



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notice

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 626

2024

NOTICE OF INTENTION TO AMEND THE BROADCASTING CODE: COMMUNICATIONS ACT, 2009

The Communications Regulatory Authority of Namibia in terms of regulation 4(3) of the Regulations regarding Rule-Making Procedures published under General Notice No. 334 of 17 December 2010 publishes this notice of intention to amend the Broadcasting Code which contains the following:

- (a) a concise statement of the purpose for the amendment to the Broadcasting Code set out in Schedule 1; and
- (b) a draft of the proposed amendment to the Broadcasting Code as set out in Schedule.

Members of the public are invited to make written submissions to the Authority no later than 30 calendar days from the date of publication of this notice in the *Gazette* in the manner set out below.

All written submissions must –

- (a) contain the name and full contact details (physical and postal address, email address and telephone or cell phone number) of the person making the written submissions and the name and similar contact details of the person for whom the written submission is made if different; and

- (b) be clear and concise.

In the event that a person making a written submission wishes to designate any information contained therein as confidential, the submission must be clearly marked as “CONFIDENTIAL”.

Where the Authority is of the opinion that information is not confidential it must inform the person making the written submission thereof and may –

- (a) allow the person to withdraw the information from the rule-making proceedings;
- (b) agree with the person that the submission will not be treated as confidential information; or
- (c) request a hearing on the issue of confidentiality to be conducted in accordance with section 28 of the Communications Act.

In terms of regulation 7 of the Regulations Regarding Rule-Making Procedures the Authority herewith gives notice that it will hold a hearing regarding the proposed regulations as follow:

DATE: TBA

TIME: TBA

VENUE: TBA

The public is invited to make comments or oral submissions at the hearing. Notice of oral submissions to be made during the hearing must be submitted to the Authority on or before _____ (hereafter the “due date”).

All written submissions and notice of oral submissions must be sent or submitted to be received by the Authority on or prior to the due date either –

- (a) by hand to the head office of the Authority, namely Freedom Plaza, Courtside Building (3rd and 4th Floor), c/o Fidel Castro ans Rev. Micheal Scotts StreetsWindhoek;
- (b) by post to the head office of the Authority, namely Private Bag 13309, Windhoek, 9000; or
- (c) by electronic mail to legal@cran.na.

DR. T. MUFETI

CHAIRPERSON OF THE BOARD

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

SCHEDULE 1

CONCISE STATEMENT OF PURPOSE

1. The Amendment to the Broadcasting Code set out duties that will improve the quality-of-service standards that are applicable to broadcasters. These duties are specified in the Annexures attached to the Amendment.
2. The Amendment is intended to –
 - (a) implement a quality-of-service framework, which allows the quality of service delivered by licensees to be measured, reported and published based on defined quality-of-service parameters and measurement methodologies stipulated in the Amendment;
 - (b) establish minimum mandatory performance requirements for broadcasters, and the methodology for measuring those minimum performance requirements in line with stated quality-of-service parameters;

- (c) improve the quality of services offered by broadcasters by specifying regulatory interventions to identify service deficiencies and by encouraging, enforcing, effecting, or requiring appropriate changes and solutions;
- (d) create conditions of consumer satisfaction by prescribing the quality of service which a broadcaster is required to provide and which the consumer has the right to expect;
- (e) promote fairness and safeguard the interest of consumers of broadcasting services; and
- (f) prescribe penalties for non-compliance with quality-of-service standards.

SCHEDULE 2

AMENDMENT TO THE BROADCASTING CODE: COMMUNICATIONS ACT, 2009

In terms of section 89(2)(j) of the Communications Act, 2009 (Act No. 8 of 2009), the Communications Regulatory Authority of Namibia amends the Broadcasting Code published in General Notice No. 602 of 31 October 2018 as set out in the Schedule.

DR. T. MUFETI
CHAIRPERSON OF THE BOARD
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

SCHEDULE

Insertion of rules 13A to 13M in Broadcasting Code

1. The Broadcasting Code is amended by the insertion of the following rules after rule 13:

“Definitions

- 13A.** For purposes of rules 13B to 13M –
- (a) “broadcasting licensee” means a service provider to whom the Authority issued a license referred to in rule 13B;
 - (b) “consumer” means any person who uses broadcasting services of a broadcasting licensee and where applicable includes a potential customer of such licensee;
 - (c) “data portal” means the electronic interface found on the landing page of the official website of the Authority by means of which a broadcasting licensee is required to submit reports and other information required by the Authority;
 - (d) “force majeure” means any unforeseeable event or effect outside a broadcasting licensee’s control, which renders the performance of one or more of that licensee’s obligations under the Broadcasting Code impossible including, without limitation, acts of nature such as an earthquake, flood, lightning, storm, heat wave, epidemic or pandemic, and acts of people such as an act, law, decision or requirement of any governmental authority, riot, strike, lockouts or other industrial disturbances, civil disorder, declared state of emergency, terrorist actions, and war or any similar act;
 - (e) “geographic area” includes any of the following: the entire country, a region, constituency, district, city, town or village;

- (f) “key performance indicator” means a measurable value that demonstrates how effectively a broadcasting licensee is achieving quality-of-service objectives;
- (g) “quality of service” in relation to broadcasting services refers to the overall performance and reliability of broadcast content delivery to viewers, which encompasses various technical and experiential factors that ensure consumers receive high-quality, uninterrupted, and engaging broadcast content that bear on its ability to satisfy stated and implied needs of consumers;
- (h) “quality-of-service data” means all data accumulated by a broadcasting licensee or the Authority pertaining to the measurement of quality-of-service standards; and
- (i) “quality-of-service parameters” means a measurable indicator used to characterise the level of a certain aspect of a broadcasting service being offered as set out in Annexure 2 and Annexure 3.

Duties relating to quality of service

13B. (1) This rule applies to the following licence categories prescribed by the Regulations setting out Broadcasting and Telecommunications Service Licence Categories, published under General Notice No. 124 of 18 May 2011 as amended by the Regulations setting out Broadcasting and Telecommunications Service Licence Categories, published under General Notice No. 74 of 13 March 2013 –

- (a) Commercial;
 - (b) Community;
 - (c) Public;
 - (d) Signal Distribution;
 - (e) Class comprehensive Multiplex and Signal Distribution; and
 - (f) Multiplex.
- (2) The quality-of-service key performance indicators and quality-of-service parameters –
- (a) in the case of subscriber television services are set out in Annexure 2; and
 - (b) for Consumer Satisfaction Attributes are set out in Annexure 3.

Duty to consumers

13C. A broadcasting licensee must –

- (a) establish and maintain information or data to assist consumers with queries relating to the services offered, installation and access requirements, processes, and consumer support facilities;
- (b) provide consumers with equal access to services within the applicable geographic area at the same quality of service and at the same tariff;

- (c) notify all its consumers of the terms and conditions of the contract entered into between the broadcasting licensee and a consumer;
- (d) submit to the Authority samples of the contract referred to in paragraph (c) which must contain the minimum quality-of-service standards consumers are entitled to, and the remedies and compensation available when the quality of service is below such standards; and
- (e) notify each consumer of any modification to an existing contract.

Performance obligations

13D. (1) Every broadcasting licensee must establish quality-of-service measurement systems consistent with rules 13A to 13M.

(2) Each broadcasting licensee must deliver services at a performance level that meets or exceeds the quality-of-service parameters stipulated in the rules referred to in subrule (1).

Obligations relating to service interruption or degradation

13E. (1) Subject to subrule (2), a broadcasting licensee must not in the normal course of business intentionally interrupt or hinder the operation of its services unless a force majeure event makes the rendering of its services impossible.

(2) Notwithstanding subrule (1), a broadcasting licensee must report to the Authority all interruptions or degradations affecting its services in the form set out in Annexure 2.

(3) The report referred to in subrule (2) must be made in the case of –

- (a) scheduled maintenance, at least 48 hours before the outage;
- (b) unplanned service interruptions or degradations, within 12 hours after such interruption or degradation.

(4) A broadcasting licensee must give its consumers notice at least two days in advance of any planned service interruption or degradation, by publishing a notice by text message, email, other online application or print media.

(5) Where an unplanned service interruption or degradation occurs which may extend beyond 12 hours, the affected broadcasting licensee must notify –

- (a) the Authority within 12 hours at the email address: QOS@cran.na; and
- (b) its consumers through social media platforms, short message service (SMS), local radio stations, television or other appropriate means.

(6) The notification referred to in subrule (5) must include the following information:

- (a) the services affected by the service interruption or degradation;
- (b) the expected duration of the service interruption or degradation;
- (c) the geographic areas affected;

- (d) network elements and nodes affected;
 - (e) percentage of traffic affected by the service interruption or degradation;
 - (f) the reasons for the service interruption or degradation; and
 - (g) the possible effects of the service interruption or degradation on the affected consumers.
- (7) A broadcasting licensee must within 10 days of an unplanned service interruption or degradation occurring submit a report to the Authority setting out –
- (a) a qualitative description of the service interruption or degradation, including the initial causes thereof, affected broadcasting services and consequences for consumers;
 - (b) a quantitative evaluation of the number of affected consumers and each broadcasting service or retail product sold by the broadcasting licensee;
 - (c) the duration of the service interruption or degradation and whether it is continuing; and
 - (d) a description of the long-term action plans the broadcasting licensee will implement to improve service resilience to prevent a repeat of the service interruption or degradation.

Reporting obligations

13F. (1) For each reporting period described in subrule (4), every broadcasting licensee must prepare a quality-of-service compliance report that includes, as a minimum the following:

- (a) name and type of the broadcasting service;
 - (b) geographic scope;
 - (c) reporting results (e.g., values of the quality-of-service parameters in the reporting period);
 - (d) history of previous results with comparison in time to follow the quality-of-service progression including a clear statement of improvements made;
 - (e) details on the methodology; and
 - (f) details on the calculation of quality-of-service parameters, time span and spatial distribution of the observations made to arrive at the quality-of-service results indicated in the compliance report.
- (2) If a broadcasting licensee has not met the quality-of-service parameters referred to in rule 13B(2), that licensee must submit to the Authority the following:
- (a) Statement outlining the reasons including whether any force majeure events occurred during the reporting period;
 - (b) the remedial actions undertaken or planned;

- (c) the time period within which the broadcasting licensee will attain the required quality-of-service parameters; and
 - (d) any preventive actions taken to avoid similar issues in the future.
- (3) Quality-of-service compliance reports must be submitted to the Authority by means of the data portal.
- (4) A broadcasting licensee must submit quality-of-service compliance reports referred to in subregulation (3) to the Authority on a quarterly basis within one month after the end of each reporting period in accordance with the Table below:

Reporting period	Latest date for submission of quality-of-service compliance reports
1 January to 31 March	30 April of the same year
1 April to 30 June	31 July of the same year
1 July to 30 September	31 October of the same year
1 October to 31 December	31 January of the next year

Measurement of quality-of-service obligations

13G. (1) Every broadcasting licensee must, in accordance with its established quality-of-service measurement systems, measure across their transmitters, masts and towers all quality-of-service parameters stipulated in this Broadcasting Code.

(2) Measurement and monitoring of quality-of-service parameters must be done in accordance with the measurement mechanisms contained in Annexure 2 and 3 and any other methods that may be determined by the Authority from time to time.

Assessment of quality-of-service compliance report

13H. (1) Within 14 days after a broadcasting licensee submitted a quality-of-service compliance report, the Authority must assess the report for compliance with the Broadcasting Code and in writing notify the broadcasting licensee that the Authority-

- (a) accepts the quality-of-service compliance report; or
 - (b) rejects the quality-of-service compliance report, specifying whether the Authority rejects the quality-of-service compliance results, reasons provided by the broadcasting licensee for failures to achieve quality-of-service obligations, or any other matter in the quality-of-service compliance report.
- (2) In the notice referred to in subrule (1)(b), the Authority must provide reasons for rejecting a broadcasting licensee's quality-of-service compliance report.
- (3) If the Authority provides a notice to a broadcasting licensee under subrule (1)(b) that licensee must, to the extent and by the date required by the Authority in the notice -
- (a) resubmit a revised quality-of-service compliance report, whereupon the Authority must assess the report and notify such licensee as set out in subrule (1); and
 - (b) comply with rule 13K in respect of any remediation or other action specified by the Authority in the notice.

(4) If the Authority provides a notice to a broadcasting licensee under subrule (1)(a), or the Authority does not respond to a quality-of-service compliance report or a revision thereof within 30 days of its submission by that licensee, such report is deemed to be accepted for publication in accordance with rule 13L.

Verification of quality-of-service compliance report

13I. (1) The Authority may take the necessary steps and utilise the necessary methods to verify the accuracy of a quality-of-service compliance report submitted by a broadcasting licensee under rule 13F.

(2) The Authority may direct a broadcasting licensee in writing to submit additional information or documents to verify the information that the licensee submitted in a quality-of-service compliance report.

(3) A broadcasting licensee must, within 14 days of receipt of a written direction from the Authority referred to in subrule (2), submit the additional information or documents to the Authority in accordance with its directions.

(4) The Authority may conduct an investigation to verify the information submitted in a quality-of-service compliance report or any additional information submitted under subrule (3).

(5) An investigation referred to in subrule (4) may be triggered by –

- (a) inconsistencies between the measurements reported by a broadcasting licensee and those measured by the Authority; or
- (b) a broadcasting licensee's sustained non-compliance with quality-of-service parameters.

(6) Within seven days of receipt of written notification of an investigation by the Authority, a broadcasting licensee must be prepared to demonstrate that –

- (a) such licensee's measurements and reporting requirements have been complied with;
- (b) the quality-of-service parameters are calculated according to the methodology stated in the quality-of-service compliance report;
- (c) its support systems involved in making, processing and reporting the quality-of-service measurements do so accurately; and
- (d) the operations the broadcasting licensee has performed in making, processing and reporting the quality-of-service measurements can be traced back for individual measurements.

(7) If the Authority is dissatisfied with the outcome of an investigation under subrule (4), the Authority may take enforcement action contemplated by section 90 of the Act.

(8) On completion of the verification process set out in this rule, the Authority may approve a broadcasting licensee's quality-of-service compliance report for publication in accordance with rule 13L.

Audits

13J. (1) The Authority may conduct audits and may for that purpose contract a third party to assess a broadcasting licensee's compliance with the Broadcasting Code.

(2) In conducting an audit, the Authority may perform validity controls in respect of a broadcasting licensee –

- (a) to verify the accuracy and sufficiency of such licensee's quality-of-service results;
- (b) to verify the internal procedures and methodologies used by that licensee to collect quality-of-service measurements, including interviews with its staff members to verify that its internal procedures have been correctly followed; or
- (c) by launching queries on that licensee's system to obtain relevant raw data.

(3) The purpose of an audit conducted under this rule is to –

- (a) verify if the broadcasting licensee has accurately and sufficiently measured and reported quality-of-service results; and
- (b) determine if any remediation or other action is necessary under rule 13K or if an investigation will be required under rule 13I(4).

(4) The Authority must provide to a broadcasting licensee, who has been subjected to an audit with an audit report containing –

- (a) the results of the audit;
- (b) the Authority's determinations and conclusions from the audit;
- (c) directions to the broadcasting licensee to furnish the Authority with written explanations regarding any issue identified during the audit, including reasons for any failure to accurately or sufficiently measure and report quality-of-service results;
- (d) any remediation that the licensee concerned is required to carry out.

(5) A broadcasting licensee must respond to any determination, conclusion or request for explanation in an audit report within 30 days of receipt thereof, failing which any determinations or conclusions contained in the audit report must be deemed to be correct.

(6) If an audit report requires a broadcasting licensee to carry out any remediation or other action under rule 13K, it will constitute a notice to the licensee under that rule.

Remediation required by Authority

13K. (1) Within 30 days of receipt of a written notice by the Authority requiring remediation within the period stated in the notice, or the carrying out of any other action in connection with –

- (a) an assessment of quality-of-service compliance report under rule 13H;
- (b) a verification of quality-of-service compliance report under rule 13I;

- (c) an audit under rule 13J;
- (d) an investigation under rule 13I(4);
- (e) a complaint or series of complaints,

the broadcasting licensee must carry out the remediation or other action as required by the notice.

(2) If a broadcasting licensee fails to carry out the remediation or other action as required by the notice referred to in subrule (1), the Authority may deal with the matter as contemplated by section 90 of the Act.

Publication of quality-of-service information

13L. (1) Without limiting the Authority's power to publish quality-of-service information, the Authority may publish on its website or in any other manner –

- (a) a broadcasting licensee's quality-of-service results;
- (b) comments on a broadcasting licensee's quality-of-service results which the Authority considers necessary to better explain the results in order to assist end users to understand such licensee's quality-of-service results or to put such results in context;
- (c) comparisons between the quality-of-service results of all broadcasting licensees within the same sector; or
- (d) international quality-of-service benchmarks.

(2) The Authority may include in its annual report referred to in section 26 of the Act a report on the state of quality of service in Namibia pertaining to broadcasting licensees, based on their quality-of-service results for the preceding year as approved, measured, audited or otherwise determined by the Authority.

Record keeping

13M. A broadcasting licensee must retain quality-of-service data, all measurements and related records for a minimum period of 5 years after the end of the reporting period or until such time as the Authority may direct.

Addition of Annexures to Broadcasting Code

2. The Broadcasting Code is amended by the addition of the following Annexures:

Annexure 1

NETWORK OUTAGE REPORT FORM			
CONTACT INFORMATION			
Name of Reporting Licensee:			License No.
Name of Primary Contact Person:		E-Mail Address:	
	Contact No:		
OUTAGE INFORMATION			
TYPE OF OUTAGE			
<input type="checkbox"/> Unplanned <input type="checkbox"/> Planned			
Date of Incident (dd/mm/yyyy): _____			
Local Time Outage Began (24-hr hh:mm): _____			
Outage Duration: ____ hrs ____ min			
Outage status when filling this report: _____			
Local Time Outage Resolved (24-hr hh:mm): _____			
EFFECT OF OUTAGE			
Network Element(s) Affected: _____			
Percentage of Traffic Affected (If known): _____			
Geographical Area Affected:			
<input type="checkbox"/> Cities: _____ <input type="checkbox"/> Affected Sites: _____			
DESCRIPTION OF THE OUTAGE:			

EXPLANATION OF OUTAGE DURATION:			

CAUSE:								
<hr/> <hr/> <hr/>								
ACTIONS:								
<hr/> <hr/> <hr/>								
DECLARATION								
Signed by: At _____ in his/her capacity as: _____ _____ duly authorised and warranting such authority and warranting that the information provided herein is true and correct, on the _____ day of _____ 20 _____. _____ Signature								
ACKNOWLEDGEMENT OF RECEIPT BY CRAN (OFFICIAL USE ONLY)								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">Full Name</td> <td style="width: 50%;"></td> </tr> <tr> <td style="padding: 2px;">Date</td> <td></td> </tr> <tr> <td style="padding: 2px;">Place</td> <td></td> </tr> <tr> <td style="padding: 2px;">Signature</td> <td></td> </tr> </table>	Full Name		Date		Place		Signature	
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Annexure 2
Key Quality-of-Service Performance Indicators and Quality-of-Service Parameters for Broadcasters

Supply time of subscription-based television service connection	The duration (elapsed days) from the instant a valid service request has been received to the instant a working service is made available for use.	Measurement includes the following scenarios: a) A new connection. b) An existing connection taken over by another consumer. c) An additional connection provided to a consumer who already has an existing service, including any upgrades in service. A valid service request may be in writing. Where a licensee and consumer agree that an order for multiple connections each agreed delivery time counts as a separate service request for measurement purposes	95% of service requests to be completed within 5 elapsed days 100% of service requests to be completed within 7 elapsed days.	Commercial Broadcasting licensees Public Broadcasting licensees
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<p>Fault Repair Time <i>(This is applicable to faults reported by users detected and reported by network monitoring elements.)</i></p>	<p>The time (elapsed hours) by which a valid fault on network is repaired.</p>	<p>The time by which valid faults on networks are repaired and the percentage of faults cleared in the time specified in any service level agreement or contract must be reported separately.</p>	<p>a) Fixed: 95% of faults to be repaired within 2 elapsed days from the time reported and 100% of faults to be repaired within 7 elapsed days. b) Mobile: 95% of faults to be repaired within 24 elapsed hours from the time reported and 100% of faults to be repaired within 48 elapsed hours.</p>	<p>Signal Distribution licensees Class Comprehensive Multiplex and Signal Distribution licensees Commercial Broadcasting licensees Public Broadcasting licensee Community Broadcasting license</p>
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Annexure 3
Consumer Satisfaction Attributes

A licensee in respect of the following Quality of Service benchmarks shall be subject to periodic assessment by the Authority through consumer satisfaction surveys, which may be conducted by the Authority either through its own officers or employees or through any agency appointed by Authority.

Parameter Name	Target
% of consumers satisfied with the service availability	>90%
% of consumers satisfied with the service accessibility	>90%
% of consumers satisfied with the reliability	>90%
% of consumers satisfied with billing performance	>90%
% of consumers satisfied with the help/ enquiry services	>90%

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