

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 309

2012

**“REGULATIONS REGARDING LICENCE CONDITIONS FOR
BROADCASTING SERVICE LICENCES”**

The Board of the Communications Regulatory Authority of Namibia, in terms of sections 86 of the Communications Act, of 2009 (Act No. 8 of 2009) read with regulation 11 of the “Regulation Regarding Rate-Making Procedure” published in Government Gazette 4630, Notice No. 334, hereby publishes these “Regulations Regarding Broadcasting Service Licences” effective from the date of publication in the *Gazette*.

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 impose conditions on broadcasting licences in addition to the conditions imposed by the Act.

Applicability

3. These regulations are applicable to –

(1) All broadcasting service licensees, except for the Namibian Broadcasting Corporation.

(2) These regulations shall be applicable to the Namibian Broadcasting Corporation from the date determined by the Minister in terms of section 93(1) and (3) of the Act and subject to the provisions of section 86(2)(d), (e), (f) and (g).

Authorisation

4. (1) All licensees, issued with a broadcasting licence in accordance with Annexure A, are duly authorised to provide broadcasting services as and to install, maintain and operate the necessary infrastructure in that regard. Furthermore all licensees are authorised to operate their own multiplexer equipment and electronic communications network for signal distribution for the purpose of delivering broadcasting services on their own behalf.

(2) The licence shall be awarded in accordance with the provisions section 85(8) of the Act.

(3) Licensees shall inform the Authority in writing of its intentions to provide both radio and/or television broadcasting services sixty (60) days prior to providing such services, in the event it did not provide that service in the past.

Signal distribution

5. Subject to applying for and being granted a spectrum use licence(s), all licensees, issued with a broadcasting licence in accordance with Annexure A, are duly authorised to provide

their own broadcasting signal and to distribute such signal, and to install, maintain and operate the necessary infrastructure including multiplexer equipment in that regard, except in the event the respective licensee agrees with another party to provide signal distribution services for and on its behalf.

Technical conditions

6. The licensees shall comply with the technical conditions as will be prescribed in terms of section 86 of the Act.

Competition

7. The licensees shall comply with sections 33 to 35 of the Act.

Facilities Leasing

8. Licensees have the rights and obligations to lease facilities from and to any other licensee, subject to and in accordance with arrangements agreed between them, failing which the Authority may take the appropriate steps.

Safety Measures

9. Licensees shall, in respect of all apparatus, equipment and installations that it owns, leases or uses, take such measures as may be prescribed and in any event such reasonable and necessary safety measures to safeguard life or property, and limit exposure to electromagnetic emission and related risks.

Broadcasting code

10. The Authority may make a broadcasting code in terms of sections 89 of the Act and shall enforce compliance with such code in terms of section 90 of the Act.

Payment of Fees

11. (1) Licences shall only be awarded after payment of the applicable fees to the Authority.

(2) Except for community broadcasting licensees, licensees shall pay an annual regulatory levy as determined by the Authority in terms of section 23, from time to time, as per its annual financial statements as approved by its independent auditors and members, in terms of the relevant regulation.

(3) The levy shall be payable within sixty (60) days in terms of section 88 of the Act, from the date of approval of its annual financial statements.

(4) The licensees shall submit their annual financial statements to the Authority in terms of section 91 of the Act.

(5) The Authority shall not be obliged to issue an invoice to the licensee but shall issue a receipt upon receipt of the verified and correct payment.

Duration of licences

12. (1) In terms of section 87(1)(a), the authorisation to provide radio broadcasting services shall automatically expire after five (5) years, from the date of issue of the broadcasting licence by the Authority, with respect to a licensee providing radio broadcasting services.

(2) In terms of section 87(1)(b), the authorisation to provide television broadcasting services shall automatically expire after ten (10) years, from the date of issue of the broadcasting licence by the Authority, with respect to a licensee providing television broadcasting services.

(3) Licensees shall apply to renew their licences prior to the expiry of the licence in terms of section 87(3) of the Act and as set out in the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, published in Government Gazette No. 4785, Notice Number 272, dated 29 August 2011, as may be amended from time to time.

(4) In terms of section 87(7) of the Act, in the event licensees fail to commence broadcasting services within a period of six (6) months from the date of issue of the licence, such licence shall automatically expire at the end of the six (6) month period, without the Authority having to give notice to the licensee, unless as otherwise approved by the Authority in advance.

Ownership and control

13. The licence shall be awarded subject to section 85 of the Act.

Amendment, renewal and transfer of licence or transfer of control of licence

14. For the Amendment, renewal and transfer of licence or transfer of control of licence, the licensee shall comply with the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, published in Government Gazette No. 4785, Notice Number 272, dated 29 August 2011, as may be amended from time to time.

Reporting, monitoring and compliance

15. The Authority may request any information, determined by it as relevant from the licensees for the purposes of monitoring and ensuring compliance with the Act and the regulations prescribed by the Authority, to which request the licensee shall comply in the manner set out by the Authority and in terms of sections 90, 114 - 126 of the Act.

Regulatory offences

16. The Authority will prosecute regulatory offences and enforce these licence conditions in terms of sections 114 and 115 of the Act.

Universal Service Fund and Obligations

17. Licensees may be granted universal service obligations and/or may be required to contribute towards the Universal Service Fund in the manner as prescribed by the Authority in terms of relevant legislation and regulations, in the manner as set forth by the Authority, from time to time.

Revocation of licence

18. The licence may be revoked in terms of sections 90, 114 and 115 of the Act.

Amendment of licence conditions

19. The Authority may amend these conditions from time to time.

Supervision by authority

20. The Authority shall supervise compliance with these conditions in terms of sections 90, 114 and 115 of the Act.

Duty to furnish information

21. The licensees are obliged to supply information in advance to the Authority relating to changes regarding its contact details, contact persons, statistics on its broadcasting services, intended change of ownership, intended change of control, change of business address, court orders made against it, or any matter that materially affects its licensed operations, but not limited thereto.