radio station is likely to face; and
- (iii) Revise the revenue expectation for the radio station.

The Applicant submitted the aforementioned information on 3 November 2015.

## **PROCEDURAL COMPLIANCE**

Following due process in terms of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Gazette 5790, Notice No. 364, dated 24 July 2015, allowing fourteen (14) days for public comments from the date of publication of the notice in the *Gazette*. The commenting period lapsed on 07 August 2015.

Comments were submitted by the Namibian Broadcasting Corporation in respect of the frequency being considered by the Authority for coverage in the area of Rundu. The Legal Advice department advised that the nature of the comments were such that the Authority needed to deal with because the said comments pertain to possible interference between the frequency assigned to NBC Afrikaans and the frequency under consideration for assignment to the Applicant. There was therefore no reason to send the comments to the for reply comments.

The last day for the decision was initially 6 January 2016 following the last correspondence and documentation as submitted by the Applicant on 3 November 2015. The Authority informed the Applicant that it will render its final decision by 08 February 2016 as per the provisions of regulation 11(10) of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences as published in Government Gazette No.5269, General Notice No. 272 dated 19 August 2011

## **ANALYSIS BY THE AUTHORITY**

### **Application for commercial broadcasting service licence**

The Rundu and Katima Mulilo area are serviced by a limited number of broadcasters as shown below-

- (i) Rundu: three (3) commercial broadcasters (Omulunga Radio, One FM, Radiowave), one (1) community broadcasters (Media for Christ), and the Namibia Broadcasting Corporation (NBC). Please note that NBC is providing broadcasting services in nine (9) languages as well as offering a National Radio channel.
- (ii) Katima Mulilo: four (4) commercial broadcasters (Omulunga Radio, One FM, Radio 99, Radiowave), one (1) community broadcasters (Media for Christ), and the Namibia Broadcasting Corporation (NBC). Please note that NBC is providing broadcasting services in nine (9) languages as well as offering a National Radio channel.

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

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

The Authority has no reservations regarding the character of the Applicant nor has it received any information that suggests that Applicant is of a bad character or that they would not be fit to run a radio station.

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

Based on the facts presented, the Applicant’s business case clearly outlines a well-researched marketing study based on age groups to ensure airing of content that the listeners are interested in and useful in securing the right advertisers. The revenue forecast, in the first year of operations, with an estimated minimal escalation, as the brand becomes more known, is achievable especially given the fact that only the Namibian Broadcasting Corporation and four (4) and five (5) broadcasters provide FM broadcasting services in Rundu and Katima Mulilo respectively.

The ability to generate income will depend on how quickly the ideas can be implemented, to establish a strong brand to compete with existing broadcasters, and the public’s acceptance of a new radio station in the market. From the analysis of the business case submitted, the population in question and considering existing broadcasters, the Authority is of the opinion that the submitted financial projections for a period of five (5) years are reasonable.



Although most of the initially omitted operational expenses have been catered for in the revised Income and Expenditure statement submitted on 3 November 2015, the important cost component of marketing and consumer awareness remains at N\$ 5,000.00. The Authority is of the opinion that this amount is not sufficient for fierce market penetration and as a break-even is only expected in the second year of operations. Therefore a more flexible advertising budget could be the key to maximize the number of listeners at their disposal. Local SME's will likely make use of Rapids Advertisement Packages.

The implementation and support of the envisaged radio station is based on a capital injection "cash-in-hand". The Authority is therefore of the opinion that the Applicant has sufficient financial resources available to sustain the radio station should the broadcasting service licence be awarded.

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

***(i) more than one broadcasting service;***

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

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

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

The Applicant submitted agreements with Telecom Namibia Limited for site sharing and the studio link between the transmitter tower and the studio. A deed of transfer for Erf No. 5464 located in Katima Mulilo between the Town Council of Katima Mulilo and the Applicant was also submitted. The broadcasting studio will be located at the venue. Technical expertise has been secured from SatCom (Pty) Ltd and DB Studio to assist the Applicant during the setup and operation of the envisaged radio station.

The Authority is of the opinion that the Applicant is likely to comply with technical standards and licence conditions in respect of spectrum use.

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

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

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

The Applicant has applied for a commercial broadcasting service licence with the intention to provide broadcasting services in two geographical areas with limited established broadcasters. The Applicant will not limit its content to the English language but will also broadcast in Portuguese and local languages, adding to the diversity of broadcasting content available in Rundu and Katima Mulilo.

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

As indicated above, the number of broadcasters within the geographical area of Katima Mulilo and Rundu is limited and these areas have sufficient frequencies available for new entrants in the

broadcasting market. The Authority is of the opinion that the addition of another broadcaster will be beneficial to all Namibians living and travelling through these areas and thus does not see the need to reserve the spectrum for future use.

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

Given that the Applicant did not apply for a community broadcasting service licence, this criteria thus has no bearing on the application under consideration and is not applicable.

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

**Application for spectrum use licence**

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

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

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

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

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

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

**DECISION**

The Authority herewith approved-

- i) The award of a commercial broadcasting service licence to Radiance Consulting and Training Service CC t/a Rapids FM based on the criteria as set out in Section 85(8) of the Communications Act which service licence is awarded subject to the relevant provisions of the Communications Act, 2009 (Act. No.8 of 2009) and the Regulations regarding Licence Conditions for Broadcasting Service Licences as published in Government *Gazette* No. 5037, General Notice No. 309 dated 13 September 2012; and
- ii) The award of spectrum use licences to Radiance Consulting and Training Services CC t/a Rapids FM for-
  - a) Katima Mulilo 98.2 MHz 1 KW; and
  - b) Rundu 107.7 MHz 1 KW

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

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

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

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 87

2016

**NOTICE IN TERMS OF SECTIONS 85 AND 101 OF THE COMMUNICATIONS ACT,  
2009 (ACT NO. 8 OF 2009) AND THE REGULATIONS REGARDING LICENSING  
PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE  
LICENCES AND SPECTRUM USE LICENCES**

The Communications Regulatory Authority of Namibia, in terms of Section 101(130 of the Communications Act, 2009 (Act No. 8 of 2009) read with Regulations 8 and 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that the application for amendment of Spectrum Use Licence by **Comprehensive Nuclear-Test- Ban Treaty Organisation (CTBTO)** has been approved.

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

**INTRODUCTION**

**Comprehensive Nuclear Test Ban Treaty Organisation (CTBTO)** was awarded spectrum use licences in Windhoek and Tsumeb to provide Fixed-Satellite services on 27 March 2014 in terms of section 101 of the Communications Act, read with regulations 6 and 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, published in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011 (As Amended).

CTBTO submitted an application for amendment of the spectrum use licence awarded at Windhoek and Tsumeb to provide Fixed-Satellite services in accordance with Regulation 13 the Regulations Regarding Licensing Procedure for Telecommunications and Broadcasting Service Licences and Spectrum Use License as published in Government Gazette No. 4785, Notice No. 272 dated 29 August 2011.

**BACKGROUND TO APPLICATION**

The Government of Namibia granted its support for the issuance of a private VSAT licence and spectrum to the Comprehensive Nuclear-Test-Ban Treaty Organisation (CTBTO) at the request of the Ministry of Mines and Energy in June 2001. Accordingly the Namibian Communications Commission issued a private VSAT licence and spectrum to CTBTO on 2 October 2002. The Namibian Communications Commission renewed these licences for a further period of 5 (five) years on 13 August 2007.

CTBTO constructed VSAT stations in Windhoek and Tsumeb as part of the International Monitoring System (IMS) consisting of more than 300 stations worldwide to monitor nuclear explosions. The system is used to record seismic, infrasound, hydro-acoustic and radionuclide data and transmit the information to the CBCTO headquarters located in Vienna, Austria.

Information forms in this regard were duly submitted to the Authority on 15 November 2011. In addition thereto, CTBTO also submitted spectrum use licence application forms for 6383 MHz/4157 MHz in Windhoek and 6337 MHz/4112 MHz in Tsumeb for Fixed Satellite (Earth-to-Space) services. Subsequent thereto, CTBTO submitted spectrum withdrawal forms on 23 December 2011 for the spectrum previously assigned by the Namibian Communications Commission on 13 August 2007. The modification of spectrum was requested in order to align the configuration of the network in Namibia with CTBTO's global network.

The Authority could only proceed with the consideration of the transitioning of the private VSAT licence and withdrawal of spectrum issued by the Namibian Communications Commission once all fees related to these licences were settled, as required by Regulation 7(g) of Regulations Regarding Transitional Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences published in Government Gazette No. 4737, General Notice No. 171 dated 17 June 2011. CTBTO paid all outstanding fees on 9 October 2013 and the Authority commenced with consideration of the spectrum use license application.

CTBTO was awarded with the spectrum use licence on 27 March 2014 as published in Government Gazette No. 5432, General Notice No. 67 offering services that require spectrum in the appropriate spectrum band for Fixed-Satellite (Earth-to-Space) as per section 101(6) read with regulation 6 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences.

## **PROCEDURAL COMPLIANCE**

Following due process in terms of Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Gazette No. 5776, dated 3 July 2015, allowing fourteen (14) days for public comments from the date of publication of the notice in the *Gazette*. The commenting period lapsed on 16 July 2015, and no comments were received.

The last day for the decision was 16 September 2015. The Authority could not render its final decision and informed the Applicant that it will render its final decision by 08 February 2016. On 05 February 2016, the Authority postponed the decision date to 17 February 2016 as it was not able to render a decision by 08 February 2016.

## **ANALYSIS BY THE AUTHORITY**

Section 101(13) of Communications Act 8 of 2009 states that the Authority may amend a spectrum licence issued under subsection (2) –

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

The Authority supports the amendment of the spectrum use license for CTBTO as it is necessary to adopt the configuration of the Namibian network to that of CTBTO's global network used strictly for the purpose of International Monitoring System (IMS) and carry data back to the International Data Centre in Vienna, Austria.

The Authority is of the opinion that the CTBTO is likely to comply with technical standards and licence conditions in respect of spectrum use; it has duly completed all application forms and paid all spectrum fees.

**DECISION**

The Authority herewith approves the amendment of the following spectrum use licences:

- |    |          |   |
|----|----------|---|
| a) | Windhoek | 6382.523 MHz<br>6382.690 MHz<br>6382.774 MHz<br>4157.8971 MHz   |
| b) | Tsumeb   | 6337.2582 MHz<br>6337.4125 MHz<br>6337.5667 MHz<br>4112.100 MHz |

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

**F. KISHI**

**CHAIRPERSON OF THE BOARD OF DIRECTORS**

**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 88

2016

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

The Communications Regulatory Authority of Namibia, in terms of Regulation 13 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, as published in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011 read with section 42(2) of the Communications Act, 2009, herewith proposes that the following persons Spectrum Use License be modified:

Licensee	Percentage of Stock owned by Namibian Citizens or Namibian citizens or Namibian Companies controlled by Namibian Citizens;	Licence to be Modified	Radio Frequencies or group of frequencies to be modified;	Grounds for Modification	Proposed radio Frequencies or group of frequencies to be assigned;	Service provided using frequency assigned	Party providing Signal Distribution
Hit Radio Namibia CC	100%	Spectrum Use Licence	94.7 MHz (Erongo Mountain)	The licensee has been assigned the frequency 94.7 MHz for the geographic areas of Karibib on Erongo Mountain.  There is an adjacent channel interference experienced with Radio Kudu (Pty) Ltd at a frequency of 94.6 MHz on the same site.	102.2 MHz	FM Broadcasting Service	Own

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

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

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

- (1) by hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;
- (2) by post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;
- (3) by electronic mail to the following address: [legal@cran.na](mailto: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**

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 89

2016

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

The Communications Regulatory Authority of Namibia, in terms of in terms of section 101 of the Communications Act 8 of 2009 and regulation 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011, herewith gives notice that the persons referred to in the table below have submitted the following application to the Authority:

### Spectrum Use Licence Application

Applicant's Name	Applicant's citizenship or place of incorporation	Percentage of Stock owned by Namibian Citizens or Namibian Companies controlled by Namibian Citizens	List of radio frequencies or groups of radio frequencies applied for	List of radio frequencies or groups of radio frequencies being considered for assignment by the Authority	Description of geographic coverage area(s)	License Fees Outstanding	Service to be provided using frequency applied for
MTN Business Namibia (Pty) Ltd	South African	0% <sup>1</sup>	2360-2400 MHz Bandwidth 40 MHz (TDD)	2387-2397 MHz Bandwidth 10 MHz (TDD) Limited available Spectrum in this band	Within the border of the Republic of Namibia or any part thereof.	YES	FIXED MOBILE 5.384A

<sup>1</sup> Subject to authorisation in terms of Section 46 of the Communications Act granted by the Minister.



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 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: 0886550852.

**F. KISHI**

**CHAIRPERSON OF THE BOARD OF DIRECTORS**

**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 90

2016

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

The Communications Regulatory Authority of Namibia, in terms of section 85 and 101 of the Communications Act 8 of 2009 and regulations 5, 6 and 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 have submitted the following applications to the Authority:

## (a) Broadcasting Service License Application

Applicant's 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 License as contemplated in the Regulations Setting out Broadcasting and Telecommunication Service License categories	Party providing Signal Distribution	Whether Licensee intends to use spectrum in the provision of broadcasting service intended to be provided	License Fees Outstanding
Omaheke Community Radio	Namibia	100%	Community Broadcasting Service License	Own	Yes, application is contained in part (b) below	No

  

Applicant's Name;	Applicant's citizenship or place of incorporation;	Percentage of Stock owned by Namibian Citizens or Namibian Companies controlled by Namibian Citizens;	List of radio frequencies or groups of radio frequencies applied for;	List of radio frequencies or groups of radio frequencies being considered for assignment by the Authority;	Description of geographic coverage area(s)			Maximum Output power;	License Fees Outstanding;	Service to be provided using frequency applied for;	Party providing Signal Distribution;
					Region;	District;	City/Town;				
Omaheke Community Radio	Namibia	100 %	88–108 MHz	96.1 MHz	Omaheke	Gobabis	Gobabis	250 W	No	Community Broadcasting Service	Own

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 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: 0886550852.

**F. KISHI**

**CHAIRPERSON OF THE BOARD OF DIRECTORS**

**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 91

2016

**NOTICE IN TERMS OF SECTION 53 OF THE COMMUNICATIONS ACT (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 of the Communications Act read with regulation 8 of the “Regulations Regarding the Submission of Interconnection Agreements and Tariffs”, published in Government Gazette No. 4714, General Notice No. 126, dated 18 May 2011, herewith gives notice of the following tariffs for Pure Products as submitted by **MWireless (Pty) Ltd t/a AfricaOnline Namibia**, which, notwithstanding date of publication of this notice, came into force on **12 February 2016**.

**INTRODUCTION**

In terms of section 53 (1) and (7) of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as “the Act”), MWireless (Pty) Ltd t/a AfricaOnline Namibia (hereinafter referred to as “Africa Online”), filed for the approval of tariffs for new Pure Products on 14 October 2015.

**PROCEDURAL COMPLIANCE**

The proposed tariffs were published as General Notice No. 576 in the Government Gazette No. 5908 dated 24 December 2015, 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 Government Gazette, within a period of fourteen (14) days from the date of publication of the Notice in the *Gazette*, which period lapsed on 11 January 2016. However, due to the disruption of the commenting period by the public holidays and the fact that a lot of institutions and members of the public were closed for the festive season, the Authority resolved to keep the commenting period open for a further 9 days until 20 January 2016.

No public comments were received in respect of the tariffs as published during the commenting period, and as such no reply comments were required from Africa Online. The date of commencement of the tariff is 29 January 2016.

The Authority notified Africa Online in its letter dated 20 January 2016 that it would render its final decision herein by 12 February 2015.

### **FINANCIAL AND ECONOMIC ANALYSIS OF THE MWIRESS (PTY) LTD t/a AFRICAONLINE TARIFFS FOR NEW PURE PRODUCTS**

The tariff information is as follows:

**Table 1: Proposed Tariffs**

<b>Product Name</b>	<b>Downlink k CIR (kbps)</b>	<b>Uplink Target (kbps)</b>	<b>Price Ex VAT N\$</b>
Pure 500	512	512	2,000
Pure 1000	1024	1024	3,800
Pure 2000	2048	2048	7,000
Pure 3000	3072	3072	10,250
Pure 4000	4096	4096	13,500
Pure 5000	5120	5120	16,750
Cost of CPE once off			7,250
CPE lease			375
Installation			1,500

- Pricing excluding VAT
- 99.5% uptime SLA
- 12 month contract
- Pricing per month

Africa Online (AOL) signed a reseller agreement with Converged Telecommunications Solutions (Pty) Ltd (CTS) which allows AOL to on-sell the CTS capacity to the AOL corporate customers.

**TABLE 2: COMPARISON**

<b>OPERATOR</b>	<b>PRODUCT</b>	<b>CAP – GIG</b>	<b>UPLOAD/ DOWNLOAD SPEED -Kbps</b>	<b>RETAIL PRICE- N\$/ MONTH</b>	<b>CONTRACT PERIOD</b>
CTS	Pure	Unlimited	2048/2048	5,000.00	12 months
Paratus	Professional	80GB	2048/4096	1,680.00	24 months
CTS	WIMAX Business	100GB	1024/2048	1,950.00	12 months
Africa Online	WIMAX	60 GB	1024/2048	3,499.00	12 months
Africa Online	Pure	Unlimited	2048/2048	1,349.00	12 months

The tariffs were compared with WiMAX tariffs from Paratus Telecommunications (Pty) Ltd, CTS and previously submitted tariffs for MWireless (Pty) Ltd t/a Africa Online. The comparisons are

difficult since the tariffs are based on different up- and download speeds and the Paratus Telecom tariffs are valid for a 24-month contract period. All the other products are capped whereas, this product and the CTS product have unlimited data usage.

In addition to the above, this product is the cheapest and it will also provide more choice to customers.

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

- a) They do not prevent, restrict or distort competition in the market for the supply of telecommunications;
- b) There is no abuse of individual or collective dominant position by AOL for the supply of telecommunications in respect hereof; and
- c) 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:

All pertinent information as required by section 53(7) was submitted to the Authority in that AOL filed the tariff in the prescribed manner with the Authority for approval.

All pertinent information as required by section 53(9) was submitted to the Authority such as:

- 1.1 The rates and charges for services, including all deposits, non-recurring charges and monthly charges;
- 1.2 The terms and conditions applicable to the provision of services by AOL, including rights and remedies available to customers in the event of unauthorised charges or other disputes or claims over billing or the provision of services, and any other information requested by the Authority pursuant to this section.

The date of implementation was indicated as 29 January 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. The date has however been postponed to 12 February 2016, to afford the Authority more time to consider the reasonableness of the tariff.

## **DECISION**

The Authority herewith approved the proposed tariffs for Pure Products as submitted by MWireless (Pty) Ltd t/a Africa Online for implementation effective from the 12<sup>th</sup> of February 2016.

**F. KISHI**

**CHAIRPERSON OF THE BOARD OF DIRECTORS**

**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

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## **COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 92

2016

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

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

Any person may examine copies of the tariffs submitted at the head offices of the Authority during normal business hours and copies may be made on payment of a fee determined by the Authority. Copies are also available at [www.cran.na](http://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 (Pty) Ltd** may submit, in writing to the Authority, a response to any written comments within fourteen (14) days from the lapsing of the time to submit written submissions.

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

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

- (1) by hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;
- (2) by post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;
- (3) by electronic mail to the following address: [legal@cran.na](mailto: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 PRARATUS TELECOMMUNICATIONS (PTY) LTD COMMUNICATIONS ACT, 2009**

The following are the proposed tariffs as submitted by Paratus Telecommunications (Pty) Ltd:

#### **LTE Data Bundles POSTPAID Packages**

	<b>PT</b>	<b>PT</b>	<b>PT</b>	<b>PT</b>
	<b>LTE LITE</b>	<b>Ultimate</b>	<b>LTE Pulse</b>	<b>LTE FLIX</b>
<b>Connection Fee - N\$</b>	340.00	340.00	430.00	430.00
<b>Monthly Fee - N\$</b>	340.00	954.00	430.00	473.00
<b>Includes Dongle (CPE)</b>	Yes	Yes	Yes	Yes
<b>Data CAP - GB</b>	5	125	5	5
<b>Max Clients (MAC)</b>	1	10	1	1
<b>Renewal period (months)</b>	1	1	1	1
<b>Contract Period (months)</b>	3	24	3	3
<b>Out of Bundle Rate - N\$ per GB</b>	See Bundles	See Bundles	See Bundles	See Bundles
<b>Max Speed - Mbps</b>	50	50	50	50

**LTE Data Bundles PREPAID Packages**

	<b>PT Prepaid</b>	<b>PT BYO</b>
<b>Connection Fee - N\$</b>	740.00	150.00
<b>Monthly Fee - N\$</b>	-	-
<b>Includes Dongle (CPE)</b>	Yes	No
<b>Data CAP – GB (Valid for 30 days)</b>	10	2
<b>Max Clients (MAC)</b>	1	1
<b>Rollover period (months)</b>	0	0
<b>Subscription Validity (months)</b>	3	3
<b>Out of Bundle Rate - N\$ per GB</b>	See Bundles	See Bundles
<b>Max Speed – Mbps</b>	50	50

**LTE Data Bundles Top Up Packages**

<b>Bundle Upgrades (Excl VAT)</b>	<b>Bundle Volume</b>	<b>Cost</b>	<b>Validity (Days)</b>
<b>Bundle 1</b>	<b>20MB</b>	<b>5.00</b>	<b>30</b>
<b>Bundle 2</b>	<b>50MB</b>	<b>10.00</b>	<b>30</b>
<b>Bundle 3</b>	<b>150MB</b>	<b>20.00</b>	<b>30</b>
<b>Bundle 4</b>	<b>225MB</b>	<b>30.00</b>	<b>30</b>
<b>Bundle 5</b>	<b>500MB</b>	<b>50.00</b>	<b>30</b>
<b>Bundle 6</b>	<b>1GB</b>	<b>86.00</b>	<b>30</b>
<b>Bundle 7</b>	<b>2GB</b>	<b>120.00</b>	<b>30</b>
<b>Bundle 8</b>	<b>2.25GB</b>	<b>150.00</b>	<b>30</b>
<b>Bundle 9</b>	<b>3GB</b>	<b>180.00</b>	<b>30</b>
<b>Bundle 10</b>	<b>5GB</b>	<b>250.00</b>	<b>30</b>
<b>Bundle 11</b>	<b>6GB</b>	<b>295.00</b>	<b>30</b>
<b>Bundle 12</b>	<b>10GB</b>	<b>460.00</b>	<b>30</b>
<b>Bundle 13</b>	<b>25GB</b>	<b>865.00</b>	<b>30</b>
<b>Bundle 14</b>	<b>50GB</b>	<b>1,495.00</b>	<b>30</b>

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

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 93

2016

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

The Communications Regulatory Authority of Namibia, in terms of section 85 and 101 of the Communications Act 8 of 2009 and regulations 5, 6 and 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 have submitted the following applications to the Authority:

## (a) Broadcasting Service License Application

Applicant's 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 License as contemplated in the Regulations Setting out Broadcasting and Telecommunication Service License categories	Party providing Signal Distribution	Whether Licensee intends to use spectrum in the provision of broadcasting service intended to be provided	License Fees Outstanding			
Kunene Community Radio	Namibia	100%	Community Broadcasting Service License	Own	Yes, application is contained in part (b) below	No			
Applicant's Name;	Applicant's citizenship or place of incorporation;	Percentage of Stock owned by Namibian Citizens or Namibian Companies controlled by Namibian Citizens;	List of radio frequencies or groups of radio frequencies applied for;	List of radio frequencies or groups of radio frequencies being considered for assignment by the Authority;	Description of geographic coverage area(s)		License Fees Outstanding;	Service to be provided using frequency applied for;	Party providing Signal Distribution;
					Region;	City/Town;			
Kunene Community Radio	Namibia	100%	88–108 MHz	94.3 MHz	Kunene	Opuwo	1000 W	Community Broadcasting Service	Own
			410.000 / 450.000MHz	449.200 MHz (STL)	Kunene	Opuwo			



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 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](mailto:legal@cran.na);
- (4) By facsimile to the following facsimile number: +264 61 222790; or
- (5) By fax to e-mail to: 0886550852.

**F. KISHI**

**CHAIRPERSON OF THE BOARD OF DIRECTORS**

**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

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**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 94

2016

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

The Communications Regulatory Authority of Namibia, in terms of Section 53(10) of the Communications Act (Act 8 of 2009) read with regulation 8(1) of the “Regulations Regarding the Submission of Interconnection Agreements and Tariffs”, in Government Gazette No. 4714, Notice No. 126, dated 18 May 2011, herewith gives notice that **Telecom Namibia 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](http://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*.

**Telecom Namibia 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](mailto: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 TELECOM NAMIBIA LIMITED  
COMMUNICATIONS ACT, 2009**

The following are the proposed tariffs as submitted by Telecom Namibia Limited:

**Inmarsat call rates:**

Calls via the INMARSAT SYSTEM	Current Rate/Min (N\$)	Proposed Rate/Min (N\$)
Inmarsat A	35.00	85.00
Inmarsat B	22.00	85.00
Inmarsat C	21.00	85.00
Inmarsat GAN	39.00	85.00
Inmarsat M	22.00	85.00
Inmarsat Mm	16.00	85.00
Inmarsat AERO	35.00	85.00
GMPCS	30.00	85.00
THURAYA	24.00	85.00

**Radio Calls Rates:**

Calls Via	Current Rate N\$/Min	Proposed Rate N\$/Min	% Increase
VFH	3.45	3.60	4%
MF	5.70	5.99	5%
HF	7.55	7.95	5%
RDD HF	3.80	3.99	5%

**International Call Rates:**

1. DESTINATION	Time Period	N\$/Minute Current	N\$/Minute Proposed	% Change
RSA - Fixed	Peak	1.99	1.99	0%
	Off - Peak	1.19	1.19	0%
RSA - Mobile	Peak	2.30	2.30	0%
	Off - Peak	1.99	1.99	0%
Angola - Fixed	Peak	2.30	2.30	0%
	Off - Peak	2.30	2.30	0%

Angola - Mobile	Peak	3.50	3.50	0%
	Off - Peak	3.50	3.50	0%
Botswana and Swaziland (Fixed)	Peak	2.20	2.20	0%
	Off-Peak	1.55	2.20	42%
Botswana and Swaziland (Mobile)	Peak	2.99	2.99	0%
	Off-Peak	1.99	2.99	50%
Lesotho, Malawi and Mozambique (Fixed)	Peak	2.20	4.99	127%
	Off-Peak	1.55	4.99	222%
Lesotho, Malawi and Mozambique (Mobile)	Peak	2.99	4.99	67%
	Off-Peak	1.99	4.99	151%
Zimbabwe - Fixed	Peak	2.20	2.20	0%
	Off-Peak	1.55	2.20	42%
Zimbabwe - Mobile	Peak	4.35	5.99	38%
	Off-Peak	4.35	5.99	38%
Germany, UK and Portugal (Fixed)	Peak	3.00	3.00	0%
	Off-Peak	2.55	3.00	18%
Germany, UK and Portugal (Mobile)	Peak	3.50	3.00	-14%
	Off-Peak	2.99	3.00	0%
USA (Fixed and Mobile)	Peak	3.50	3.00	-14%
	Off-Peak	2.99	3.00	0%
Netherlands, Sweden, Switzerland, Spain, Australia, France, and Kenya (Fixed)	Peak	3.65	3.65	0%
	Off-Peak	2.99	3.65	22%
Netherlands, Sweden, Switzerland, Spain, Australia, France, and Kenya (Mobile)	Peak	4.30	4.30	0%
	Off-Peak	3.45	4.30	25%
Rest of the World (Fixed and Mobile)	Peak	4.90	6.99	43%
	Off-Peak	3.90	6.99	79%

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

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## COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 95

2016

### NOTICE TO WITHDRAW SPECTRUM USE LICENCE IN TERMS OF REGULATIONS 10 AND 11 OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

#### INTRODUCTION

The **Namibian Broadcasting Corporation** (hereinafter referred to as “the Applicant”) was awarded spectrum use licences in Brukkaros, Mariental, Keetmanshoop, Bethanie, Stampriet, and Aranos to provide analogue television services on 13 September 2012 in terms of section 101 of the Communications and the Regulations regarding Transitional Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences as published in Government Gazette No. 4737, Notice No. 171 dated 17 June 2011.

The Applicant submitted applications for the withdrawal of spectrum use licences awarded for analogue television broadcasting services in the geographical areas of Brukkaros, Mariental, Keetmanshoop, Bethanie, Stampriet, and Aranos on 17 July 2015 and 11 August 2015 respectively in accordance with section 101 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as “the Act”) and regulation 10(2) of the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use licences as published in Government Gazette No. 4785, General Notice No. 272 of 29 August 2011, for consideration by the Authority.

## **BACKGROUND TO APPLICATION**

The migration from analogue television services to digital terrestrial television services in terms of the ITU GE06 agreement requires all broadcasting service licensees providing television broadcasting services to migrate their transmitters from analogue spectrum frequencies to the appropriate frequencies allocated for the provision of digital terrestrial television services. Namibia as an International Telecommunications Union (ITU) member state is a signatory to the ITU GE06 agreement and subsequently implemented all necessary actions to ensure that television broadcasting services provided by broadcasting services licensees are migrated to the appropriate spectrum range.

The Applicant has not been awarded a broadcasting service licence to date due to the pending enablement of section 93 of the Communications Act, 2009. However, the Applicant holds spectrum use licences to provide analogue television services and migrates all said services to its multiplex platform for distribution of its signal to provide digital terrestrial television services to its customer base. The Namibian Broadcasting Corporation was mandated to migrate its analogue television services to digital terrestrial television services by the Digital Terrestrial Television Policy Guidelines as published in Government Gazette No. 5346, Notice No. 316 dated 21 November 2013 to provide digital terrestrial television services.

On completion of the migration process, the Applicant discontinued the provision of analogue television services. Subsequently the Applicant submitted applications for the withdrawal of spectrum use licences awarded for providing analogue television services as indicated below-

i)	Brukkaros	Brukkaros NBC Tower	202 MHz
ii)	Mariental	Mariental NBC Tower	226 MHz
iii)	Keetmanshoop	Keetmanshoop NBC Tower	178 MHz
iv)	Bethanie	Bethanie NBC tower	234 MHz
v)	Stampriet	Stampriet NBC Tower	226 MHz
vi)	Aranos	Aranos NBC Tower	186 MHz

## **PROCEDURAL COMPLIANCE**

Following due process in terms of regulation 11 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Gazette 5836, Notice No. 443, dated 24 September 2015, allowing fourteen (14) days for public comments from the date of publication of the Notice in the *Gazette*. The commenting period lapsed on 9 October 2015, and no comments were received.

The last day for the decision is 10 December 2015 given that the last correspondence and documentation in respect of the licence application was received on 9 October 2015.

## **ANALYSIS OF SUBSTANTIVE ISSUES**

The Authority notes that the migration from analogue television services to digital terrestrial television services is in line with the Digital Terrestrial Television Policy Guidelines as published in Government Gazette No. 5346, Notice No. 316 dated 21 November 2013 as well as the international date of 17 June 2015 to switch off of all analogue television services.

The switchover from analogue television services to digital terrestrial television services was successfully concluded in the geographical areas of Brukkaros, Mariental, Keetmanshoop, Bethanie, Stampriet, and Aranos. No analogue television services have been offered by any broadcasting service licensee since analogue switch off (ASO).

Regulation 10(2) of Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences as published in Government Gazette No. 4785, Notice No. 330 dated 29 August 2011 provides as follows-

***(2) If a licensee intends to permanently discontinue providing service in accordance with its licence, it must request the Authority to withdraw its licence....”***

Accordingly the Applicant submitted applications for withdrawal of its spectrum use licences awarded to provide analogue television services in the geographical areas of Brukkaros, Mariental, Keetmanshoop, Bethanie, Stampriet, and Aranos, in compliance with the provisions contained in the said Regulations.

Although Regulation 10(3) (e) requires the Applicant to set out the date of discontinuance of service at least sixty(60) days from the date of submitting the application for withdrawal, it is noted that the Applicant only submitted the application for withdrawal of its spectrum use licences on completion of analogue switch off in Brukkaros, Mariental, Keetmanshoop, Bethanie, Stampriet, and Aranos and the subsequent discontinuation of analogue television services.

The date of discontinuation is therefore 18 September 2015 and 11 October 2015, being 60 days from 17 July 2015 and 11 August 2015 respectively, (date on which the application was submitted) as contemplated in regulation 10(3)(e) of the Licensing Procedure Regulations.

It should be noted that all spectrum use licence fees relating to these licences have been paid in full until 31 December 2015, as required by Regulation 10(3)(f) of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Services Licences and Spectrum Use Licences. Owing to the fact that the date of discontinuation is 18 September 2015 and 11 October 2015 and the fees for the full 2015 spectrum year have been paid, the Authority will refund Applicant the prorated fees in respect of the said spectrum use licences amounting to N\$ 9,532.27 (nine thousand five hundred and thirty two Namibian Dollars and twenty seven cents) calculated from date of discontinuation to 31 December 2015.

The Applicant ceased utilisation of the spectrum use licences awarded for analogue television services in the geographical areas of Brukkaros, Mariental, Keetmanshoop, Bethanie, Stampriet, and Aranos, after migrating its broadcasting services to its digital terrestrial television platform.

Subsequently the CRAN Board of Directors approved the withdrawal of the spectrum use licences for providing analogue television services by the Applicant in the geographical areas of Brukkaros, Mariental, Keetmanshoop, Bethanie, Stampriet, and Aranos, as was awarded on 13 September 2012 and published in Government Gazette No. 5037, Notice No. 306.

## **DECISION**

In light of the above and in terms of section 101 of the Communications Act and the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority approved the withdrawal of the spectrum use licences awarded to the Namibian Broadcasting Corporation on 13 September 2012 to provide analogue television services as set out hereunder-

- |    |              |                        |         |
|----|--------------|------------------------|---------|
| a) | Brukkaros    | Brukkaros NBC Tower    | 202 MHz |
| b) | Mariental    | Mariental NBC Tower    | 226 MHz |
| c) | Keetmanshoop | Keetmanshoop NBC Tower | 178 MHz |

d)	Bethanie	Bethanie NBC tower	234 MHz
e)	Stampriet	Stampriet NBC Tower	226 MHz

## F. KISHI

### CHAIRPERSON OF THE BOARD OF DIRECTORS

### COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

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## COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 96

2016

### NOTICE TO WITHDRAW SPECTRUM USE LICENCE IN TERMS OF REGULATIONS 10 AND 11 OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

#### INTRODUCTION

The **Namibian Broadcasting Corporation** (hereinafter referred to as “the Applicant”) was awarded spectrum use licences in Swakopmund, Opuwo, Oshakati, Otjiwarongo, Kamanjab, Katima Mulilo and Rundu to provide analogue television services on 13 September 2012 in terms of the Regulations regarding Transitional Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences as published in Government Gazette No. 4737, Notice No. 171 dated 17 June 2011.

The Applicant submitted applications for the withdrawal of spectrum use licences awarded for analogue television broadcasting services in the geographical areas of Swakopmund, Opuwo, Oshakati, Otjiwarongo, Kamanjab, Katima Mulilo and Rundu on 26 March 2015 and 9 April 2015 respectively in accordance with section 101 of the Communications Act, 2009 (Act No. 8 of 2009) (hereinafter referred to as “the Act”) and the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use licences as published in Government Gazette No. 4785, General Notice No. 272 of 29 August 2011, for consideration by the Authority.

#### BACKGROUND TO APPLICATION

The migration from analogue television services to digital terrestrial television services in terms of the ITU GE06 agreement requires all broadcasting service licensees providing television broadcasting services to migrate their transmitters from analogue spectrum frequencies to the appropriate frequencies allocated to digital terrestrial television services. Namibia as an ITU member state is a signatory to the ITU GE06 agreement and subsequently implemented all necessary actions to ensure that television broadcasting services provided by broadcasting services licensees are migrated to the appropriate spectrum range.

The Applicant has not been awarded a broadcasting service licence to date due to the pending enablement of section 93 of the Communications Act, 2009. However, the Applicant holds spectrum use licences to provide analogue television services and migrated all said services its multiplex platform for distribution of its signal to provide digital terrestrial television services to its customer base. The Namibian Broadcasting Corporation was mandated by the Digital Terrestrial Television Policy Guidelines as published in Government Gazette No. 5346, Notice No. 316 dated 21 November 2013 to provide digital terrestrial television services.

On completion of the migration process, the Applicant discontinued the provision of analogue television services. Subsequently the Applicant submitted applications for the withdrawal of spectrum use licences awarded for providing analogue television services as indicated below-

(i)	Swakopmund	Rössing Mountain	226 MHz
(ii)	Opuwo	Opuwo NBC Tower	226 MHz
(iii)	Oshakati	Oshakati NBC Tower	178 MHz
(iv)	Otjiwarongo	Paresis NBC tower	186 MHz
(v)	Outjo	Kamanjab Tower	218 MHz
(vi)	Otjwarongo	Klein Waterberg NBC Tower	226 MHz
(vii)	Katima Mulilo	Katima Mulilo NBC Tower	226 MHz
(viii)	Rundu	Arendsnes NBC Tower	226 MHz
(ix)	Swakopmund	Erongo Mountain NBC Tower	202 MHz

## PROCEDURAL COMPLIANCE

Following due process in terms of Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences, the Authority published a notice in the Gazette 5805, Notice No. 383, dated 12 August 2015, allowing fourteen (14) days for public comments from the date of publication of the Notice in the *Gazette*. The commenting period lapsed on 29 August 2015, and no comments were received.

The last day for the decision is 29 October 2015 given that the last correspondence and documentation in respect of the licence application was received on 29 August 2015.

## ANALYSIS OF SUBSTANTIVE ISSUES

The Authority notes that the migration from analogue television services to digital terrestrial television services is in line with the Digital Terrestrial Television Policy Guidelines as published in Government Gazette No. 5346, Notice No. 316 dated 21 November 2013 as well as the international date of 17 June 2015 to switch off of all analogue television services.

The switchover from analogue television services to digital terrestrial television services was successfully concluded in the geographical areas of Swakopmund, Opuwo, Oshakati, Otjiwarongo, Kamanjab, Katima Mulilo and Rundu. No analogue television services have been offered by any broadcasting service licensee since analogue switch off (ASO).

Regulation 10(2) of Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences as published in Government *Gazette* No. 4785, Notice No. 330 dated 29 August 2011 provides as follows-

***(2) If a licensee intends to permanently discontinue providing service in accordance with its licence, it must request the Authority to withdraw its licence...."***

Accordingly the Applicant submitted applications for withdrawal of its spectrum use licences awarded to provide analogue television services in the geographical areas of Swakopmund, Opuwo, Oshakati, Otjiwarongo, Kamanjab, Katima Mulilo and Rundu, in compliance with the provisions contained in the said Regulations.

Although Regulation 10(3)(e) requires the Applicant to set out the date of discontinuance of service at least sixty(60) days from the date of submitting the application for withdrawal, it is noted that the Applicant only submitted the application for withdrawal of its spectrum use licences on completion of analogue switch off in Swakopmund, Opuwo, Oshakati, Otjiwarongo, Kamanjab, Katima Mulilo and Rundu and the subsequent discontinuation of analogue television services.

The date of discontinuation is therefore 30 May 2015 and 13 June 2015, being 60 days from 26 March 2015 and 9 April 2015 respectively, (date on which the application was submitted) as contemplated in regulation 10(3)(e) of the Licensing Procedure Regulations.

It should be noted that all spectrum use licence fees relating to these licences have been paid in full until 31 December 2015, as required by Regulation 10(3)(f) of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Services Licenses and Spectrum Use Licenses. Owing to the fact that the date of discontinuation is 30 May 2015 and 13 June 2015 as relevant and the fees for the full 2015 spectrum year have been paid, the Authority will refund Applicant the prorated fees in respect of the said spectrum use licences amounting to N\$ 20,359.11 (twenty thousand three hundred and fifty nine Namibian dollars and eleven cents) from date of discontinuation.

The Applicant ceased utilisation of the spectrum use licences awarded for analogue television services in the geographical areas of Swakopmund, Opuwo, Oshakati, Otjiwarongo, Kamanjab, Katima Mulilo and Rundu, after migrating its broadcasting services to its digital terrestrial television platform.

Subsequently management recommends that the CRAN Board of Directors approve the withdrawal of the spectrum use licences for providing analogue television services by the Applicant in the geographical areas of Swakopmund, Opuwo, Oshakati, Otjiwarongo, Kamanjab, Katima Mulilo and Rundu, as was awarded on 13 September 2012 and published in Government Gazette No. 5037, Notice No. 306.

## **DECISION**

In light of the above and in terms of section 101 of the Communications Act and the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licenses and Spectrum Use Licenses, the Authority approved the withdrawal of the spectrum use licences awarded to Namibian Broadcasting Corporation on 13 September 2012 to provide analogue television services as set out hereunder-

(a)	Swakopmund	Rössing Mountain	226 MHz
(b)	Opuwo	Opuwo NBC Tower	226 MHz
(c)	Oshakati	Oshakati NBC Tower	178 MHz
(d)	Otjiwarongo	Paresis NBC tower	186 MHz
(e)	Outjo	Kamanjab Tower	218 MHz
(f)	Otjwarongo	Klein Waterberg NBC Tower	226 MHz
(g)	Katima Mulilo	Katima Mulilo NBC Tower	226 MHz
(h)	Rundu	Arendsnes NBC Tower	226 MHz
(i)	Swakopmund	Erongo Mountain NBC Tower	202 MHz

## **F. KISHI**

### **CHAIRPERSON OF THE BOARD OF DIRECTORS**

### **COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

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