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OF THE

REPUBLIC OF NAMIBIA

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General Notices

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 504

2019

NOTICE OF INTENTION TO MAKE REGULATIONS AMENDING 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

The Communications Regulatory Authority of Namibia, in terms of section 81(1), (3) and (4) and 129 of the Communications Act, 2009 (Act No. 8 of 2009), and the Regulations regarding Rule-Making Procedures published in Government Gazette No. 4630, General Notice No. 334 dated 17 December 2010 -

- a) publishes this Notice of Intention to Make Regulations amending 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 set out in Schedule 1; and

- b) sets out the concise statement of the reasons and purpose for the proposed regulations in Schedule 2.

The public may make oral submissions on the proposed regulations to the Authority, at a time, date and place notified by the Authority.

The public are hereby invited to make written representations, comments, communications and submissions (hereafter collectively called “submissions”) to the Authority within thirty (30) consecutive days from the date of publication of this notice in the Gazette, in the manner set out below for making of written submissions.

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 where any person making a submission wishes to designate any information contained in such submission as confidential, such information must be clearly marked as “confidential”. Notwithstanding, if the Authority is of the opinion that information is not confidential it will inform the person thereof thereby -

- a) allowing the person to withdraw the information from the rule-making proceedings;
- b) agreeing with the person that it will not be treated anymore as confidential information; or
- c) requesting a hearing on the issue of confidentiality to be conducted in accordance with section 28 of the Communications Act.

All written submissions must be send or submitted to be received by the Authority on or prior to the due date anticipated above in any of the following manners -

- a) by hand to the head office of the Authority, namely Communications House, 56 Robert Mugabe Avenue, Windhoek;
- b) by post to the head office of the Authority, namely Private Bag 13309, Windhoek, 9000;
- c) by electronic mail to the following address: legal@cran.na;
- d) by facsimile to the following facsimile number: +264 61 222790; or
- e) by fax-to-email to: 0886550852.

H. M. GAOMAB II
CHAIRPERSON OF THE BOARD
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

SCHEDULE 1**AMENDMENT OF 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: COMMUNICATIONS ACT, 2009**

The Communications Regulatory Authority of Namibia, in terms of sections 81(1), (3) and (4) and 129 of the Communications Act, 2009 (Act No. 8 of 2009), amends 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 published under Government Notice No. 97 of 2016, as set out in the Schedule.

Definition

1. In these regulations “the Regulations” means 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 promulgated under Government Notice No. 97 of 2016, as amended by Government Notice No. 500 of 30 August 2018.

Amendment of Annexure 1A

2. Annexure 1A of the Regulations is amended -
- (a) by the insertion of the following definition after the definition of “donor licensee”:
“‘fixed service’ means a radio communications service between two specified fixed points;”
 - (b) by the substitution for paragraph (a) of subitem (1) of item 4 of the following paragraph:
“(a) customers having ECS (including any or all of the following services: DID services, fixed services and mobile services) may retain their number or numbers when they change the licensee providing their service and when they change their service type;”
 - (c) by the substitution for item 5 of the following item:

“Timeframe for the implementation of number portability

5. All licensees must ensure that number portability is available to their customers and third party service providers when customers or third party service providers change the licensee providing their service within 12 months from the date of publication of this Annexure.”; and

- (d) by the deletion of item 8.

SCHEDULE 2**CONCISE STATEMENT OF PURPOSE**

Subsequent to the publication of an amendment to the Regulations prescribing the National Numbering Plan on 30 August 2018 (General Notice No. 500) which set out the scope of mobile number portability and the process for the implementation of mobile number portability, it was clarified that section 81 of the Communications Act authorises number portability for both fixed and mobile numbers. A summary of the interpretation of section 81 is as follows:

- (a) The definition of telecommunications services only excludes broadcasting services. Had the legislature intended to exclude fixed services, an express clause to that effect would have been inserted in section 81;
- (b) The section does not contain an express distinction between fixed and mobile services;
- (c) The language used in section 81 is clear and unambiguous and the content shows that section 81 authorises the Authority to impose number portability obligations on both fixed and mobile services.

Limiting number portability to mobile numbers only would be anti-competitive because it contradicts section 34 of the Communications Act. Section 34 of the Communications Act states that the Authority must promote, develop and enforce fair competition and equality of treatment among all providers of telecommunications and broadcasting services and users of such services. Section 2(k) of the Act states that one of the objects of the Communications Act is to ensure fair competition. Should fixed porting be excluded, the Authority would be perceived to be protecting a dominant operator and restricting other operators to enter the fixed end-user access market. By allowing mobile number portability, the dominant operator would have access to the mobile customers of other operators. However, a limitation on fixed porting means that such other operators would not have access to the fixed customers of the dominant operator. This would constitute an anti-competitive practice. The exclusion of fixed number portability would amount to an unfair differentiation in treatment of providers of telecommunications services for which there is no justifiable legal basis.

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 505

2019

**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 11 of the Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences, as published in Government Gazette No. 4785, General Notice No. 272, dated 29 August 2011 (as amended), herewith gives notice that the Applicant referred to in the table below has submitted the following application to the Authority:

(a) Application for a Class Comprehensive Telecommunications Service Licence (ECS & ECNS)

| Applicant | Applicant's place of incorporation | Percentage of Stock owned by Namibian a Citizen | Category of Class Telecommunications service intended to be provided | Concise statement on Services intended to be provided | Description of geographic coverage area |
|--|------------------------------------|---|--|--|---|
| Globalstar Satellite Namibia (Pty) Ltd | Namibia | 30 % (Exemption issued by the Minister of Information and Communication Technology in terms of section 46(2) of the Communications Act, 2009 (Act No 8 of 2009)) | Class Comprehensive Telecommunications Service Licence (ECS & ECNS) | To provide mobile satellite services throughout Namibia using its constellation of Low Earth Orbit Satellites. | Republic of Namibia |

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.

F. K. MBANDEKA
CHIEF EXECUTIVE OFFICER
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA
