

CRAN APPROVES CITY OF WINDHOEK TELECOMMUNICATIONS SERVICE LICENCE

FOR IMMEDIATE RELEASE

13 MAY 2020

The response bears reference to the media statements published by Mobile Telecommunications Limited (MTC) and Paratus Telecommunications (Pty) Ltd on Tuesday, 12 May 2020. The Communications Regulatory Authority of Namibia (CRAN), without necessarily responding to all the allegations made by MTC and Paratus, responds as follows.

The City of Windhoek (CoW) submitted an application for a Class Network Facilities Service License, and the application was first published in the *Government Gazette* on 22 February 2019 (General Notice No. 30), and re-published on 26 March 2019 (General Notice No. 67) to properly allow the public to provide comments. As per rule making procedure, the public/stakeholders were provided with an opportunity to submit comments in writing to the Authority within a period of fourteen (14) days, from the date the notice is published in the *Gazette*.

“The period within which to provide comments lapsed on 09 April 2019 and no comments were received. Paratus requested for an extension to submit comments on/or before 11 April 2019 which was granted in line with regulation 11(6) of the Procedure Regulations,” stated Jochen Traut, Acting Chief Executive Officer (CEO), CRAN.

After the commenting period closed, CRAN considered the application and issued the appropriate license. It is CRAN’s ardent view that having considered the type of services that CoW intends to provide, the correct license category is a Class Comprehensive Telecommunications Service License (ECNS and ECS) and not a Class Network Facilities Service License. This is mainly due to the envisaged smart city services that CoW intends to provide, which CoW cannot provide under a Class Network Facilities Service License

that was applied for. In terms of regulation 11(9)(a) of the Procedure Regulations, CRAN is authorised to issue the appropriate license category (in this case the Class Comprehensive Telecommunications Service License (ECNS and ECS)) without re-publishing the application.

The licence was awarded in terms of section 38 of the Communications Act (No. 8 of 2009) and the Procedure set out in the Procedure Regulations. The license awarded to CoW allows for the provision of comprehensive telecommunications services, including the construction and maintenance of network facilities, mobile or fixed line telephony services and is valid for 15 years.

“The Communications Act does not prohibit local authorities from holding telecommunications service licenses. In addition thereto, section 30 of the Local Authorities Act, 1992, provides a list of services that a local authority council shall provide to its residents. Most of the services listed under section 30 of the Local Authorities Act, 1992, may only be provided efficiently through the establishment of communications network infrastructure. Particularly, section 30(1)(z)(ab) authorises a local authority council to commercialise any service rendered by it, or any function or duty exercised or carried out by it”, added Traut.

Subsequently, the ICT regulatory framework prohibits any practice that has the effect of preventing, restricting or distorting competition in the market for the supply of telecommunications services. It is for this reason that CoW was also directed to consider requests from other licensed operators, on a non-discriminatory basis and in line with Infrastructure Sharing Regulations of the Authority. This means that CoW must allow the sharing of infrastructure with other licensees and may not unreasonably delay such requests. The Authority remains vested with the power to adjudicate upon any disputes pertaining to the sharing of infrastructure.

The award of the licence to CoW is thus not anti-competitive and CoW is now subject to the provisions of the Communications Act (No. 8 of 2009) and CRAN's Regulations to ensure fair competition in the Telecommunications Sector.

“Finally, we encourage any person(s) aggrieved by this decision to apply for reconsideration in terms of section 31 of the Communications Act. We also encourage our licensees to approach us directly with their concerns on this matter,” concluded Traut.

CRAN prides itself as a dynamic regulator and will continue to independently regulate the ICT industry by creating a competitive and levelled playing field in order to increase access to telecommunications, and advanced information services to all regions of Namibia in order to promote just, reasonable and affordable prices.

“Ends”

Issued by CRAN:

Katrina Siken

Head: Corporate Communication

communications@cran.na

Tel: +264 61 222 666