



**OPENING REMARKS**

**FOR**

**JOCHEN TRAUT**

**ACTING CHIEF EXECUTIVE OFFICER**

**AT THE**

**PUBLIC HEARINGS ON THE REGULATIONS PRESCRIBING  
LICENCE FEES AND REGULATORY LEVIES; AND  
REGULATIONS PRESCRIBING FUNCTIONS FOR CARRIERS  
IN RESPECT OF INSTALLATION AND MAINTENANCE OF  
TELECOMMUNICATIONS FACILITIES**

**12 NOVEMBER 2020**

- **Director of Ceremonies,**
- **Esteemed ICT stakeholders,**
- **CRAN management and team**
- **Members of the media,**
- **Ladies and gentlemen,**

Good morning and a warm welcome!

Thank you for accepting our invitation to this important public consultative meetings pertaining to the proposed **Regulations prescribing Licence Fees and Regulatory Levies; and Regulations prescribing Functions for Carriers in respect of Installation and Maintenance of Telecommunications Facilities.**

I am certain and remain optimistic that our strategic relationship will continue to positively develop and strengthen through this and other future engagements.

**Director of ceremonies,**

Allow me to commence with the business of the day with the 1<sup>st</sup> public hearing for this morning, namely, the **Licence Fees and Regulatory Levies consultative meeting.** In accordance with Section 129 (1) of the Communications Act (No. 8 of 2009) the Communications Regulatory Authority of Namibia (CRAN) is mandated to issue or grant, renew,

transfer and amend fees for the various information, communication and technology licence types in the country.

In addition hereto, Section 23 of the Communications Act empowers CRAN to impose regulatory levies for providers of communications services in order to defray the expenses of the Authority.

Further hereto and subsequent to following a rule-making procedure, the Authority in terms of Section 23(2)(a) drafted Regulations regarding Administrative and Licence Fees for Service Licensees as published in the *Government Gazette* of 5037 Notice 311 date 13 September 2012.

### **Director of Ceremonies,**

However, in the appeal case between CRAN and Telecom Namibia and others, the Supreme Court declared Section 23(2)(a) unconstitutional on the basis that the section constitutes the outsourcing of plenary legislative power to CRAN, given the absence of guidelines and limits for its exercise. Consequently, the regulations made in terms of the section were found unconstitutional.

As a result of the Supreme Court Judgement, CRAN can no longer raise regulatory levies in terms of the regulations as the Legislature was required to amend Section 23 in line with the Supreme Court decision.

Subsequently, the Minister of Information and Communication Technology (MICT) proposed amendment to Section 23 of the Communications Act. The purpose of the amendment was to ensure that the Section is constitutional and valid as per directions of the Supreme Court and thereby enabling the Authority to impose a new valid regulatory levy on the communications industry.

The amended Section 23 aims to provide sufficient requirements and guidelines to the Authority on the size or amount of the regulatory levy and built in checks-and-balances to avoid future constitutional or *ultra vires* challenges of the regulatory levy.

Furthermore, the Communications Amendment was endorsed by Cabinet and the Cabinet Committee on Legislation. The Amendment Act was approved and published and therefore we are gathered here today to discuss the proposed levies to fund CRAN to fulfil its mandate in terms of the Communications Act.

### **Director of Ceremonies,**

The 2<sup>nd</sup> part of our public hearings today, deals with the objectives of the **Regulations pertaining to Functions for Carriers in respect of Installation and Maintenance of Telecommunications Facilities. These regulations** shall enable CRAN to prescribe the manner, form and period of notice to be given by a carrier to a land owner in connection with installation and/or maintenance of

telecommunications facilities, as well as the procedure to be followed and consultations to be held between a carrier and the land owner. This is in accordance with the provisions of section 68(2) of the Communications Act.

In conclusion, the Authority is currently undertaking the rule-making process and it is for that reason that we are all here today.

As we pride ourselves as a dynamic regulator, we will continue to independently and transparently 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. We can achieve this and much more with the involvement of various stakeholders, therefore we urge you to actively participate in this process today as we anticipate fruitful deliberations.

I thank you!