

**COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

No. 235

2015

**NOTICE OF INTENTION TO MAKE REGULATIONS TO IMPOSE A UNIVERSAL  
SERVICE LEVY ON TELECOMMUNICATIONS SERVICE PROVIDERS:  
COMMUNICATIONS ACT, 2009**

The Communications Regulatory Authority of Namibia, in terms of regulation 4(3) of the Regulations Regarding Rule-Making Procedures published as General Notice No. 334 of 17 December 2010 publishes this Notice of Intention to Make "Regulations to Impose a Universal Service Levy on Telecommunications Service Providers", which contains the following:

1. A draft of the proposed Regulations as set out in Schedule 1;
2. A concise statement of the purpose for the proposed Regulations as set out in Schedule 2.

The public may make oral submissions to the Authority on the proposed regulations at a time, date and place notified by the Authority by subsequent notice in the *Gazette*.

The public may also make written submissions to the Authority no later than thirty-one days from the date of publication of this Notice of Intention to Make Regulations, in the manner set out below for making written submissions.

Reply comments to written submissions may be submitted to the Authority-

- (a) no later than fifteen days after the time for the making of written submissions has lapsed;  
or
- (b) if the opportunity for the submission of reply comments is published in a subsequent *Gazette*, after the lapse of fourteen days from the date of such publication.

All written submissions must-

- (a) contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submission is made, if different; and
- (b) be clear and concise.

All written submissions must be sent or given in any of the following ways:

1. By hand to the head offices of the Authority, namely Communication House, No 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 fax to email to: 0886550852

**L.N. JACOBS  
CHAIRPERSON OF THE BOARD OF DIRECTORS  
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

## SCHEDULE 1

### PROPOSED REGULATIONS TO IMPOSE A UNIVERSAL SERVICE LEVY ON TELECOMMUNICATIONS SERVICE PROVIDERS: COMMUNICATIONS ACT, 2009

The Communications Regulatory Authority, in terms of sections 56 read with section 129 of the Communications Act, 2009 (Act No. 8 of 2009), makes the regulations set out in the Schedule.

## SCHEDULE

### Definitions

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

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

“annual turnover” means a licensee’s total revenue determined from its financial statements;

“financial statements” means a licensee’s audited annual financial statements or, if a licensee is not required by law to audit its financial statements, its annual financial statements signed and sworn by the accounting officer of the licensee;

“licensee” means a person to whom a telecommunications license has been issued in terms of section 38 of the Act;

### Submission of documents to the Authority

**2.** Whenever documents are required to be delivered to the Authority, such documents must be delivered physically or electronically –

- (a) by hand to an employee of the Authority at its principal place of business, being Communication House, No. 56 Robert Mugabe Avenue, Windhoek;
- (b) by post, mailed to Private Bag 13309, Windhoek;
- (c) by electronic mail sent to legal@cran.na;
- (d) by facsimile faxed to +264 61 222 790; or
- (e) in any other manner or to any other address specified by the Authority from time to time.

### Imposition of universal service levy

**3.** (1) Every licensee must annually pay the universal service levies as indicated in the table below for each telecommunications service license the licensee holds:

Category of License	Annual Percentage Levy
Telecommunications – Individual Comprehensive (ECNS and ECS)	Universal Service Levy %=Minimum (0.5%, 0.0000000002*Turnover)
Telecommunications - Class ECNS	Universal Service Levy %=Minimum (0.5%, 0.0000000002*Turnover)

Telecommunications - Class ECS	Universal Service Levy %=Minimum (0.5%, 0.0000000002*Turnover)
Telecommunications - Class Comprehensive (ECNS and ECS)	Universal Service Levy%=Minimum (0.5%, 0.0000000002*Turnover)

\* The formula selects the lower value out of 0.5% and 0.0000000002\*turnover.

(2) In instances where a licensee holds any combination of licences, such licensee may calculate the levy based on its annual turnover from the aggregated revenue generated from the combined licences.

### Payment of levies

4. (1) Levies payable in terms of these regulations must be paid no later than 6 months after the end of the licensee's financial year.

(2) The levies, penalties and any interest payable in terms of these regulations must be paid to the Authority by electronic transfer or by direct deposit into the Universal Fund Account, contemplated in the Regulations Prescribing the Provision of Universal Service by Telecommunication Service Licensees as will be published in the *Gazette*.

### Interest and Penalties

5. (1) If a licensee fails to pay any levy due and payable in terms of these regulations, the licensee must pay interest on the overdue amount from the due date for payment of such levy to the date of payment, at the rate of three percent above the overdraft interest rate charged by the Authority's bankers.

(2) If a licensee fails to submit its financial statements 6 months after the end of its financial year, the licensee must pay a penalty of N\$10,000-00 per day for each day of its default, calculated from the date its financial statements were due to the date of submission thereof.

(3) If a licensee fails to pay any levy due and payable in terms of these regulations within 45 days after the due date for payment of such levy has lapsed, the licensee must pay, in addition to paying interest contemplated in sub-regulation (1), a late payment penalty of 25 percent of the overdue amount.

(4) If a licensee fails to pay any levy due and payable in terms of these regulations within 120 days after the due date for payment of such levy has lapsed, the licensee must, in addition to paying the interest contemplated in sub-regulation (1)-

(a) pay a late payment penalty of 50% of the overdue amount; or

(b) surrender its licence or licences to the Authority.

(5) If a licensee fails to submit its financial statements within 120 days after the due date for submission of such statements has lapsed, the licensee must-

(a) pay a penalty of N\$10,000-00 per day for each day calculated from the date its financial statements were due to the date of submission thereof; or

(b) surrender its licence or licences to the Authority.

(6) If, within 6 months after due date, a licensee-

(a) fails to pay any levy due and payable in terms of these regulations;

- (b) fails to submit its financial statements; or
- (c) fails to pay interest or the late payment penalties contemplated in this regulation; and
- (d) does not surrender its licence or licences to the Authority,

the Authority may declare all licenses held by the licensee cancelled and may impose a penalty not exceeding N\$5,000,000.00.

(7) Before declaring any licence of a licensee as cancelled in terms of sub-regulation (5) and before imposing any penalty contemplated in this regulation the Authority must follow the procedures specified in sub-regulations (7) and (8) hereunder.

(8) The Authority must give the licensee referred to in sub-regulation (7) an opportunity to be heard and must grant a period of not less than 14 days to the licensee within which to make representations to the Authority on the question of whether or not any license of the licensee should be cancelled or any penalty imposed.

(9) After consideration of the representations referred to in sub-regulation (6) or, if no such representations have been made, the Authority must determine if the licensee's license should be declared as cancelled or if a penalty must be imposed, as the case may be.

## **SCHEDULE 2**

### **CONCISE STATEMENT OF THE PURPOSE OF THE PROPOSED REGULATIONS**

The purpose of the proposed Regulations to Impose a Universal Service Levy on Telecommunications Service Providers is to:

- (a) impose a universal service levy to be paid into the Universal Service Fund in terms of section 56(2) of the Act; and
  - (b) prescribe the criteria for the disbursements of the Fund and the implementation of Fund Projects pursuant to section 56 of the Act.
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