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OF THE

REPUBLIC OF NAMIBIA

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CONTENTS

Page

GENERAL NOTICES

No. 332	Communications Regulatory Authority of Namibia: Notice in terms of the regulations regarding licensing procedures for telecommunications and broadcasting service licences and spectrum use licences	1
No. 333	Communications Regulatory Authority of Namibia: Notice in terms of the regulations regarding licensing procedures for telecommunications and broadcasting service licences and spectrum use licences	3
No. 334	Communications Regulatory Authority of Namibia: Notice of intention to make regulations regarding the frequency channeling plan for digital terrestrial television	4
No. 335	Communications Regulatory Authority of Namibia: Clarification on judgment: Mobile Telecommunications Ltd ("MTC") v Namibia Communications Commission ("CRAN"), Telecom Namibia Ltd and Powercom (Pty) Ltd t/a Leo	7

General Notices

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 332

2012

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 regulations 5 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, herewith gives notice that the person referred to in the table below, submitted the following applications to the Authority:

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 licence as contemplated in the Regulations Setting out Broadcasting and Telecommunications Service Licence categories;	Provision of signal distribution;	Whether applicant intends to use spectrum in the provision of broadcasting services intended to be provided;	Proof of Application fees paid up to date submitted?
Oranjemund Community Radio (Association incorporated not for gain)	Namibia	100%	Community Broadcasting Service License	Own	Yes	No

Spectrum- Use - 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;	List of Radio Frequencies being applied for;	Services intended to be provided using the spectrum being applied for;	Proof of Application fees paid up to date submitted?
Oranjemund Community Radio (Association incorporated not for gain)	Namibia	100%	104.3 FM	Community Broadcasting Service	No

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 the due date 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: 088642748.

**S. SHANAPINDA
CHIEF EXECUTIVE OFFICER
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 333

2012

**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 -11 -of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, gazetted in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011, herewith gives notice that the following person applied for the following:

Transfer of Control of Licence - Broadcasting Service Licence:

No.	Licence(s) to be transferred	Transferor	Transferee
1.	Commercial Broadcasting Service Licence	99 FM (Pty) Ltd	Christina Greeff

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 the due date 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.

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- (4) by facsimile to the following facsimile number: +264 61222790;
- (5) by fax to e-mail to the following number: 088642748; or
- (6) in any other manner or at alternative addresses set out by the Authority from time to time

**S. SHANAPINDA
CHIEF EXECUTIVE OFFICER
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA**

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 334

2012

NOTICE OF INTENTION TO MAKE REGULATIONS REGARDING THE FREQUENCY CHANNELING PLAN FOR DIGITAL TERRESTRIAL TELEVISION

The Communications Regulatory Authority of Namibia, in terms of the Regulations Regarding Rule-Making Procedures: Communications Act, 2009 published as General Notice 334, in Government Gazette 4630 dated 17 December 2010, hereby gives notice, in terms of section 100 of the Communications Act, 2009, of its intention to prepare a Frequency Channeling Plan for Digital Terrestrial Television.

This notice contains the following:

1. A concise Statement of Purpose of the Proposed Regulations;
2. A draft of the proposed Regulations Regarding the Frequency Channeling Plan for Digital Terrestrial Television.

Written comments may be submitted in accordance with the Regulations Regarding Rule-Making Procedures, within sixty (60) days from the date of publication of this Notice.

Written reply comments may be submitted in accordance with the Regulations Regarding Rule-Making Procedures, within thirty (30) days from the date that written comments are due.

In terms of section 100(5) of the Communications Act and the Regulations Regarding Rule-Making Procedures, the Authority will hold a hearing at a time to be announced after the receipt of reply comments. Persons that have submitted written comments and reply comments will be invited to make oral submissions at the hearing.

Statement of Purpose of the Proposed Regulations regarding the

Section 99 of the Communications Act, 2009 provides that the Authority is vested with the control, planning, administration, management, and licensing of the radio spectrum. Section 99 also requires the Authority to comply with applicable standards and requirements of the International Telecommunication Union and its Radio Regulations.

Section 100 of the Communications Act, 2009, deals specifically with the prescription of a frequency band plan. It provides that the Authority must prescribe the frequency band plan from time to time. The frequency band plan sets out how radio spectrum may be used, to ensure utilisation in an orderly, efficient and effective manner, to reduce congestion and interference, to allow for the introduction of new technologies and services, and to permit as many users and services as is practically feasible.

In preparing the frequency band plan, the Authority must follow the procedures set out in section 100. These procedures have been supplemented by the Regulations regarding Rule-Making Procedures. In addition, the Authority must have due regard to experts' reports and internationally accepted methods for preparing frequency band plans. The Authority must also take into account existing uses and frequency band plans for Digital Terrestrial Television of other countries.

At the international level, the planning of spectrum is the responsibility of the ITU, in particular the ITU's Radiocommunication Bureau (ITU-R). The mission of the ITU-R is to ensure rational, equitable, efficient and economical use of the radio frequency spectrum and to adopt recommendations for member states. The recommendations for the allocations of radio frequency bands for Namibia are those for ITU Region 1, which covers Africa and Europe.

PROPOSED REGULATIONS REGARDING FREQUENCY CHANNELING PLAN FOR DIGITAL TERRESTRIAL TELEVISION

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).

Purpose

2. These regulations set out the Frequency Channeling Plan for Digital Terrestrial Television in terms of section 100 of the Act.

Table of Frequency Allocations

3. The table of frequency allocations sets out planned Digital Terrestrial Television allocations for Namibia adopted by the Revised ITU Regional Radiocommunication Conference n 2006 (GE06 Plan) for terrestrial television broadcasting in bands ranging from 174 Mhz to 230 Mhz and 470Mhz to 694 MHz.

Site Name	Latitude	Longitude	Multiplex Number	Frequency (MHz)	Channel Number	TX Power (W)	Antenna Peak Gain (dBd)	Polarisation	Antenna Height (m)	Region
Aminuis	23 40 35.6 S	19 26 01.6 E	1	210	9	1000	11.5	Vertical	119.2	Omaheke
Aranos	24 6 50.4 S	19 6 3.9 E	1	626	40	500	7.5	Horizontal	91.1	Hardap
Arendesnes	18 2 30.9 S	19 37 27.8 E	1	202	8	1000	14.7	Horizontal	216	Kavango
Aus	26 39 41.0 S	16 19 3.0 E	1	658	44	20	7.5	Horizontal	81.1	Karas
Aussenkehr	28 21 58.1 S	17 26 9.0 E	1	530	28	20	7.5	Horizontal	61.1	Karas
Bethanien	26 29 0.7 S	17 14 18.0 E	1	202	8	2000	11.6	Horizontal	216.8	Karas
Brukkaros	25 51 20.2 S	17 46 53.3 E	1	186	6	100	8	Vertical	67.42	Karas
Buitepos	22 17 00.0 S	19 54 00.0 E	1	498	24	500	12.9	Vertical	82.23	Omaheke
Chetto	17 55 53.3 S	22 36 43.4 E	1	194	7	1000	10	Horizontal	125	Caprivi
Corridor	23 30 55.6 S	19 50 54.8 E	1	474	21	400	10.5	Horizontal	82.42	Omaheke
Divundu	18 4 37.5 S	21 44 55.3 E	1	610	38	1000	12.5	Horizontal	120	Kavango
Eenhana	17 29 57.1 S	16 31 24.2 E	1	578	34	100	10.5	Horizontal	92.42	Ohangwena
Eholongo	18 23 12.6 S	14 58 11.8 E	1	490	23	1000	10.5	Horizontal	212.42	Omusati
Eiseb-1	21 21 15.3 S	20 28 31.9 E	1	482	22	100	10.5	Horizontal	122.42	Omaheke
Elandsfontein	19 24 0.7 S	16 16 38.8 E	1	482	22	2000	10.5	Horizontal	212.42	Otjozondjupa
Epukiro	21 33 3.6 S	19 25 19.2 E	1	178	5	1000	11.5	Horizontal	219.15	Omaheke

Epupa	17 5 13.1 S	13 12 16.4 E	1	618	39	100	7.5	Horizontal	91.1	Kunene
Erongo Solar	21 43 42.2 S	15 31 21.9 E	1	178	5	100	10.1	Horizontal	38.5	Erongo
Gam	20 9 27.5 S	20 43 22.7 E	1	186	6	50	11.3	Vertical	216.8	Otjozondjupa
Gibeon	25 7 2.4 S	17 56 22.7 E	1	210	9	2000	11.5	Vertical	140	Hardap
Gobabis	22 26 6.1 S	19 0 31.9 E	1	202	8	2000	11.6	Horizontal	218.8	Kunene
Gochas	24 50 44.8 S	18 49 8.1 E	1	498	24	500	7.5	Horizontal	91.1	Hardap
Impalila	17 46 46.7 S	25 12 54.0 E	1	490	23	100	7.5	Horizontal	30	Caprivi
Jericho	28 19 0.6 S	19 44 3.0 E	1	626	40	500	10.5	Horizontal	122.42	Karas
Kalkrand	24 5 5.9 S	17 34 28.8 E	1	522	27	1000	10.5	Horizontal	182.42	Hardap
Kamanjab	19 34 40.6 S	14 53 18.4 E	1	178	5	2000	11.3	Horizontal	216.8	Kunene
Katima Mulilo	17 31 6.8 S	24 16 18.4 E	1	178	5	1000	16.7	Horizontal	214.9	Caprivi
Keetmanshoop	26 34 38.1 S	18 8 6.5 E	1	210	9	100	4.5	Vertical	57.1	Karas
Khorixas	20 21 33.4 S	14 58 52.8 E	1	202	8	2000	11.7	Vertical	140	Kunene
Klein Waterberg	20 41 11.0 S	17 3 49.0 E	1	186	6	4500	13.3	Vertical	110	Otjozondjupa
Koes	25 55 22.8 S	19 9 20.0 E	1	474	21	500	10.5	Horizontal	92.42	Karas
Kongola	17 48 37.5 S	23 23 16.7 E	1	642	42	500	12.9	Horizontal	122.23	Caprivi
Krantsberg	27 8 35.7 S	18 55 38.4 E	1	178	5	2000	11.3	Horizontal	110	Karas
Leonardville	23 29 31.2 S	18 47 15.6 E	1	506	25	500	10.5	Horizontal	122.42	Omaheke
Luderitz	26 45 22.2 S	15 20 49.7 E	1	498	24	500	10.5	Vertical	92.42	Karas
Maltahohe	24 53 26.7 S	16 53 35.9 E	1	186	6	2000	12.1	Horizontal	200	Hardap
Mariental	24 27 19.2 S	17 54 52.6 E	1	202	8	250	8.1	Horizontal	72	Hardap
Moltkeblick	22 39 5.5 S	17 10 44.6 E	1	178	5	4500	11.6	Horizontal	140	Khomas
Monte Christo	22 23 24.6 S	16 59 1.3 E	1	194	7	800	10.7	Horizontal	110	Khomas
Nkurenkuru	17 40 38.6 S	18 36 6.0 E	1	210	9	2000	14.7	Vertical	184.53	Kavango
Noordoewer	28 40 55.0 S	17 38 16.7 E	1	210	9	400	9.9	Vertical	85	Karas
Okongo	17 23 24.0 S	17 37 52.0 E	1	178	5	2000	11.6	Vertical	218.6	Ohangwena
Omitara	22 20 11.3 S	17 55 27.0 E	1	610	38	250	7.5	Horizontal	91.1	Omaheke
Omuthiya	18 22 0.0 S	16 34 19.8 E	1	514	26	2000	10.5	Horizontal	182.42	Oshikoto
Onesi	17 33 54.6 S	14 33 59.4 E	1	554	31	2000	14	Vertical	214.5	Omusati
Opuwo	18 10 7.0 S	13 55 50.0 E	1	178	5	2000	11.6	Horizontal	119.2	Kunene

Oranjemund	28 33 15.2 S	16 25 34.2 E	1	602	37	250	7.5	Horizontal	91.1	Karas
Oshakati	17 47 26.0 S	15 42 36.0 E	1	194	7	2000	13.3	Vertical	260	Oshana
Oshakati	17 47 26.0 S	15 42 36.0 E	1	194	7	2000	13.3	Vertical	260	Oshana
Otjimbingwe	22 21 25.0 S	16 7 41.0 E	1	498	24	500	10.5	Horizontal	92.42	Erongo
Otjinene	20 50 42.0 S	18 59 18.6 E	1	530	28	2000	10.5	Horizontal	212.42	Omaheke
Ovitoto	21 57 54.0 S	17 12 52.5 E	1	514	26	100	7.5	Horizontal	81.1	Otjondjupa
Paresis	20 20 1.0 S	16 19 10.0 E	1	178	5	100	10.5	Horizontal	45	Otjondjupa
Rietfontein	21 51 2.0 S	20 45 21.0 E	1	202	8	1000	12.6	Vertical	70.7	Omaheke
Rooidag	19 16 48.2 S	19 11 51.6 E	1	178	5	2000	11.7	Horizontal	200	Oshikoto
Rosh Pinah	27 58 17.8 S	16 44 28.1 E	1	634	41	100	10.5	Horizontal	92.42	Karas
Rossing	22 31 37.6 S	14 49 20.8 E	1	194	7	2000	11.5	Vertical	110	Erongo
Sesfontein	19 6 12.3 S	13 43 1.1 E	1	186	6	2000	12.1	Vertical	110	Kunene
Shamvura	18 2 35.5 S	20 51 38.2 E	1	626	40	500	14.5	Vertical	214.5	Kavango
Signalberg	19 34 29.0 S	17 42 39.1 E	1	194	7	4500	12.3	Horizontal	119.1	Otjondjupa
Stampriet	24 20 31.5 S	18 25 8.6 E	1	186	6	1000	14.9	Horizontal	217.2	Hardap
Steinhausen	21 37 45.5 S	18 15 33.7 E	1	210	9	1000	12.3	Horizontal		Omaheke
Terrance Bay	19 57 44.5 S	13 1 16.7 E	1	178	5	50	7.7	Vertical	45	Kunene
Tsumeb	19 16 44.0 S	17 41 24.8 E	1	626	40	20	7.5	Horizontal	92.42	Oshikoto
Tsumkwe Bay	19 35 36.0 S	20 30 8.0 E	1	602	37	100	10.5	Horizontal	92.42	Otjondjupa
Uis	21 13 21.6 S	14 53 5.1 E	1	490	23	100	10.5	Horizontal	62.42	Erongo
Ur	27 31 33.5 S	18 33 14.1 E	1	194	7	1000	13.6	Horizontal	75	Karas

L.N. JACOBS

CHAIRPERSON OF THE BOARD

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 335

2012

**CLARIFICATION ON JUDGMENT: MOBILE TELECOMMUNICATIONS LTD (“MTC”) v
NAMIBIA COMMUNICATIONS COMMISSION (“CRAN”), TELECOM NAMIBIA LTD &
POWERCOM (PTY) LTD t/a LEO**

1. On 3 April 2012 the High Court delivered a judgment concerning the legality of a decision taken by the NCC (Namibian Communications Commission), which decision is binding on CRAN as its legal successor concerning prices and the pricing structure charged by mobile telephone operators in Namibia.

2. The Authority's regulatory functions include the power to issue telecommunication licences and to exercise control over and supervise the telecommunications industry. Telecommunications services may only be conducted under the authority of the licence granted by CRAN. Any such licence may be subject to restrictions and conditions, which CRAN may impose. In imposing conditions for telecommunication licences, CRAN may have regard to issues of fair competition and any other matter, which CRAN considers relevant. CRAN is also expressly authorised to impose obligations and requirements on an applicant for a licence regarding its rights and obligations relating to interconnection.
3. CRAN is concerned about offerings made by telecommunications operators in the industry that are structured in such a way that customers of a network, which has a large pool of subscribers, can benefit from calling and from being called from that large pool of subscribers. This is known as a club effect. It creates traffic distortion across networks and can have an adverse impact upon competition, thus negatively impacting the consumer. A further concern is cross-subsidization and tying or bundling with prices being set below cost as a strategy for consumer acquisition. A further concern is where an existing operator prevents entrants from gaining any reasonable foothold within the market by aggressively charging very low prices. This strategy, known as predatory pricing, usually is followed by a subsequent raising of prices to recoup lost profits, thus repelling opposition. The statutory injunction imposed upon CRAN to take into account fair competition is underpinned by the introduction of the Competition Act.
4. In February 2011, bearing these principles in mind, the NCC took the following regulatory decision:

“All Licencees and providers of public mobile cellular services shall implement a price cap for off-net call prices and call prices to fixed-lines to the level of their on-net prices. Off-net prices and prices for calls to fixed-lines may no longer exceed those of on-net calls for each product or service. This applies for voice and text messages.

However, rates charged on voice calls between numbers belonging to the same institution or company, where subscriptions are part of the same contract (i.e. intra-group tariffs) are exempted from the above resolution. Intra-group calls shall be classified as internal calls.

The price cap will only have a small negative financial impact on MTC and LEO since the majority of billable minutes are on-net, but will be of greater benefit to their customers in providing affordable services. The amendment is based on the following reasons:

1. Mobile termination rates were reduced to the cost of an efficient operator on 1st January 2011. Terminating a call on another mobile network or on a fixed-line network therefore costs approximately the same as on the own network.
2. The spirit of the licences granted is fair competition. Operators are not allowed to engage in any anti-competitive cross-subsidisation. Without an objective cost difference there exist no reasons for discriminating in retail prices against other networks.
3. Club effects arises when consumers tend to have a preference for a network with a large pool of subscribers in order to benefit from the possibility to call and be called at a lesser calling rate by the largest possible number of subscribers have adverse impacts on competition and consumer welfare. The enforced price cap will reduce any club effects and curb traffic distortions.

Bundles voice minutes and text messages are expected to be network neutral. Bundled voice minutes and text messages are not part of this regulation. The Namibian Communications

Commission (NCC) will monitor market developments and regulatory interventions may be undertaken if bundling is being used to create club effects.

The Namibian Communications Commission (NCC) strives to ensure fair competition in Namibia's telecommunication sector."

5. In the judgment in this matter, the High Court found that the underlined portions, referred to above, could not form part of the decision of the NCC since those portions did not serve before the NCC's Board when the decision was taken, but consisted of amplification after the Board met. The Court accordingly ruled that such portions should be excised from the decision. Otherwise, the Court found that the NCC's Board had taken a valid decision in law, which decision was both rationally connected to the powers exercised by the NCC and reasonable in the circumstances. The Court also found that the NCC had followed a fair procedure in reaching this decision.
6. MTC's (Mobile Telecommunications Company Limited) public mobile cellular licence, as published in the Government Gazette No. 3815 in Notice No. 69 dated 29 March 2007, as amended, defines a call as follows:

"'Call' means any signal conveyed by means of an access line connected to the licenced system, which imparts or is intended to impart a discrete message or communication in any kind, to or from a customer, whether or not successfully completed in the signal operation."

In terms of this definition, the NCC's decision applies to voice calls as well as sms messages. Accordingly, NCC's decision taken in February 2011 and prior to the conversion of MTC's licence, applies to voice calls, sms messages and bundles.
7. In terms of the above definition, all calls can generally be taken to be defined as per clause 6 above.
8. Although the NCC's decision refers to "*All Licencees and providers of public mobile cellular services*", in terms of the new market structure under the Communications Act and its regulations, these would be licencees who provide electronic communications as defined in section 1 of the Act. the NCC's decision is accordingly applicable to the following entities, insofar as they provide the aforesaid services, strictly speaking, as follows:
 - 8.1 MTC and Powercom (Pty) Ltd t/a LEO, as from 9 February 2011;
 - 8.2 Telecom Namibia Ltd in terms of section 45 of the Communications Act, as from 18 May 2011;
 - 8.3 M-Wireless (Pty) Ltd, formerly known as Africa-online (Pty) Ltd and Wireless Technologies Namibia (Pty) Ltd, as from 14 March 2012;
 - 8.4 YFI Technologies (Pty) Ltd and Wilfred Robert Poser as from 15 May 2012
 - 8.5 All future licencees who will be licensed in terms of section 38 of the Communications Act and those whose licences are still to be converted under the said Act and its regulations.
9. It is further emphasized that CRAN will continue to enforce this decision until such time as the decision may be changed through the appropriate rule-making procedure.
10. The grace period for enforcement will be a period so determined and published by CRAN. The reporting requirements will be communicated to all in due time.

11. CRAN notes that it is a judgment and should be implemented.
12. CRAN herewith invites written public comments in respect of enforcing this court decision. 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 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;
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