



14 March, 2011

The Chairperson
Communication Regulatory Authority of Namibia
56 Robert Mugabe Avenue
WINDHOEK

ATTENTION: MR L JACOBS

Dear Sir

COMMENTS ON NOTICE OF INTENTION TO MAKE REGULATIONS

1. In terms of the regulations regarding rule-making procedures¹, we hereby submit our comments regarding the Notices of intention to make regulations.
2. Notice of intention to make regulations in respect of regulations regarding broadcasting and telecommunications service license categories².
 - 2.1. Ad Paragraph 5: Telecommunications Service License Categories:

Section 38(1) of the Communications Act, 8 of 2009 ("**Act**") states that the Authority may issue individual licenses, class licenses for the class of telecommunications services and electronic communications networks and services and technology neutral licenses. However, this Notice does not make provision for a service and technology neutral license. Should such license not be included in the categories mentioned in this Notice and consequently should the procedures for the application of a service and technology neutral license, not also be provided for in the relevant notice?

¹General Notice 334 of 2010, (GG 4630)

²General Notice 14 of 2011, (GG 4647)

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3. Notice of intention to make regulations in respect of regulations regarding licensing procedures for telecommunications and broadcasting service licenses and spectrum licenses³.

3.1. Ad Paragraph 4: Telecommunications service license applications

Our comments in paragraph 2.1 above refers.

3.2 Ad Paragraph 11: Withdrawal of Licenses.

The obligation to notify the Authority every time a service of a licensee is interrupted for a period longer than 24 hours would unnecessarily increase the administrative obligations placed upon licenses, therefore the 24 hour provision should be extended to at least 72 hours. Alternatively, as the importance of down time will vary from license to license, this provision could be deleted and rather added as a condition to specific licenses.

3.3 Paragraph 12: Application Procedures

The application procedure for renewals should be separated from the other application procedures. The application procedures set out in this paragraph could endure between 2 and 3 months. Provision should be made to shorten the application period and in particular consideration should be given to when licensees should apply for renewal of a license and the subsequent consequences in the event that a license expires and the renewal process has not been completed.

3.4 Paragraph 14: Oral Hearings

This paragraph makes provision for the Authority to call for submissions from the public if it deems it appropriate in specific cases. In terms of administrative law, it is important that the party in terms of whose application the hearing was called ("**Applicant**"), be provided with suitable opportunity to respond to such

³General Notice 15 of 2011 (GG 4647)

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submissions, before the Authority makes a decision. Therefore, provision should be made for suitable opportunity by the Applicant to respond to submissions received at an oral hearing.

4. Notice of intention to make regulations in respect of regulations regarding the submission of interconnection agreements and tariffs⁴.

- 4.1 Ad Paragraph 6: Oral hearings regarding International interconnection agreements

Our comment in paragraph 3.4 above refers.

5. Notice of intention to make regulations in respect of regulations regarding transitional procedures for telecommunications and broadcasting service licenses and spectrum licenses⁵.

- 5.1 Ad Paragraph 4: Telecommunication and broadcasting service licensees contemplated in section 92 and 135(2) of the Act.

The time period of 30 days contemplated in this paragraph should be extended. The submission information required for each license is substantial and would require time to collect. Also, regard should be given to the fact that many licensees would have to submit various submissions, for the various licenses such licensee holds.

- 5.2 Ad Paragraph 9: Licence review procedures

It is of critical importance that a licensee is not placed in a worse position after the review procedure has occurred, with regard to its licences, than the position it enjoyed prior to the process being undertaken. Provision should be made in this paragraph to provide the licensees the necessary protection during

⁴General Notice 16 of 2011 (GG 4647)

⁵General Notice 17 of 2011 (GG 4647)

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the review procedure to ensure that the licensee's rights are upheld and that their benefits are not reduced.

6. We trust these comments would be useful in the finalization of the regulations.

Yours faithfully

WIRELESS TECHNOLOGIES NAMIBIA


per: **SCHALK ERASMUS**

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