



CRANicles

SEP 2021

Special Edition



EDITORIAL

Dear Esteemed Stakeholders,

Welcome to yet another exciting special edition of our newsletter, the CRANicles. This edition gives an account and overview of the new Regulations prescribing Licence Fees and Regulatory Levies under Section 129 of the Communications Act (No. 8 of 2009) and Numbering Licence Fees. The Levy Regulations are the outcome from a successful and well attended virtual stakeholder workshop, hosted by CRAN on 23 July 2021, to dialogue on the new proposed Regulations.

There are two types of licence fees that are applicable to Licensees, namely the Licence Fees for applications, issuance, renewal, transfer and amendment for the various licence categories, and as listed in column 1 of the table contained in Annexure A of Government Gazette No. 7559, General Notice No. 238, dated 22 June 2021. The other fees are for the Regulatory Levy payable by Licensees as listed in column 1 of the table contained in Annexure B.

In light of the above, a licence fee of NAD 50,000.00 is payable for the issuance of a new licence with the exception of Community Broadcasting Service Licences, Non-profit Electronic Communications Service (ECS), and Electronic Communications Network Service (ECNS) Licences.

All other fees for profit making licences will remain at NAD 10,000.00 while all other services and non-profit making licences will remain at NAD 500.00.

A licence fee, unless otherwise advised by the Authority, shall be paid by means of electronic fund transfers or direct deposits into the Authority's bank account. Additionally, application fees are not refundable and proof of payment must be attached to all applications.

The regulatory levies collected by the Authority shall be utilised to advance the objectives of the Communications Act and will also be used to defray any costs that are incurred in fulfilling the policy objectives of the Communications Act.



In 2016, CRAN had set out Regulations prescribing the National Numbering Plan for use in the Provision of Telecommunications Services in the Republic of Namibia, Numbering Licence Fees and Procedures for Number Licences, which were challenged.

Consequently, CRAN in terms of Sections 81(5) and 129 of the Communications Act, amended the Regulations prescribing the National Numbering Plan for use in the provision of Telecommunications Services in the Republic of Namibia, Numbering Licence Fees and Procedures for Number Licences as published in Government Gazette No. 5983, General Notice No. 18 dated 01 April 2021.

Esteemed readers, I trust that you find this special edition of the CRANicles informative and useful and I encourage you to provide us with your views, comments and/or queries by sending an email, for the attention of the editor, to communications@cran.na

'Pushing ICT Forward in Namibia!'

Hilya Mhani
Corporate Communications Practitioner



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FOREWORD FROM THE CEO



In this special edition of CRANicles, we focus on the new Regulations prescribing Licence Fees and Regulatory Levies and Numbering Licence Fees.

*Emilia Nghikembua
Chief Executive Officer*



Dear Stakeholders,

In 2012 CRAN set out regulatory levies and licence fees as outlined in Section 23 of the Communications Act. The regulatory levies validity and constitutionality was contested in the High Court and thereafter the Supreme Court of Namibia. In June 2018, the Supreme Court of Namibia declared Section 23(2)(a) of the Communications Act unconstitutional, based on the argument that there were no limits on the powers granted to CRAN to set the regulatory levy.

In July 2020 and pursuant to the Supreme Court judgement, the Communications Amendment Act (No. 6 of 2020) was published to amend Section 23 of the Communications Act for the purpose to align same to the judgement.

Licence fees and regulatory levies enable regulators to carry out specific functions and activities such as:

- Allocating scarce resources, to ensure that those that value it most will obtain access;
- To cover the costs of regulation;
- To deter and avoid frivolous non-serious applications
- To cover the administrative cost involved in the consideration of an application and the taking of a decision thereon; and
- To support administrative efficiency.

In 2016, CRAN set out Regulations prescribing the National Numbering Plan for use in the Provision of Telecommunications Services in the Republic of Namibia, Numbering Licence Fees and Procedures for Number Licences. The fees prescribed in these regulations were charged for the first time in 2018 and then for every year subsequently. Telecom Namibia and MTC challenged the fees charged based on Section 81(5) which states that “the Authority must allocate numbers in return for a fee

that is no greater than necessary to compensate for the management costs of the numbering plan and control of its use.”

Consequently, CRAN in terms of Sections 81(5) and 129 of the Communications Act, amended the Regulations prescribing the National Numbering Plan for use in the provision of Telecommunications Services in the Republic of Namibia, Numbering Licence Fees and Procedures for Number Licences as published in Government Gazette No. 5983, General Notice No. 18 dated 01 April 2021.

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

In conclusion, it must be noted that regulatory levies collected by the Authority are utilised to advance the objectives of the Communications Act. Additionally, these levies are also used to defray costs that are incurred in fulfilling the policy objectives of the Communications Act. I am certain that our strategic relationship with you, our esteemed stakeholders, will develop and continue to strengthen through various future engagements, for the benefit of all Namibians.

Emilia Nghikembua

Chief Executive Officer



ABOUT REGULATORY LEVIES

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Written by: Hilya Mhani



Helene Vosloo, Head: Economics and Sector Research, flanked by Fillemon Shilongo, Senior Economist (L) and Patrick Nandago, Senior Financial Analyst (R)

- **Regulatory Levy = Max (500, (Min 1.0%, 0.00000000010*revenue) * Revenue);**
- The minimum amount payable by any licensee is NAD 500; and
- The maximum would be 1% of turnover/revenue.

Changes made to the original calculations:

- The 2021/22 budget was only increased by 4.5% (that is, the expected inflation rate for the next 3 years);
- Capital expenditure (CAPEX) was reduced overall except for the spectrum expenditure;
- No provision was made for reserves;



- The assumption was made that CRAN would be in a position to recover at least NAD 15 million per annum, over the next 3 years from bad debt;
- It was further assumed that if Telecom Namibia (TN) and Mobile Telecommunications Ltd (MTC) would pay their outstanding levies, that NAD 100 million would be placed into the reserve fund since the reserve funds were used to cover the cost of CRAN's operations, during the period they refused to pay;
- While any remaining fund would be utilised to lower the levy;
- The levy is envisioned to result in a slight over-recovery over the next 3-year period;
- This would then mean that if there is indeed an over-recovery the amount will have to be subtracted from the following period's projected revenue before the levy amount can be calculated;
- However, if there is an under-recovery, then the amount will have to be added to the expenses for the following period before the levy amount can be calculated;
- The information will be obtained from the audited financial statements;
- The budget, which sets the limit, is to be approved by the Ministry of Information and Communication Technology (MICT) and the Ministry of Public Enterprises (MOPE);
- All postal or other licence categories that might be added in future will also be expected to pay regulatory levies; and
- Universal Access Services (UAS) fees are separate and does not form part of CRAN's budget.

Projected Expense and Revenue over 3-year Period				
FY ending	2021/2022	2022/2023	2023/2024	Total over 3 years
Budget Requirement	93,712,166	104,916,870	109,338,130	307,967,166
Levy Income	20,000,000	53,025,331	54,616,091	127,641,421
Administrative Fees	588,642	588,642	588,642	1,765,925
Spectrum Fees	36,300,000	37,752,000	39,262,080	113,314,080
Type Approval	400,000	400,000	400,000	1,200,000
Penalties	50,000	50,000	50,000	150,000
Interest	2,840,000	4,000,000	6,000,000	12,840,000
Numbering Fees	2,000,000	2,000,000	2,000,000	6,000,000
Other	250,000	250,000	250,000	750,000
Debt Collection	15,000,000	15,000,000	15,000,000	45,000,000
Total Revenue	77,428,642	113,065,972	118,166,812	308,661,426
Over/Under-recovery	(16,283,524)	8,149,102	8,828,683	694,260

HOW THE LEVIES ARE CALCULATED

- All levy calculations for the 2020/2021/2022 financial years will be pro-rated until such time that a complete financial year is covered.
Example:
 - Regulations effective 22 June 2021
 - Financial year-end date: 30 September 2021
 - Days = 100 days
 - Formula: $(100/365 * \text{revenue}) * \text{levy formula}$
- Amounts below NAD 500 will result in an invoice of NAD 500.
- All other levies will be according to the formulae.
- Ring-fenced accounts will be treated in the same manner, however it is the obligation of each licensee to ensure account separation and to submit separate audited accounts.



FREQUENTLY ASKED QUESTIONS (FAQ'S)

What is the purpose of licence fees and regulatory levies?

- A fee for allocating scarce resources that would ensure that those that value it most will obtain access;
- To cover the costs involved with regulations;
- To deter and avoid frivolous non-serious applications;
- To cover the administrative cost involved in the consideration of an application and the taking of a decision thereon; and
- To support administrative efficiency.

What are the approved licence fees for Telecommunications Licences?

APPROVED LICENCE FEES

Licence Fees in N\$						
Sector	Licence Type	New Licence		Amendment	Transfer/ Transfer of Control	Renewal
		Application	Issue			
Telecommunications	Individual Comprehensive (ECNS and ECS)	n/a	n/a	n/a	n/a	n/a
	Class ECS Class ECNS Class Comprehensive (ECNS and ECS) Network Facilities Licence	10,000	50,000	10,000	10,000	10,000
	Non-profit Class ECS or ENCS	500	500	500	500	500

What are the approved licence fees for Broadcasting Licences?

APPROVED LICENCE FEES

Licence Fees in N\$						
Sector	Licence Type	New Licence		Amendment	Transfer/ Transfer of Control	Renewal
		Application	Issue			
Telecommunications	Individual Comprehensive (ECNS and ECS)	n/a	n/a	n/a	n/a	n/a
	Class ECS Class ECNS Class Comprehensive (ECNS and ECS) Network Facilities Licence	10,000	50,000	10,000	10,000	10,000
	Non-profit Class ECS or ENCS	500	500	500	500	500
Broadcasting	Commercial Signal Distribution Class Comprehensive Multiplex Class Comprehensive Multiplex & Signal Distribution	10,000	10,000	10,000	10,000	10,000
	Community	500	500	500	500	500
	Public Broadcasting	n/a	n/a	n/a	n/a	n/a



What are the approved licence fees for Postal Licences?

APPROVED LICENCE FEES

Licence Fees in N\$						
Sector	Licence Type	New Licence		Amendment	Transfer/ Transfer of Control	Renewal
		Application	Issue			
Postal	Designated postal operator licence	n/a	n/a	n/a	n/a	n/a

DID YOU KNOW?



A new licence fee is payable at issuance of a new licence in the amount of NAD 50,000 except for Broadcasting Service Licenses, Community Broadcasting Service Licences and for Non-profit ECS and ECNS Licenses.

All other fees remain as is:

- Profit licences remain at NAD 10,000 for all other services
- Non-profit licences remain at NAD 500 for all other services.



NUMBERING LICENCE FEES AND PROCEDURES FOR NUMBER LICENCES

In 2016, CRAN set out *Regulations prescribing the National Numbering Plan for use in the Provision of Telecommunications Services in the Republic of Namibia, Numbering Licence Fees and Procedures for Number Licences*. The fees prescribed in these regulations were charged for the first time in 2018 and then for every year subsequently. Telecom Namibia and MTC challenged the fees charged based on Section 81(5), which states “the Authority must allocate numbers in return for a fee that is no greater than necessary to compensate for the management costs of the numbering plan and control of its use.”

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

The old numbering fees based on the 2016 regulations are as follows:

Number	Weight
3 Digit Number	=1 000,000
4 Digit Number	=100,000
5 Digit Number	=10,000
6 Digit Number	=1,000
7 Digit Number	=100
8 Digit Number	=10
9 Digit Number	=1

AMENDMENT TO NUMBERING REGULATIONS

In order to revise the reference value, the Authority recalculated the cost of administration.

The total cost of managing the numbering plan includes cost for the numbering audit, legal fees, calculation of fees, management of number portability, etc.

The costs from 2018/2019 to 2022/2023 are as follows:

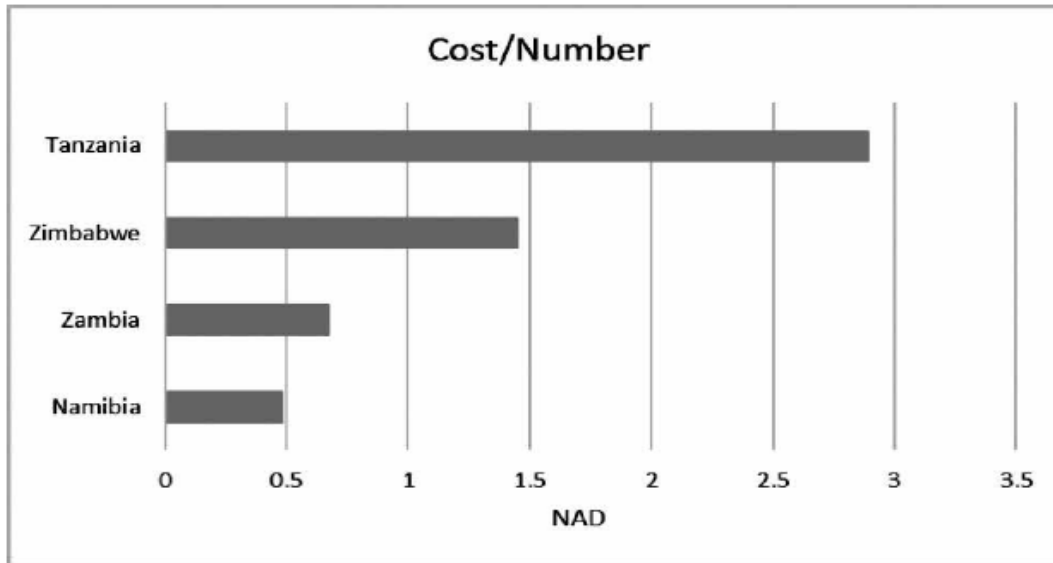
	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023
Financials	6,696,309	7,654,700	2,000,000	2,090,000	2,184,050
Numbers	41,208,451	48,988,851	4,164,462	4,164,462	4,164,462
Cost/number	0.16	0.155	0.4803	0.502	0.5244
Source:	<i>AFS for CRAN 2018/2019-2019/2020</i>		<i>Budget 2020/2021</i>	<i>Projected Budget</i>	

There are a number of reasons as to why the cost per number increased. This was due to:

- The use of more efficient number usage than the 3-digit numbers which were withdrawn from licensees and licensees started utilising 5-digit numbers; and
- Unutilised numbers were withdrawn.

The following is a comparison of the cost of numbering fees with some countries in the region.

Figure 1: Numbering Fees in SADC (N\$/number)



The CRAN budget to manage the number licences also decreased due to fewer number licences.

The Regulations were therefore updated to reflect as follows:

A reference value of NAD 0.4803 per number based on costing and CRAN's approved budget resulting as per the table below for the year 2022:

Number	Weight	Fee in NAD
3 Digit Number	=1,000,000	=480,300
4 Digit Number	=100,000	=48,030
5 Digit Number	=10,000	=4,803
6 Digit Number	=1,000	=480.30
7 Digit Number	=100	=48.03
8 Digit Number	=10	=4.803
9 Digit Number	=1	=0.4803

A new fee for numbering will thus be determined annually, based on costs from the approved budget and the number of audits done in October of each year, to ensure no over- or under-recovery ensues, as set out in Section 81(5) of the Communications Act.

CONCLUSION

The new levy and license fees regulations are in force effective 22 June 2021 and the numbering fees effective from 31 August 2021.

Licensees with queries on the formulae of framework must contact economics@cran.na for assistance.





VISION | MISSION | VALUES

~ VISION ~

Access, quality and affordability for all.

~ MISSION ~

To regulate the ICT and Postal sector for the socio-economic benefit of all Namibians.

~ VALUES ~

Accountability
Passion
Teamwork
Respect
Innovation



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